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## **LANZAROTE CONVENTION**

## **CONVENTION DE LANZAROTE**

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

Convention du Conseil de l'Europe sur la protection des enfants contre l'exploitation et les abus sexuels

**Compilation of Replies to Question 8  
of the Thematic Questionnaire  
(including Replies to Question 13 of the  
General Overview Questionnaire to which it refers)**

**Compilation des réponses à la Question 8  
du Questionnaire Thématique  
(y compris les réponses à la Question 13 du Questionnaire  
« Aperçu général » à laquelle elles se réfèrent)**

The full replies submitted by States and other stakeholders are available at:

Les réponses intégrales des Etats et autres parties prenantes sont disponibles ici :

[www.coe.int/lanzarote](http://www.coe.int/lanzarote)

## Introduction

During its 7<sup>th</sup> meeting (9 December 2013, see §13 of the report as well as its Appendix III)<sup>1</sup>, the Committee decided that the Secretariat should compile the replies to the General Overview and Thematic Questionnaires.

This document is aimed at responding to this request by compiling replies to question 8 of the thematic questionnaire (and replies to question 13 of the General Overview Questionnaire to which it refers).

If when replying to this question, States referred to another of their answers in both the General Overview and Thematic questionnaires, their replies will where possible, also be included in this compilation.

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Lors de sa 7<sup>e</sup> réunion (9 décembre 2013, voir §13 du rapport ainsi que son annexe III<sup>2</sup>), le Comité a décidé que le Secrétariat devait compiler les réponses au Questionnaire « Aperçu général » et au Questionnaire Thématique.

Le présent document vise à répondre à cette demande en compilant les réponses reçues à la question 8 du questionnaire thématique (et à la question 13 du Questionnaire « Aperçu général » à laquelle elles se réfèrent).

Si, en répondant à cette question, les Etats se réfèrent à des réponses données à d'autres questions du Questionnaires Général et Thématique, leurs réponses seront, dans la mesure du possible, également incluses dans cette compilation.

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<sup>1</sup> The 7<sup>th</sup> meeting report is online at:

[http://www.coe.int/t/dgh/standardsetting/children/T-ES\(2013\)12Report7thMeeting\\_en.pdf](http://www.coe.int/t/dgh/standardsetting/children/T-ES(2013)12Report7thMeeting_en.pdf).

<sup>2</sup> Le rapport de la 7<sup>e</sup> réunion est en ligne ici :

[http://www.coe.int/t/dgh/standardsetting/children/T-ES\(2013\)12Report7thMeeting\\_fr.pdf](http://www.coe.int/t/dgh/standardsetting/children/T-ES(2013)12Report7thMeeting_fr.pdf)

### **Question 8 of the TQ: Reporting suspicion of sexual abuse**

The reply to question 13 of the GOQ will be examined by the Committee to assess the implementation of **Article 12** with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether specific legislative or other measures have been taken to encourage reporting of sexual abuse of children in the circle of trust to the competent authorities. (**Explanatory Report, para. 91**)

### **Question 13 of the GOQ: 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 8 du QT : Signalement des soupçons d'abus sexuels**

La réponse à la question 13 du QAG sera examinée par le Comité pour évaluer la mise en œuvre de l'**article 12** par rapport au thème du cycle de suivi. En répondant à cette question, veuillez donc uniquement préciser si des mesures spécifiques, législatives ou autres, ont été prises pour encourager toute personne ayant connaissance de faits d'abus sexuels sur des enfants dans le cercle de confiance ou suspectant, de bonne foi, de tels faits, à les signaler aux autorités compétentes (**article 12, par. 2, Rapport explicatif, par. 91**).

### **Question 13 du QAG : Signalement des soupçons d'exploitation ou d'abus sexuels**

a. Les professionnels travaillant au contact d'enfants sont-ils tenus à des règles de confidentialité ? Ces règles font-elles obstacle au signalement auprès des services de protection de l'enfance des situations dans lesquelles il y a des motifs raisonnables de croire qu'un enfant est victime d'exploitation ou d'abus sexuels. Veuillez indiquer le ou les critères ou lignes directrices qui permettent de lever les règles de confidentialité (**article 12, par. 1, Rapport explicatif, par. 89**)

b. Existe-t-il des règles encourageant toute personne ayant connaissance ou suspectant, de bonne foi, des faits d'exploitation et d'abus sexuels concernant des enfants de les signaler aux autorités compétentes ? Si tel est le cas, veuillez indiquer les conditions requises et les autorités auxquelles il faut s'adresser (**article 12, par. 2, Rapport explicatif, par. 91**). Veuillez fournir des exemples de bonne pratique.

## Relevant extracts from the Lanzarote Convention and its Explanatory report

### Lanzarote Convention, Article 12 – Reporting suspicion of sexual exploitation or sexual abuse

1 Each Party shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals called upon to work in contact with children do not constitute an obstacle to the possibility, for those professionals, of their reporting to the services responsible for child protection any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse.

2 Each Party shall take the necessary legislative or other measures to encourage any person who knows about or suspects, in good faith, sexual exploitation or sexual abuse of children to report these facts to the competent services.

### Explanatory report

89. Under paragraph 1 Parties must ensure that professionals normally bound by rules of professional secrecy, (such as, for example, doctors and psychiatrists) have the possibility to report to child protection services any situation where they have reasonable grounds to believe that a child is the victim of sexual exploitation or abuse. Although in many member States systems of mandatory reporting are already in place, and are considered to be crucial in detecting abuse and preventing further harm to children, the Convention does not impose an obligation for such professionals to report sexual exploitation or abuse of a child. It only grants these persons the possibility of doing so without risk of breach of confidence. It is important to note that the aim of this provision is to ensure the protection of children rather than the initiation of a criminal investigation. Therefore, paragraph 1 provides for the reporting possibility to child protection services. This does not exclude the possibility provided in certain States to report to other competent services.

90. Each Party is responsible for determining the categories of professionals to which this provision applies. The phrase “professionals who are called upon to work in contact with children” is intended to cover professionals whose functions involve regular contacts with children, as well as those who may only occasionally come into contact with a child in their work.

91. In paragraph 2, Parties are required to encourage any person who has knowledge or suspicion of sexual exploitation or abuse of a child to report to the competent services. It is the responsibility of each Party to determine the competent authorities to which such suspicions may be reported. These competent authorities are not limited to child protection services or relevant social services. The requirement of suspicion “in good faith” is aimed at preventing the provision being invoked to authorise the denunciation of purely imaginary or untruthful facts carried out with malicious intent.

## **Extraits pertinents de la Convention de Lanzarote et de son rapport explicatif**

### **Convention de Lanzarote, Article 12 – Signalement des soupçons d'exploitation ou d'abus sexuels**

1 Chaque Partie prend les mesures législatives ou autres nécessaires pour que les règles de confidentialité imposées par le droit interne à certains professionnels amenés à travailler en contact avec des enfants ne fassent pas obstacle à la possibilité, pour ces professionnels, de signaler aux services chargés de la protection de l'enfance, toute situation d'un enfant pour lequel ils ont des motifs raisonnables de croire qu'il est victime d'exploitation ou d'abus sexuels.

2 Chaque Partie prend les mesures législatives ou autres nécessaires pour encourager toute personne ayant connaissance ou suspectant, de bonne foi, des faits d'exploitation ou d'abus sexuels concernant des enfants à les signaler aux services compétents

### **Rapport explicatif**

89. Aux termes du paragraphe 1, les Parties doivent veiller à ce que les professionnels normalement liés par les règles du secret professionnel (tel que, par exemple, les médecins, les psychiatres) aient la possibilité de signaler aux services de protection de l'enfance toute situation dans laquelle ils ont des motifs raisonnables de croire qu'un enfant est victime d'exploitation ou d'abus sexuels. Bien qu'il existe déjà dans de nombreux Etats membres des systèmes de signalement obligatoires, qui sont considérés comme essentiels pour déceler les abus et les prévenir, la Convention n'oblige pas ces professionnels à signaler les cas d'exploitation ou d'abus sexuels concernant des enfants. Elle leur donne seulement la possibilité de signaler ces cas sans enfreindre les règles du secret professionnel. Il est important de noter que le but de cet article est d'assurer la protection des enfants plutôt que l'ouverture d'une enquête pénale. Par conséquent, le paragraphe 1 prévoit que la possibilité de signalement s'effectue auprès des services de protection de l'enfance. Ceci ne fait pas obstacle à la possibilité, prévue dans certains Etats, que le signalement s'effectue auprès d'autres services compétents

90. Chaque Partie est responsable de la détermination des catégories de professionnels à qui cette disposition s'applique. L'expression « professionnels amenés à travailler en contact avec des enfants » est destinée à couvrir les professionnels dont les fonctions comprennent des contacts réguliers avec des enfants, ainsi que ceux qui peuvent se trouver occasionnellement en contact avec des enfants dans leur travail.

91. Le paragraphe 2 demande aux Parties d'encourager toute personne ayant connaissance de faits d'exploitation ou d'abus sexuels concernant un enfant, ou suspectant de tels faits, de les signaler aux services compétents. Il est de la responsabilité de chaque Partie de déterminer les autorités compétentes à qui de telles suspicions doivent être signalées. Ces autorités compétentes ne sont pas limitées aux services de protection de l'enfance ou des services sociaux pertinents. L'exigence d'un signalement effectué « de bonne foi » a pour objet d'éviter que la disposition proposée ne puisse être invoquée pour autoriser la dénonciation de faits purement imaginaires et mensongers, effectuée dans une intention de nuire.

## **COMPILATION of replies / des réponses<sup>3</sup>**

### **I – States to be assessed in the 1st monitoring round / Etats devant faire l'objet du 1er cycle de suivi**

#### **ALBANIA / ALBANIE**

##### **Question 8 of the TQ / du QT**

According to Decision of Council of Ministers No. 265 dated 12.04.2012 "On coordinating the work of institutions for managing cases of children at risk", any relative or person with kinship relations who suspects that child is at risk, should refer the case at Unit Child Protection in the municipality /commune. Then CPU assesses the risk of the situation and takes intervention to protect the child.

##### **Question 13 of the GOQ / du QAG**

a)

Based on DCM 265 dated 12.04.2012, the Referring of cases to Child Protection Unit for an assessment of whether the child is in danger done by:

- a. child
- b. parent or legal guardian / legal representative of the child,
- c. any person who becomes aware of a violation of the law because of duty or function,
- d. any other person who has family ties with the child,
- e. any person who becomes aware of a violation of the right of the child,
- f. anonymous subject

Child Protection Unit begins the assessment procedure, if there is a referred case or the CPU suspects that there has been a violation of the law, always with the consent of the child, parent, guardian or legal representative of the child.

In specific cases of violation of child rights, made public, the Child Protection Unit begins the assessment procedure on its own initiative, even if there was no reference of the entities defined in Article 1 of this chapter or when guardian / legal representative of the child fails to act. CPU may require the consent of the injured child, when age and his level of maturity allow it.

Is in the process of drafting of a new Protocol on Work for the Protection of Child, which will serve as a Methodological Guide , where will be specified in details the ways of following procedures for managing child at risk, as defined in Decision No. 265 dated 13.04.2012.

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<sup>3</sup> The replies are reproduced here in the language they were received / Les réponses sont reproduites ici dans la langue où elles ont été reçues.

b)

Did not reply to this question / N'a pas répondu à cette question

## AUSTRIA / AUTRICHE

### Question 8 of the TQ / du QT

See question 13 GOQ: The brochure no save place - (K)ein sicherer Ort. Sexuelle Gewalt an Kindern (available on the website [www.gewaltinfo.at](http://www.gewaltinfo.at)) provides information about sexual violence against children and is also aimed at encouraging the reporting of sexual abuse of children in the circle of trust to the competent authorities.

### Question 13 of the GOQ / du QAG

a)

According to Section 78 par. 1 CCP a public authority or public agency is obliged to make a report to the criminal police or to a public prosecutor service if it learns about a suspicion of a punishable act which concerns its statutory area of activities. According to par. 2 loc. cit. no duty to make a report as defined in par. 1 exists if the report impaired an official activity the effectiveness of which requires a confidential personal relationship, or if and as long as there are sufficient reasons to assume that the act will shortly not be punishable anymore because of measures to make good the damage caused. In any case the public authority or public agency shall do anything necessary to protect the victim or any other person from danger; if necessary, a report has to be made also in the cases of par. 2 (par. 3 loc. cit).

2. In general professionals working in contact with children are bound by confidentiality rules as long as there is not higher interest in the sense of the child or the young adult (between the age of 19 to 21, see also Section 6 Federal Child and Youth Services Act). This rule does not create an obstacle for the reporting of suspicions of sexual crimes as in such cases the higher interest of the child generally requires a report of this suspicion to the competent authorities.

A further exception concerning the above mentioned confidentiality rule exists for requests for information by the courts or the prosecution in criminal proceedings relating to a concrete suspicion that children and young adults have been abused, tortured, neglected or were victims of a sexual abuse.

The report of suspicions to youth welfare authorities is obligatory for persons working with children and adolescents in the health, social and educational sectors as well as at courts. In case the professionals are bound by confidentiality rules they are exempted in case of reasonable suspicion of sexual violence (<http://www.gewaltinfo.at/recht/mitteilungspflicht/>).

3. Doctors are bound by confidentiality rules, but these rules have exemptions in case of suspicion of sexual abuse of children (Section 54 Abs. 5 und 6 *Ärztegesetz 1998 - ÄrzteG*).

Section 54 par. 5 of the ÄrzteG obliges doctors to report suspicions of sexual abuse of persons under age gained within the exercise of his/her profession to the security authorities. In case a near relative arouses suspicion, the report of the suspicion can remain undone as long as it is required by the best interests of child and a collaboration with the youth welfare authorities takes place and where appropriate a child protection unit in a hospital is involved.

**b)**

1. Everyone who gains knowledge of a criminal offence is authorised to report to the criminal police or Public Prosecutor. Furthermore, everyone who, based on particular facts, can assume that a person is committing or has just committed a crime or that the police are searching for this person in relation to an offence is allowed to apprehend the suspect in a proportionate way. Security authorities are to be informed without delay (Section 80 CCP „Anzeige- und Anhalterecht“).

2. There is a set form which should encourage and support 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. It is provided in the above mentioned brochures and also online [www.gewaltinfo.at](http://www.gewaltinfo.at) and [www.bmwfi.gv.at](http://www.bmwfi.gv.at).

The brochure on "How to detect violence against children and how to react in the best possible way" also will give guidelines to teachers when and whom to report any kind of suspect (see question 8a).

3. A further measure to encourage reporting is the establishment of a reporting unit for child pornography and sex tourism with children (*Meldestelle Kinderpornographie und Sextourismus mit Kindern*) where anyone can report any such perception to a central unit in the Ministry of the Interior/Austrian Federal Office of Criminal Investigations.

## **BELGIUM / BELGIQUE**

### **Question 8 of the TQ / du QT**

Pour la Belgique, le N° 116000, numéro d'appel gratuit de Child focus, est accessible 24h sur 24 et 7j sur 7 pour signaler une disparition inquiétante ou un abus sexuel.

#### Au niveau de la Communauté flamande

Le 12 mars 2012, le 1712, LA ligne d'aide pour le citoyen concernant toutes les formes de violence, d'abus et de maltraitance d'enfants a été ouverte. Le gouvernement flamand a opté pour un seul numéro de téléphone pour la Flandre, accessible pour toutes les formes de violence à l'égard de victimes tant mineures que majeures. Ce choix répond à la recommandation de la commission spéciale de la Chambre selon laquelle "la nécessité de disposer d'un point de signalement central" n'est pas contestée.

L'obligation de prévenir le comportement déviant, de le détecter, d'y réagir de manière appropriée, de le signaler à l'administration compétente sur le plan fonctionnel et de

l'enregistrer a été imposée très récemment aux secteurs du bien-être et de la santé. Cela nécessitait une adaptation des réglementations respectives en matière de qualité. Cette réglementation doit encore entrer en vigueur dans certains secteurs comme l'aide spéciale à la jeunesse, les soins de santé, les soins aux personnes âgées et l'aide sociale. A défaut de signalement par une structure dans le cadre des dispositions figurant dans les arrêtés d'exécution du décret qualité, la Zorginspectie ('l'Inspection des soins') peut intervenir. Le non-respect des dispositions exécutoires du décret qualité peut, dans le cas le plus extrême, conduire à l'obligation de s'y conformer dans un délai déterminé, à une amende administrative ou au retrait de l'agrément.

Nous renvoyons également au protocole « maltraitance des enfants » signé le 30 mars 2010 par le ministre flamand du Bien-être, de la Santé publique et de la Famille et la ministre de la Justice développé à la question 6 du questionnaire général.

#### Au niveau de la Fédération Wallonie-Bruxelles

En Fédération Wallonie Bruxelles, le N° 103 a été mis en place. Il s'agit d'un numéro d'appel gratuit d'Ecoute-enfants de la Fédération Wallonie-Bruxelles est accessible 24h sur 24 et 7j sur 7. Les enfants peuvent discuter de leurs problèmes avec des personnes qualifiées qui les aideront à trouver des solutions.

Nous renvoyons également au protocole d'intervention entre le secteur médico-psycho-social et le secteur judiciaire signé en avril 2007 développé à la question 6 du questionnaire général

### **Question 13 of the GOQ / du QAG**

a)

Oui, ces personnes sont tenues par un secret professionnel en vertu de l'art.458 du Code pénal.

*« Art. 458. Les médecins, chirurgiens, officiers de santé, pharmaciens, sages-femmes et toutes autres personnes dépositaires, par état ou par profession, des secrets qu'on leur confie, qui, hors le cas où ils sont appelés à rendre témoignage en justice ou devant une commission d'enquête parlementaire et celui où la loi les oblige à faire connaître ces secrets, les auront révélés, seront punis d'un emprisonnement de huit jours à six mois et d'une amende de cent euros à cinq cents euros. »*

Ces règles ne font pas d'obstacle à ce que ces personnes signalent des faits auprès des services de protection de l'enfance, vu l'existence de l'article 458bis du Code pénal dont l'objectif est de privilégier l'aide extra – judiciaire ou c'est possible. Ceci est reflété par le libellé de l'article 458bis du Code pénal qui concerne le droit de parole pour les détenteurs d'un secret professionnel :

*« Art.458bis. Toute personne qui, par état ou par profession, est dépositaire de secrets et a de ce fait connaissance d'une infraction prévue aux articles 372 à 377, 392 à 394, 396 à 405ter, 409, 423, 425 et 426, qui a été commise sur un mineur ou sur une personne qui est vulnérable en raison de son âge, d'un état de grossesse, de la violence entre partenaires, d'une maladie, d'une infirmité ou d'une déficience physique ou mentale peut, sans préjudice*

*des obligations que lui impose l'article 422bis, en informer le procureur du Roi, soit lorsqu'il existe un danger grave et imminent pour l'intégrité physique ou mentale du mineur ou de la personne vulnérable visée, et qu'elle n'est pas en mesure, seule ou avec l'aide de tiers, de protéger cette intégrité, soit lorsqu'il y a des indices d'un danger sérieux et réel que d'autres mineurs ou personnes vulnérables visées soient victimes des infractions prévues aux articles précités et qu'elle n'est pas en mesure, seule ou avec l'aide de tiers, de protéger cette intégrité. »*

#### Au niveau de la Communauté flamande

L'article 32 du Décret flamand du 12 juillet 2013 relatif à l'aide intégrale à la jeunesse est libellé dans la même philosophie:

*« Art. 32. L'aide à la jeunesse soutient les offreurs individuels d'aide à la jeunesse concernant la gestion de situations inquiétantes. Si les offreurs d'aide à la jeunesse estiment de manière motivée qu'ils ne peuvent plus garantir eux-mêmes les chances d'épanouissement ou l'intégrité du mineur ou d'un ou de plusieurs membres de la famille à laquelle il appartient, ils s'adressent à une structure mandatée telle que visée à la section 2, sans préjudice de l'application de l'article 458bis du code pénal.*

*Le Gouvernement flamand fixe les modalités à ce propos, sans préjudice de l'application de la section 2. »*

Un point important du Protocole maltraitance Justice - Bien-être, signé le 30 mars 2010, par le Ministre flamand du Bien-être, de la Santé publique et de la Famille et le Ministre de la Justice, est le « stappenplan » qui est un code de conduite à suivre pour une intervention de qualité sous forme de directive communautaire pour tous les acteurs qui sont amenés à travailler dans des situations de maltraitance. L'intention de mettre en place une concertation traitant de dossiers nominatifs en cours de traitement au sein d'un arrondissement judiciaire, comme projet pilote, est également envisagée dans le protocole maltraitance. Ceci a abouti au lancement du « Protocol van Moed », le 19 janvier 2012 à Anvers, qui expérimente le droit de parole et la concertation autour de dossiers nominatifs relatifs à la maltraitance. Ce « Protocol van Moed » a offert pendant deux ans un cadre de comportement expérimentale pour la concertation entre justice et le secteur d'aide dans des situations concrètes de maltraitance des enfants dans l'arrondissement judiciaire d'Anvers. Le « Protocol van Moed » offre une cadre des méthodes de travail et des concertations afférentes aux dossiers concrets de maltraitance en vue de tâter les frontières du secret professionnelle et le droit de parole.

Le projet pilote était accompagné d'une recherche d'évaluation scientifique dont les résultats viennent d'être finalisés et communiqués aux départements concernés pour évaluation.

#### Au niveau de la Fédération Wallonie-Bruxelles

Rappelons le protocole d'intervention et la brochure développée à la question 6.

**b)**

Article 29, alinéa 1, du Code d'instruction criminelle prévoit ceci pour les agents publics :

*« Art. 29, alinéa 1. Toute autorité constituée, tout fonctionnaire ou officier public, ainsi que, pour ce qui concerne le secteur des prestations familiales, toute institution coopérante au*

*sens de la loi du 11 avril 1995 visant à instituer la charte de l'assuré social]2 qui, dans l'exercice de ses fonctions, acquerra la connaissance d'un crime ou d'un délit, sera tenu d'en donner avis sur-le-champ au procureur du Roi près le tribunal dans le ressort duquel ce crime ou délit aura été commis ou dans lequel l'inculpé pourrait être trouvé, et du transmettre à ce magistrat tous les renseignements, procès-verbaux et actes qui y sont relatifs. » L'article 30 du Code d'instruction criminelle prévoit ceci pour les particuliers :*

*« Art. 30. Toute personne qui aura été témoin d'un attentat, soit contre la sûreté publique, soit contre la vie ou la propriété d'un individu, sera pareillement tenue d'en donner avis au procureur du Roi soit du lieu du crime délit, soit du lieu où l'inculpé pourra être trouvé. »*

Référence peut également être faite aux articles 422bis et 422quater du Code pénal relative à l'incrimination de l'abstention coupable :

*« Art. 422bis. Sera puni d'un emprisonnement de huit jours à un an et d'une amende de cinquante à cinq cents euros ou d'une de ces peines seulement, celui qui s'abstient de venir en aide ou de procurer une aide à une personne exposée à un péril grave, soit qu'il ait constaté par lui-même la situation de cette personne, soit que cette situation lui soit décrite par ceux qui sollicitent son intervention.*

*Le délit requiert que l'abstenant pouvait intervenir sans danger sérieux pour lui-même ou pour autrui. Lorsqu'il n'a pas constaté personnellement le péril auquel se trouvait exposée la personne à assister, l'abstenant ne pourra être puni lorsque les circonstances dans lesquelles il a été invité à intervenir pouvaient lui faire croire au manque de sérieux de l'appel ou à l'existence de risques.*

*La peine prévue à l'alinéa 1er est portée à deux ans lorsque la personne exposée à un péril grave est mineure d'âge 1 ou est une personne dont la situation de vulnérabilité en raison de l'âge, d'un état de grossesse, d'une maladie, d'une infirmité ou d'une déficience physique ou mentale était apparente ou connue de l'auteur des faits.*

*Art. 422quater. Dans les cas prévus par les articles 422bis et 422ter, le minimum des peines correctionnelles portées par ces articles peut être doublé, lorsqu'un des mobiles du crime ou du délit est la haine, le mépris ou l'hostilité à l'égard d'une personne en raison de sa prétendue race, de sa couleur de peau, de son ascendance, de son origine nationale ou ethnique, de sa nationalité, de son sexe, de son orientation sexuelle, de son état civil, de sa naissance, de son âge, de sa fortune, de sa conviction religieuse ou philosophique, de son état de santé actuel ou futur, d'un handicap, de sa langue, de sa conviction politique, de sa conviction syndicale, d'une caractéristique physique ou génétique ou de son origine sociale. »*

En ce qui concerne des bonnes pratiques à partager, référence est fait au « Protocol van Moed » comme repris sous le point a) de cette question. Il peut être renvoyé également aux campagnes de sensibilisation du grand public comme la campagne sur le numéro d'aide 1712 (voir réponse question 3) et les campagnes mentionnées dans la réponse sous la question 14.

## Question 6a du Questionnaire General :

(...)

### Au niveau de la Fédération Wallonie Bruxelles

Le protocole d'intervention entre le secteur médico-psycho-social et le secteur judiciaire signé le 27 avril 2007 vise à permettre une intervention articulée en matière de maltraitance des enfants la plus optimale possible qui soit entre les secteurs cités et ce, dans le plus grand intérêt de l'enfant confronté à une telle situation. Il constitue un canevas d'intervention et non une analyse exhaustive de tous les problèmes rencontrés ou susceptible de l'être avec leurs solutions. Le groupe de travail « maltraitance » a réalisé un véritable travail de maillage, non seulement entre professionnels issus de champs différents, aux langages et aux références différentes, les acteurs de l'aide médico-psycho-sociale et les acteurs du monde judiciaire, mais aussi entre niveaux de pouvoir fédéral, régional et communautaire. Ce travail a été réalisé sous l'égide des cabinets des ministres de l'aide à la jeunesse, de l'enfance, des affaires sociales et du collège des procureurs généraux. Il s'agit de fournir aux professionnels, notamment de première ligne, des outils et des procédures leur permettant d'effectuer les démarches les plus appropriées lorsqu'ils sont confrontés à une situation de maltraitance. Le rôle des commissions locales de coordination de l'aide aux enfants victimes de maltraitance est central dans « l'amélioration des procédures de prise en charge des situations de maltraitance à l'égard d'enfants. ». En 2013, un outil de vulgarisation du protocole sous forme de brochure a été finalisé. C'est grâce à sa large diffusion que les acteurs peuvent s'approprier son contenu. C'est ce travail au niveau local qui permet de créer des partenariats et de sensibiliser à cette problématique les professionnels de différents secteurs dont notamment les enseignants, les moniteurs sportifs, les animateurs de maisons de jeunes et les responsables des mouvements de jeunesse.

Ce même groupe a souhaité continuer son travail de réflexion et s'est constitué en Conférence permanente de concertation « maltraitance ». Le groupe se réunit 4 fois par an et a pour mission de :

1° suivre l'application du protocole d'intervention entre le secteur médico-psycho-social et le secteur judiciaire. Il s'agit donc de réfléchir à la manière dont l'articulation et l'information se font entre les différents secteurs quel que soit le type de maltraitance rencontrée, de situer où les problèmes se présentent et de formuler des recommandations afin que le protocole soit appliqué au mieux. Afin d'appréhender de manière optimale la réalité du terrain, le Forum peut obtenir des informations :

- des commissions de coordinations de l'aide aux enfants victimes de maltraitance prévues à l'article 4 du décret de la Communauté française du 12 mai 2004 relatif à l'aide aux enfants victimes de maltraitance ;
- de la Cellule de pilotage mise en place par la circulaire relative à l'encadrement du fonctionnement des commissions de coordination de l'aide aux enfants victimes de maltraitance instituée par les articles 4 à 8 du décret du 12 mai 2004 relatif à l'aide aux enfants victimes de maltraitance ayant pour mission de s'assurer du bon fonctionnement des commissions.

Ces lieux de concertation plus locales permettent au Forum d'avoir une vue d'ensemble sur le travail réalisé et les préoccupations des commissions. Toutes observations qui permettent d'améliorer l'articulation entre les secteurs sont renvoyées au Forum.

2° formuler des recommandations et des propositions relatives à l'approche de la maltraitance des enfants de sa propre initiative ou à la demande du Ministre fédéral de la Justice et/ou du Ministre de l'Aide à la jeunesse et/ou de la Région wallonne compétent pour la Santé mentale. Cette mission répond à la demande de la Commission nationale contre l'exploitation sexuelle des enfants soulignant l'importance de permettre aux secteurs "justice" et "médico-psycho-social" de se rencontrer afin de mettre les différents intervenants en mesure de trouver, ensemble, des solutions aux problèmes rencontrés dans leur "nécessaire interaction"  
(...)

## **BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE**

### **Question 8 of the TQ / du QT**

See question 13 of the GOQ

### **Question 13 of the GOQ / du QAG**

a)

The Law on protection of witnesses under threat and vulnerable witnesses in Article 13 reads as follows:

Additional measures to provide for the non- disclosure of the identity of the witness

(1) In exceptional circumstances, where there is a justified fear that if some or all of the personal details of the witness are released it would seriously endanger the personal security of a witness or his family, and the danger would persist after the testimony is given, the Court may, either ex officio or upon the motion of the parties or the defense attorney, decide that the personal details of the witness shall remain confidential for such period as may be determined to be necessary, but in any event not exceeding thirty years, following upon the day the decision became final.

(2) The Court may, after hearing the parties and the defense attorney, decide that the identity of the witness is not disclosed by allowing the witness to testify behind a screen or utilizing electronic distortion of the voice of the witness or the image of the witness, or both the image and the voice, by using technical means for transferring image and sound.

(3) The Court may, at any time, revoke the decision from paragraph 1 of this Article, either ex officio or upon the motion of the parties or the defense attorney.

A priority must be the best interest of children in all situations and all activities related to children, notwithstanding whether those have undertaken by public or private institutions and services. The best interest for children requests providing of confidentiality of data and protection of children's right to privacy.

There is a legal regulation establishing a mandatory reporting of suspicion of sexual exploitations and abuse. The issues as set forth have been elaborated in the following laws: Law on protection from domestic violence, Family Law, Criminal Codes, Law on health protection, Law on protection of rights of patients, including the Protocols on proceedings, prevention and protection against domestic violence, and Protocols for proceedings in case of sexual violence of children. Rules of confidentiality in a work of professionals do not present any obstacle to report violence of children.

Within a framework of the Law on social welfare, Law on protection from domestic violence, Law on protection of human rights and freedoms, including other laws, the procedure by which a privacy of victim is protected, but do not present any obstacle to take a measure aiming to protect a child and identify a perpetrator.

A legislator proscribes an obligation for reporting by authorised person or prosecutor about all cases where there is a suspicion of any form of juvenile abuse. Punishment has been foreseen for the same offences if committed against a child or juvenile by medical doctor, dentist, medical staff, nurse or healthcare worker, psychologists, notary and worker for social protection. Hence, those professions have been particularly indicated, respectively the persons who are in professional contact with children or juvenile in order to particularly strengthen their obligation to report the above mentioned criminal offences.

The Criminal Code of BiH in Article 230 defines criminal offences as follows: "Failure to report on criminal offences of perpetrator", for whose basic form a pecuniary fine sanction may be imposed or imprisonment for a term of three years, while for the qualified form an imprisonment for a term of five years or more severe punishment may be imposed". In this Article an obligation to report the offences or perpetrator is related to criminal offences for which a long-lasting imprisonment (I para) is imposed or for criminal offences where imprisonment for a term of 5 years or more severe punishment (II para) may be imposed. Having in mind the imposed punishment for criminal offences against sexual freedom and moral committed at the damage of a child, means that such an obligation should be related to certain cases of sexual violence of children. No punishment for failure to inform of the criminal offence shall be imposed on a person who is the spouse, cohabiting partner, first-line blood relative, brother or sister, adoptive parent or adopted child or their spouse or cohabiting partner, or defence lawyer, medical doctor or confessional priest of the perpetrator.

Criminal Code of the Federation of Bosnia and Herzegovina in Article 345 reads that:

"Whoever knows of a perpetrator of a criminal offence for which a long-term imprisonment may be imposed, or whoever merely knows that such an offence is perpetrated, and fails to report this, although the timely discovery of the perpetrator or of the offence depends on such report, shall be punished by a fine or imprisonment for a term not exceeding three years. The punishment referred to in paragraph 1 of this Article shall be imposed on an official or responsible person, who fails to report a criminal offence which comes to his knowledge in the discharge of his duty, if a punishment of imprisonment for a term of five years or a more severe punishment may be imposed for such a criminal offence. A physician, dentist, midwife or medical worker, psychologist, notary public and social welfare

worker shall be punished for the criminal offences referred to in paragraphs 1 and 2 of this Article, if the criminal offence is perpetrated against a child or juvenile. No punishment for the criminal offence referred to in paragraphs 1 and 2 of this Article shall be imposed on a person who is the spouse, common-law partner, lineal blood relative, brother or sister, adoptive parent or adopted child and their spouses or common-law partners, or who is the defence attorney, physician or confessional priest of the perpetrator.”

The same Code in Article 383 „Abuse of Office or Official Authority” reads: „An official or responsible person in the Federation who, by taking advantage of his office or official authority and by exceeding the limits of his official authority or by failing to perform his official duty, acquires a benefit to himself or to another person or causes damage to another person or seriously violates the rights of another, shall be punished by imprisonment for a term between six months and five years.”

Article 387 of the mentioned Code defines a criminal offence in chapter „Lack of Commitment in Office” by reading: „An official or responsible person in the Federation who, by violating law, other regulations or general act or by omitting to perform his supervisory duty, acts in an obviously careless manner in the discharge of his official duty, which results in a serious violation of a right of another or a material damage exceeding BAM 1,000.00 occurs shall be punished by a fine or imprisonment for a term not exceeding three years. If, by the criminal offence referred to in paragraph 1 of this Article, a right of another is violated seriously or a material damage exceeding BAM 10,000.00 occurs, the perpetrator shall be punished by imprisonment for a term between six months and five years.”

The Criminal Code of RS and Criminal Code of BDBiH contain almost identical solution.

One of elementary principal of the Law on treatment upon juvenile in criminal proceedings is a respect of right to privacy of juvenile person at all stages of the proceedings. Prosecutor for juvenile, court for juvenile and judges of the council for juveniles and other persons participating in proceedings shall take into account that no violation of right on privacy for juvenile may occur.

**b)**

Yes, Criminal Procedure Code of BIH, Article 213, para 2 reads as follows:

Medical workers, teachers, pedagogues, parents, foster parents, adoptive parents and other persons authorised or obligated to provide protection and assistance to minors, to supervise, educate and raise the minors, are obligated to immediately inform the authorised official or the Prosecutor about their suspicion that the minor is the victim of sexual, physical or any other form of abuse.

The Family law stipulates that all organs, organisation and natural persons are obliged to immediately inform the body of custody regarding children's rights, particularly against violence, abuse, sexual exploitation of child as per Article 13. Hence, everybody is obliged to report suspicion that the child was exposed to any form of abuse; report shall be submitted to the centre for social care centre affairs, police and Ombudsman for children.

## **BULGARIA / BULGARIE**

### **Question 8 of the TQ / du QT**

As noted in the general questionnaire, a special provision in the Child Protection Act /art. 7/ provides for a general obligation for reporting when a child needs protection. Every person is obliged to signal the Bulgarian child protection bodies - "Social Assistance" Directorate (Agency for Social Assistance), State Agency for Child Protection and Ministry of Interior. Furthermore, art. 205, para. 1 and par. 3 of the Criminal Procedure Code "Obligation of the citizens and officials to signal" stipulates: "Art. 205.

(1) Anyone who becomes aware of a general crime is obliged to immediately signal the Authority of the pre-trial proceedings or other state authority.

(2) On becoming aware of a crime of general nature, officials must report to the pre-trial body and take the necessary measures to preserve the environment and crime data.

(3) In the cases under para. 1 and 2 pre-trial body immediately exercise its powers to initiate criminal proceedings. "

### **Question 13 of the GOQ / du QAG**

**a)**

A Code of Ethics for professionals working with children is applied in Bulgaria. The Code of Ethics presents the standards of conduct for those working with children in the areas of education, health, welfare, justice, home affairs and others.

Confidentiality rules related to the work of various specialists do not restrict a reporting for a child at risk. Moreover, in accordance with the Bulgarian legislation the alerting is not just promoted but a mandatory act.

CPA

Obligation to Report

Article 7.

(1) Persons, who become aware of the existence of a child in need of protection, shall immediately report the case to the Social Assistance Directorate, the State Agency for Child Protection or the Ministry of Internal Affairs.

(2) The same obligation shall be undertaken by all persons, who become aware of the said situation in the course of exercising their profession or occupation, irrespective of them being bound by occupational secret.

(3) If a signal is reported to SACP, its Chairperson shall immediately resend it to the Child Protection Departments under SAD.

(4) .....

(5) Central and regional bodies of the executive authority as well as the specialized institutions for children in view of their official duties shall timely render assistance and provide information to the State Agency for Child Protection and to the Social Assistance Directorates under the conditions and the procedure of the Protection of Personal Data Act.

Similar provision is included in the Criminal Procedure Code, where is stated that citizens have public obligation to signal immediately a pre-trial authority or other authority in cases of being aware of a committed crime of general nature. (art 205)

**b)**

The obligation to report is regulated under the CPA, art 7. (see above).

The legal ground for this obligation is also foreseen under act 205, para 1 and para 3 of the Penal Procedure Code.

Art. 205.

(1) Where the citizens become acquainted with a crime of general nature, they shall be obligated to notify immediately a body of pre-trial procedure or another state body.

(2) When they learn about committed crime of general nature, the officials shall notify immediately the body of the pre-trial procedure and take the needed measures for keeping the scene and the data of the crime.

(3) In the cases of Para. 1 and 2, the body of the pre-trial procedure shall immediately execute its powers to institute a penal procedure.

## **CROATIA / CROATIE**

### **Question 8 of the TQ / du QT**

In addition to the usual 192 and 112 telephone lines for urgent police intervention and the e-mail address [policija@hr](mailto:policija@hr), the Ministry of the Interior created a specialised website containing information of relevance to citizens and those at risk of becoming victims of criminal offences. Citizens may also report criminal offences to the police via websites [www.sigurnijinternet.hr](http://www.sigurnijinternet.hr) and [www.saferinternet.hr](http://www.saferinternet.hr) which feature a RED BUTTON for the reporting of criminal offences. The Red Button application is intended for children since it enables the reporting of Internet content that is suspected of being illegal and that relates to various forms of exploitation and abuse of children. A report may be filed by the victim as well as by a friend of the victim, a person who has knowledge that somebody is a victim, or any other person. In addition to being simple and especially adapted to children, the said reporting procedure helps allay fear and psychological pressure caused by the reporting itself. Reports are received and processed by the police.

The Republic of Croatia has adopted legislative measures that encourage the reporting of sexual abuse of children within the children's circle of trust to the competent authorities and

which have been specified in detail in the answer to question 13 of the General Overview Questionnaire.

### **Question 13 of the GOQ / du QAG**

**a)**

For the purpose of providing the best possible protection to children-victims of criminal offences, in particular physical and psychological ill-treatment, neglect and sexual abuse, the provisions of the CPA oblige all state bodies and persons who work in contact with children to file criminal reports. Under the said Act, the duty to report has priority over the duty to withhold information or keep it confidential. As regards the reporting of child sexual abuse within the child's circle of trust, it is sufficient that state bodies or persons exercising professions that imply contact with children establish on the basis of the information obtained that there exists the lowest degree of reasonable suspicion, i.e., grounds for suspicion, that such an act has been committed. It is not, therefore, necessary that grounded suspicion in the criminal-law sense of the word exists. Instead, a lower degree of probability that the child has been abused suffices for professionals to have a duty to report the event and circumstances. The criminal report may be filed in writing, orally or by some other means to the competent social welfare centre, the police or directly to the state attorney's office.

The provisions of the CPA on the duty and manner of filing a criminal report,<sup>4</sup> the authority to which the report is to be filed, the right and duty of the police to find the perpetrator of a criminal offence, detect the traces of a criminal offence and the objects that might serve to establish facts are also fully applicable to perpetrators of the criminal offences of sexual abuse

**b)**

Under Article 108 of the Family Act everyone is required to inform the social welfare centre of a violation of any child right, including violations relating to child sexual abuse and sexual exploitation. Such conduct may be reported by any citizen<sup>5</sup> and it is therefore all the more so the duty and obligation of any expert working with children to report any such suspicion. When informed of a violation of a child's rights and interests, the social welfare centre is required to take protection measures under family law, as well as to submit a criminal report to the state attorney's office.

Under the provision of Article 8 of the Protection against Domestic Violence Act, health care workers, professionals working in the fields of social welfare, prevention and protection within the family, and education, as well as professionals employed with religious institutions, humanitarian organisations, and civil society organisations the activities of which involve child- and family-related matters are obliged to report to the police or the state attorney's office any case of domestic violence, including any suspicion of child sexual abuse or exploitation, that comes to their knowledge in the exercise of their professions.

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<sup>4</sup> Articles 204 to 205 of the CPA.

<sup>5</sup> Article 204, paragraph 1, of the CPA reads as follows: "Everyone is required to report a criminal offence that is prosecuted *ex officio*, which one has been notified of, or which has come to one's knowledge."

Article 70 of the Primary and Secondary Education Act also lays down the duty to report criminal offences committed against minors.<sup>6</sup>

Moreover, Ordinance for educational staff in schools on taking safeguards of rights of students and application of violation of those rights to authorities<sup>7</sup> and Rules of procedure in case of sexual violence lay down the duty to report, while educational institutions have integrated such provisions into their curricula, each school also having the autonomy to adopt various rules and measures.

A similar provision is also contained in the Medical Practice Act.<sup>8</sup>

It should be noted here that under the Sexual Violence Protocol, the victim of sexual violence may come to the hospital by himself/herself or in the company of the police. Where the victim comes to the hospital unescorted by the police, hospital staff are required to immediately call the police, and where the victim is a minor, inform his/her parents or his/her other statutory representatives or the social worker.

The codes of ethics and deontology of health care professions establish the principles and rules of conduct which health care workers must respect in the exercise of their profession.

Under Article 2 of the Code of Medical Ethics and Deontology adopted by the Croatian Medical Chamber pursuant to the Medical Practice Act and the Articles of Association of the Croatian Medical Chamber, where there is suspicion of abuse or exploitation of children or minors, the physician is obliged to warn the competent authorities, with due regard for the privacy and interests of the child or minor.

Where the official or responsible person fails to report the commission of a criminal offence which has come to his/her knowledge in the exercise of his/her profession and for which criminal proceedings are not instituted by private action or prosecution on request, he/she shall be held criminally liable for the criminal offence of failure to report a committed criminal offence referred to in Article 302, paragraph 2, of the CA<sup>9</sup>.

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<sup>6</sup> Article 70 reads: "Teachers, staff members and other school employees shall take measures to protect pupils and shall immediately inform the principal of any violation of these rights, in particular of any form of physical or mental violence, sexual abuse, neglect or negligent treatment, abuse or exploitation of pupils, whereupon the principal shall report this to the social welfare body or any other competent authority".

<sup>7</sup> Official Gazette 132/13

<sup>8</sup> Article 22 of the Medical Practice Act reads: "The medical doctor shall inform the police and the state attorney's office of any suspicion he/she might have that the health of an under-age or infirm person is greatly jeopardised due to neglect or abuse.

<sup>9</sup> Article 302, paragraph 2, of the CA reads: "The same penalty as that referred to in paragraph 1 of this Article shall be imposed on a public official or a responsible person who fails to report the commission of a criminal offence that has come to his or her knowledge in the performance of his or her duties, provided that the prosecution of the criminal offence in question cannot be instituted by private action or upon request."

## **DENMARK / DANEMARK**

### **Question 8 of the TQ / du QT**

See question 13 of the GOQ

### **Question 13 of the GOQ / du QAG**

**a)**

Confidentiality rules do not prevent that professionals working in contact with children, on the basis of a concrete evaluation in each instance, pass on information to the police and other relevant authorities in cases covered by Article 12(1) of the Convention.

**b)**

Pursuant to the Act on Social Services any person who learns or becomes aware that a child or young person under the age of 18 is being neglected or abused by his/her parents or other persons involved in his/her upbringing or is living under conditions endangering his/her health or development must notify the municipal authorities. In addition, persons providing public services or holding public office must notify the municipal authorities if, while exercising their duties, they become aware of any circumstances that give rise to presume that a child or young person under the age of 18 has been exposed to sexual abuse.

The plan "Coordinated measures to protect children against abuse" includes an Act of Parliament which entered into force in October 2013. One of the main points of the Act is that the municipalities must evaluate all reports about children to local social authorities within 24 hours and decide if immediate action is needed to prevent and secure an early treatment of sexual abuse against children (see answer to question 8(a)).

### Question 8a of the General Questionnaire:

**a)**

Embedded in different subjects in primary and lower secondary education is instruction in areas relevant for raising awareness among children and enabling them to protect themselves, such as anatomy, sexuality and sex, gender roles and equality. The purpose of the teaching is to enable the pupils to form a critical opinion and act to promote the health of themselves and others.

The education in primary and lower secondary education also comprises teaching the pupils both basic internet usage skills and understanding of possibilities and dangers related to the internet. In relation to this teaching the children are to be made familiar with strategies and guidelines for safe internet use. This teaching is given in connection with a number of different subjects. To assist the teachers in this connection the Ministry of Education in cooperation with the Ministry of Culture has made a web portal with teaching materials on this theme available to schools.

Knowledge of human and children's rights is a mandatory competence objective for all students completing the B.Ed. programme for primary and lower secondary schools. Furthermore, teacher students are required to be able to apply that knowledge in

organising their teaching, in conducting communications with parents and co-workers, and in the continuous development of school culture.

Knowledge of pupils' social, emotional and cognitive development (including gender-issues) is also a mandatory competence objective for all students completing the B.Ed. programme for primary and lower secondary schools. Furthermore, teacher students are required to be able to apply that knowledge in observing, supporting and challenging pupils' emotional and cognitive development. In addition, all teacher students are offered a voluntary course on Family, health and sexual education. The competence objectives of this course include knowledge of children's development, psychological and physical changes during puberty and sexuality (including sexual identities) and the ability to apply this knowledge in preparing, executing and evaluating teaching.

The Act of Parliament adopted pursuant to the plan "Coordinated measures to protect children against abuse" which entered into force in October 2013 underlines the importance of timely and correct action from the social authorities when they receive a report about a child who is presumed to have been exposed to violence or other abuse. Thus, the social authorities must evaluate the report within 24 hours in order to decide if immediate action is needed, and the social authorities must interview the child as part of its investigation of the report.

## **FINLAND / FINLANDE**

### **Question 8 of the TQ / du QT**

Authorities are obliged to report a sexual offence directly to the police and in addition of that they must submit a child protection notification. All sexual offences must be reported regardless relationship of perpetrator and victim.

Under the Criminal Investigations Act, when a crime is reported to the police, the police have the duty to initiate a pre-trial investigation in the matter. Notwithstanding provisions on professional secrecy, the police have under the Child Welfare Act a duty to notify without delay the social welfare board of the municipality, if they in the course of their activities get to know about a child whose need for care and treatment, circumstances that endanger his development or his own behaviour make it necessary to establish the need for child welfare measures. This of course refers also to cases where it is suspected that the child has been sexually abused at home or by someone close to them

### **Question 13 of the GOQ / du QAG**

a)

General rules on confidentiality (e.g. in health and social sector) apply to professionals working in contact with children. However according to the Child Welfare Act (471/2007) persons employed by, or in positions of trust for social and health-care services and child day care, education services, youth services, the police service, the Criminal Sanctions Agency, fire and rescue services, social welfare and health care service providers, education

or training provider, a parish or other religious community, a reception centre and organisation centre referred to in section 3 of the Act on Reception of People Seeking International Protection, a unit engaged in emergency response centre activities, or a unit engaged in morning and afternoon activities for schoolchildren as well as persons working in a principal/contractor relationship or as independent professionals, and all health care professionals have a duty to notify the municipal body responsible for social services without delay and notwithstanding confidentiality provisions if, in the course of their work, they discover that there is a child for whom it is necessary to investigate the need for child welfare on account of the child's need for care, circumstances endangering the child's development, or the child's behaviour (Section 25 paragraph 1). One of the reasons for notifying the municipal body responsible for social services (child welfare agency) is a suspicion that the child has been a victim of a sexual offence.

According to the Child Welfare Act persons referred to above have also a duty, notwithstanding confidentiality provisions, to notify **the police** when they have cause to suspect on the basis of circumstances that have come to their knowledge an act punishable under Chapter 20 of the Penal Code (sexual offences) that has been committed against a child (Section 25, paragraph 3).

In short this means that certain professionals are obliged to report a sexual crime committed against a child directly to the police and in addition of that they must submit a child protection notification.

**b)**

According to the Child Welfare Act all persons may submit a notification to the child welfare agency, notwithstanding any confidentiality regulations that may apply if, in the course of their work, they discover that there is a child for whom it is necessary to investigate the need for child welfare on account of the child's need for care, circumstances endangering the child's development, or the child's behaviour (Section 25, paragraph 2).

The police are also using a so called net tip on the internet that enables people to submit non-emergency information to the Police for any suspicious material they find on the Internet. This can be done anonymously. Since 2008 police have had police officers trained as virtual community policing officers. One of the aims of their work is to lower the level to contact police and to inform about police related issues.

## **FRANCE**

### **Question 8 of the TQ / du QT**

Des précisions complémentaires aux réponses apportées à la question 13 du QAG sont mentionnées dans le guide annexé à la présente réponse.

## Question 13 of the GOQ / du QAG

a)

La loi du 5 mars 2007 réformant la protection de l'enfance donne un cadre légal au partage d'informations concernant des mineurs en danger ou risquant de l'être.

Tout en étant préservé, le secret professionnel est aménagé par la loi pour autoriser légalement le partage d'informations entre professionnels, cela dans l'intérêt de l'enfant.

Il est préservé car le partage d'informations doit s'effectuer dans des conditions strictes. Le secret professionnel contribue à instaurer dans le temps, la confiance des parents, des enfants et des adolescents envers le professionnel et à favoriser ainsi les conditions d'une concertation. La loi du 5 mars 2007 réformant la protection de l'enfance aménage le secret professionnel pour permettre à ces professionnels d'échanger entre eux les informations nécessaires à l'évaluation d'une situation, et à la mise en œuvre des actions de protection.

Le partage d'informations est strictement encadré. L'article L. 226-2-2 du code de l'action sociale et des familles précise, notamment, les personnes qui peuvent partager ces informations, à quelles fins, et dans quelles limites.

Le partage n'est autorisé que dans le but de permettre une évaluation pluridisciplinaire de la situation de l'enfant, de déterminer et de mettre en œuvre des actions pour assurer sa protection, de l'aider et d'aider sa famille.

Les informations susceptibles d'être légalement partagées sont strictement limitées à celles qui sont nécessaires à l'évaluation, à la détermination et à la mise en œuvre d'actions à des fins de protection du mineur. Aucun objectif, autre que celui de protection dans l'intérêt de l'enfant, ne permet le partage d'informations entre professionnels.

Le partage n'est possible qu'après en avoir informé les parents ou la personne exerçant l'autorité parentale, et l'enfant en fonction de son âge et de sa maturité. Toutefois, cette exigence peut être levée lorsque l'information préalable est contraire à l'intérêt de l'enfant, par exemple si elle implique un risque pour l'enfant (article L. 226-2-2 du code de l'action sociale et des familles).

Enfin, l'article 434-3 du code pénal réprime le fait pour quiconque ayant eu connaissance de privations, de mauvais traitements ou d'atteintes sexuelles infligés à un mineur de quinze ans de ne pas en informer les autorités judiciaires ou administratives d'une peine de trois ans d'emprisonnement et de 45.000 € d'amende.

Ces dispositions ne sont pas applicables aux personnes soumises au secret professionnel. Néanmoins, ces dernières ne sont pas soumises aux sanctions prévues en cas de violation du secret professionnel lorsqu'elles informent les autorités judiciaires, médicales ou administratives de privations ou sévices, y compris sexuelles qui ont été infligées à un mineur. Le médecin peut également révéler au procureur de la République ces mêmes faits (article 226-14 du code pénal).

**b)**

La loi du 5 mars 2007 prévoit que toutes les personnes qui connaissent des situations d'enfants en danger ou supposés l'être, doivent transmettre les informations qu'elles détiennent à la cellule départementale. En raison de l'extrême gravité de la situation, ces personnes doivent faire un signalement au procureur de la République.

Lorsque la cellule reçoit une information préoccupante faisant apparaître que l'enfant est en péril, qu'il est gravement atteint dans son intégrité physique ou psychique, ou qu'il est peut-être victime de faits qualifiables pénalement.(tels que les faits d'exploitation et d'abus sexuels), elle procède à une analyse rapide de la situation du mineur afin de déterminer si elle exige, au vu des éléments, un signalement sans délai au procureur de la République du fait de son extrême gravité.

## **GREECE / GRÈCE**

### **Question 8 of the TQ / du QT**

Under Law 3500/2006 on combating domestic violence, all school and kindergarten teachers are obligated to report any incident, hint, suspicion or disclosure by a child of domestic violence against a pupil that they have been informed about or have found out about (art. 23). They inform the Headmaster, and then he/she must report the incident to the District Attorney or the Police. It should, also, be noted that by the same piece of legislation a comprehensive and extended definition of "domestic" environment is provided facilitating thus prosecution under these special provisos of many incidents of sexual violence against children within the circle of trust that before would be prosecuted by provisos of regular penal code.

Moreover, it is provided that any person, who threatens or uses force against or bribes a witness or member of the family in order to hinder the criminal or judicial proceedings, is punished (Law 3500/2006, art. 10). Last but not least, by the same Law it is provided that perpetrators that commit such crimes against children within the domestic environment are subjected to double the sentences that would be subjected to if the same crimes were committed outside family/domestic environment.

### **Question 13 of the GOQ / du QAG**

**a)**

Professionals working with children are often bound by confidentiality rules. These are usually doctors, psychologists, social workers, psychiatrists and others working in the health sector. Under Law 3727/2008 any professional bounded by confidentiality rules, who has reasonable grounds to believe that a child is a victim of sexual abuse or exploitation, is allowed to report it and waive confidentiality.

**b)**

In the Code of Criminal Procedure it is stated that any person who realises that a crime has been committed, then he/she has to report it to the District Attorney or the Police (art. 40). The crime has to fall into the category of the ones being reported by all people, and not merely the victim. All crimes related to any type of child abuse belong to this category. Moreover, it is a crime itself to intentionally omit to report a felony if there was reliable information that this is planned to happen or has started to happen (Penal Code, article 232).

## **ICELAND / ISLANDE**

### **Question 8 of the TQ / du QT**

See answer to question 13 of the GOQ. This topic has been addressed with regard to those professions which are more likely than other to receive confessions by individuals that have committed sexual offences in the circle of trust such as medical doctors and priests. The Government Agency for Child Protection has been clear in interpreting the law in that no exceptions should be made to the principle of mandatory reporting. Reference is also made to the reply to question 14 of the GOQ concerning the contract between the Government Agency for Child Protection and the Emergency line 112 to facilitate reports from the general public on child abuse.

### **Question 13 of the GOQ / du QAG**

**a)**

Professional working with or in contact with children are by law subject to strict confidentiality rules. However these rules do not constitute obstacle for reporting suspected child abuse and neglect to the child protection services. On the contrary, there are clear mandatory requirements made to all professions without exceptions to report to the appropriate local child protection services (Art. 17 of the Act of Child Protection) and failure to do so can result in punitive measures (according to Art. 96 of the same Act).

The Article 17 in the Act of Child Protection addresses the duty of notification by those who's profession deals with children. In the article it is defined that this duty covers all professional without exceptions. All persons involved in matters concerning children or expectant mothers, through their position or occupation, are obliged to notify a child protection committee, if they become aware of a child is living in unacceptable circumstances of upbringing, is exposed to violence or other degrading treatment or is seriously endangering his/her health and maturity. It is also noted in the above Article that those providing social services or counselling are under an especial obligation to monitor the behaviour, upbringing and conditions of children as far as possible, and to inform the local child protection services if the child's circumstances appear to be of the nature. The duty of notification provided in this Article takes precedence over provisions in law or codes of ethics on confidentiality within the relevant professions.

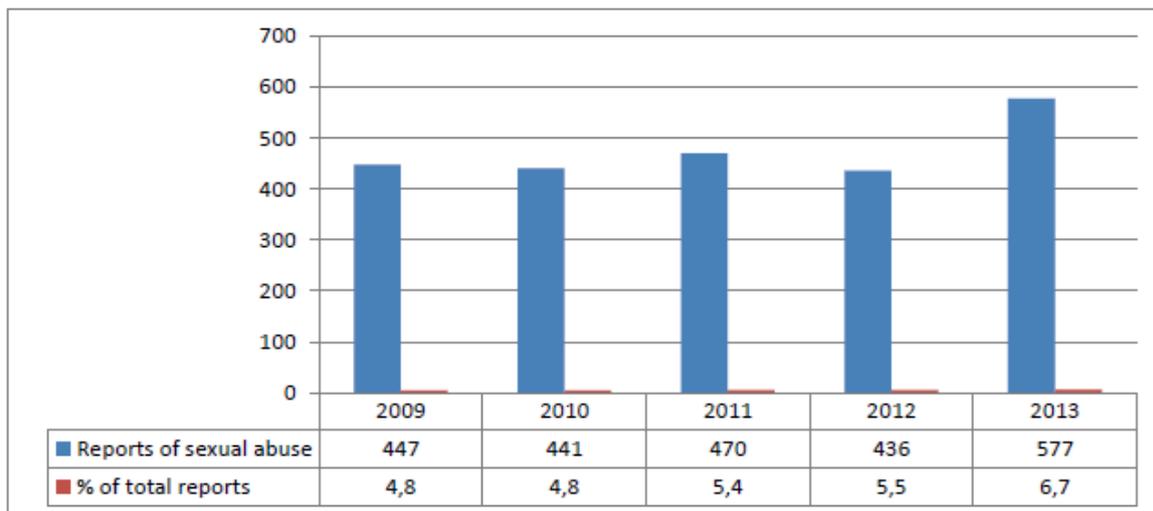
b)

Article 16 in the Act on Child Protection is about public duty of notification/reporting. All persons shall be obliged to notify the appropriate child protection services if they have reason to believe that a child is living in unacceptable circumstances of upbringing, is exposed to violence or other degrading treatment or is seriously endangering his/her health and maturity. Failure to do this may result in punitive measures by the judiciary.

Data on the number of notifications/reports to the local child protection services on suspected child sexual abuse and sexual exploitation for the past five years can be seen in Fig. 10 of the Appendix.

Figure 10 of the General Questionnaire's appendix:

**Fig. 10. Number of reports (notifications) of suspected child victims of sexual abuse to the local child protection services 2009-2013\***



\* Source: *Barnaverndarstofa / Government Agency for Child Protection in Iceland*

## ITALY / ITALIE

### Question 8 of the TQ / du QT

See question 13 of the GOQ

### Question 13 of the GOQ / du QAG

Professionals working with children (e.g. health professionals, social services, educational staff etc.) are bound to confidentiality in accordance with the specific provisions pertaining to their profession but this never applies to suspected criminal offences. On the contrary, in accordance with Article 331 of the Criminal Procedure Code public officials and other persons charged with a public service who, in the exercise of or because of their function or

their service, become aware of criminal offences, have a duty to report their suspicion without delay to the public prosecutor or to the police. According to Article 333 of the Code of Criminal Procedure, "Any person who has knowledge of a crime which may be prosecuted ex officio may report it". Therefore, any person is free to contact police or prosecutorial authorities, personally or in writing, if they have concrete suspicion of an offence concerning sexual exploitation or abuse of children. There are no other specific provisions encouraging such reporting.

In a symmetrical way, Article 361 of the Criminal Code makes it a crime for a public official to fail to report a crime which he learned of through his duties. Fines range from 30 to 516 EUR.

Similarly, Article 362 of the Criminal Code makes it a crime for a person in charge of a public service to fail to report a crime which he learned of through his duties. Fine can be up to 103 EUR.

The first offence is more serious and thus punished more severely.

#### Relevant texts:

##### Article 331 of the Code of Criminal Procedure

##### Report by public officials and persons in charge of a public service

1. Without prejudice to the provisions of Article 347, public officials and persons in charge of a public service who, when accomplishing, or as a result of, their functions or their duty, are informed of an offence which can be prosecuted ex officio, shall make a written report also when the alleged perpetrator is unknown.
2. The report shall be filed with, or sent, without delay to the public prosecutor or to a judicial police officer.
3. When several persons are under the obligation to make a report for the same fact, they can draw up and sign one single act.
4. If, during a civil or administrative proceeding, a fact comes out which can constitute an offence which can be prosecuted ex officio, the prosecuting authority draws up and send the report to the public prosecutor.

##### Article 361 of the Criminal Code

##### Failure on the part of a public officer to report an offence

- (1) A public officer (357) who omits or delays reporting to the judicial authorities or to other authorities who are obligated to report to the judicial authorities, an offence of which he has had notice in the exercise or by reason of his office (331 of the Code of Criminal Procedure; 221 of the coordinating provisions of the Code of Criminal Procedure) shall be punished by a fine of from 60,000 Liras to 1,000,000 Liras.
- (2) The punishment shall be imprisonment for up to one year if the offender is an officer or agent of the judicial police (57 of the Code of Criminal Procedure) who in any way had notice of an offence which he was required to report (347 of the Code of Criminal Procedure).
- (3) The preceding provisions shall not apply in the case of a crime punishable on complaint of the victim.

##### Article 362 of the Criminal Code

##### Failure on the part of a person charged with a public service to report an offence

(1) A person charged with a public service (358) who omits or delays reporting to the authorities specified in the preceding Article an offence of which he has had notice in the exercise or by reason of his service (331 of the Code of Criminal Procedure; 221 of the coordinating provisions of the Code of Criminal Procedure) shall be punished by a fine of up to 200,000 Liras.

(2) Such provision shall not apply with respect to offences punishable on complaint of the victim, nor to persons in charge of therapeutic socio-rehabilitation communities with respect to offences perpetrated by drug-addicted persons committed thereto to carry out programs determined by a public service.

As regards ex officio action, art. 609 septies of the Criminal Code envisages some options that were extended under the effect of the enforcement of Law no. 38/2006.

In the following cases, it is possible to proceed ex officio:

- 1) when the sexual abuse crime was committed against a person who at the moment of the crime was not eighteen;
- 2) when the sexual abuse (simple or aggravated) and sexual acts on a minor are committed by the ascendant, a parent – even adoptive – or his/her partner in cohabitation, by the tutor or by another person to whom the minor is entrusted because of reasons of care, education, surveillance or custody or who has a relationship of cohabitation with him/her;<sup>1</sup>
- 3) when the sexual abuse (simple or aggravated) and the sexual acts on a minor are committed by a public official or a person in charge of public service while exercising his/her functions;
- 4) when the sexual abuse (simple or aggravated) and the sexual acts on a minor are committed with another crime for which it is necessary to proceed ex officio;
- 5) when the sexual abuse (simple or aggravated) and the sexual acts on a minor are committed against a minor under ten.

## **LITHUANIA / LITUANIE**

### **Question 8 of the TQ / du QT**

Article 238 of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the CC) stipulates criminal liability for a failure to report a crime:

*“Article 238. Failure to report a crime*

- 1. A person who, without a valid reason, fails to report to a law enforcement agency or to a court a grave crime known to him, either in progress or already committed, shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.*
- 2. The close relatives and family members of the perpetrator shall not be held liable for a failure to report a crime.”*

Paragraph 8 of Order No. 65 “On the approval of the procedure for the provision of information about a patient to state institutions and other establishments” of the Minister of Health of the Republic of Lithuania as of 1 February 2001 lays down as follows:

*“Following the laws and other legal acts of the Republic of Lithuania, a health care institution shall provide information about a patient upon its initiative (in the absence of a written request from the authorised institution wishing to receive information about a patient) and without a patient’s consent in the following cases:*

- 1. When a crime has to be reported;*
- 2. To municipal child rights protection divisions according to the child’s place of residence or the location of a health care institution immediately upon necessity to protect the child’s rights and interests, as well as in the event of reasonable suspicion of violation of the child’s rights;*
- 3. In other cases.”*

The State Child Rights Protection and Adoption Service has approved the Description of the Procedure for the Provision of Information about Special Cases Related to Possible Child Rights Violations (hereinafter referred to as the Description). Pursuant to the Description, special cases are those cases where a damage (either actively or by inaction) was done to a mental and/or physical child’s health (when a child needs medical examination and/or aid) or life was taken, regardless of whether the child was injured or his life was taken by another child or a major and the case was reported to police. Special cases also include child suicide and cases related to possible sexual abuse and trafficking in children, also all cases of accidents at child care institutions during which a child was injured. Pursuant to the Description, city (district) municipal child rights protection divisions and child care institutions must report possible (suspected) sexual abuse of children to the State Child Rights Protection and Adoption Service.

### **Question 13 of the GOQ / du QAG**

**a)**

Taking into consideration the provisions of Paragraph 1 of Article 12 of the Convention, it should be mentioned that Paragraph 3 of Article 11 of the Law on Ombudsman for Children specifies that the Ombudsman for Children shall refer the material to a pre-trial investigation institution or the prosecutor of features of a criminal act have been established. Provisions of item 1 of paragraph 1 of Article 12 of the law specify that the Ombudsman for Children shall have the right to, having obtained the information about violations that was not specified in the complaints, initiate, on his own initiative, the investigation or transfer it to other competent state institutions for investigation.

The State Child Rights Protection and Adoption Service has approved the Description of the Procedure for Notifying of Exceptional Cases, which May be Related to Possible Violations of Child Rights (hereinafter referred to as the Description). The Description specifies exceptional cases as cases, during which mental and/or physical health of child was damaged (by active action or omission) (when a child is in need of medical examination and/or aid) or in cases of death irrespective of whether a child was injured, killed by another child or an adult person and this case is known to the police. The following cases are also considered as exceptional cases: cases related to child suicide or to possible sexual exploitation of children trafficking, in addition, all cases of accidents in child care homes, which resulted in child injuries. Pursuant to the above description, child rights protection

divisions of cities (regions) and child care institutions must report to the State Child Rights Protection and Adoption Agency the possible (suspected) sexual violence against child.

Paragraph 1 of Article 3.250 of the Civil Code stipulates the obligation of employees of educational, health care, police and other institutions as well as any person in possession of any knowledge <...> of the necessity to protect a minor's rights and interests to notify immediately the State institution for protection of the child's rights of the child's district of residence or their own district. The above article presents only sample (non-finite) list of circumstances, when a person must notify a municipal child rights protection division on the necessity to protect a child's rights and interests. Pursuant to these provisions, a person suspecting that a child is suffering from sexual exploitation or sexual abuse shall report this to the child rights protection division of respective municipality.

Taking into consideration the provisions of Paragraph 1 of Article 3.250 of the Civil Code and Paragraph 1 of Article 12 of the Convention, the role of specialists of health care institutions and the existed practice (formed by the Ministry of Health) should be mentioned. The obligation of health care specialists to report to competent authorities on children who have suffered sexual exploitation is legally regulated. This obligation is stipulated in Paragraph 7 of Article 10 of the Republic of Lithuania Law on Medical Practice of Physicians:

*"Article 10. The Professional Obligations of Physicians.*

*7) In line with the procedure established by laws, to inform the police and other law enforcement institutions about injured patients, who may have been crime victims".*

Order No. 55/42/16 of 28 January 2002 of the Minister of Health, the Minister of the Interior and the Prosecutor General "On the Information on Persons with Body Injuries, who May Have Been Crime Victims", and Order No. 65 of 1 February 2001 of the Minister of Health "On the Procedure for Submission of Information on Patients to State Institution and Other Institutions".

Article 9 "Specifics of the Rights to Privacy" of the Law on the Rights of Patients and Compensation for the Damage to their Health specifies that the patient's right to privacy is ensured based on the provisions that the patient's interests and wellbeing are of higher importance than public interests, however, the application of this provision can be limited in cases specified in the laws, where it is necessary for the protection of public security, crime prevention, public health or the rights and freedoms of other persons, and that health care institutions must notify law enforcement institutions of the injured patients to whom the injury could have been caused by a criminal act.

Notifications of the injured patients to whom the injury could have been caused by a criminal act are submitted to law enforcement institutions is submitted pursuant to Order No. 55/42/16 of 28 January 2002 of the Minister of Health, the Minister of the Interior and the Prosecutor General "On the Information on Persons with Body Injuries, who May Have Been Crime Victims". It should be noted that in practice the indicated information is not submitted to the Child Rights Protection Division of the municipality, if no written request is received from this institution. Information on a child who has arrived to a health care institution with certain injuries or health disorders is not submitted to the Child Right Protection Division either. It is assumed that the indicated practice has formed due to

different interpretation and explanation of the provisions of article 3.250 of the Civil Code. In the opinion of representatives of health care intuitions, the above provisions of the Civil Code do not oblige health care institutions to notify municipal child rights protection divisions about every child with certain injuries or health disorders and these are not the data about the necessity to protect the child's rights and interests. There is also a possibility of cases when law enforcement officers and specialists of municipal child right protection divisions do not receive information about a child who has suffered from sexual exploitation or sexual abuse due to specialists' insufficient qualification and clinical diagnosis. In addition, the evaluation of each situation and decision making on notification of competent institutions depend on subjective circumstances (opinion of a health care specialist, etc.). It should be mentioned that specialists of the chain of primary health care usually send patients for further diagnosis with regard to suspected violence to specialised centres, and patients do not go to these specialists due to various reasons (social problems, fear of the fact that family violence will be revealed, distrust in specialists qualifications, etc.) and refuse services of an inpatient institution. This is the reasons cases of sexual exploitation or sexual violence against children are not revealed.

Having regard to the provisions of Paragraph 1 of Article 12 of the Lanzarote Convention, the Draft Law Amending the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child has been produced. Paragraph 1 of Article 30 of the Draft Law establishes the following:

*Article 30. Obligation to report about violation of child rights*

*1. Employees of educational, personal health care, social services, law enforcement institutions and other institutions and non-governmental organisations, while performing their functions, upon receiving information on violation of child rights as well as about a child's behaviour putting his health and life in peril or possible acts of violence against child, shall immediately report this to the Child Rights Protection Division or the Police.*

**b)**

Paragraph 4 of Article 43 of the Law on Fundamentals of Protection of the Rights of the Child specifies the obligation of every natural or legal person, who has become aware of a child in need of assistance, to report this to the police, institution for the protection of the rights of the child or another competent institution.

*"Article 43. Child protection from Influence of Negative Social Environment".*

Article 238 of the Criminal Code provides for criminal liability for a failure to report a crime:

*"Article 238. Failure to Report a Crime.*

*1. A person who, without a valid reason, fails to report to a law enforcement agency or to a court a grave crime known to him, either in progress or already committed, shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.*

*2. The close relatives and family members of the perpetrator shall not be held liable for a failure to report a crime.*

Paragraph 8 of Order No. 65 of 1 February 2001 of the Minister of Health of the Republic of Lithuania "On the Approval of the Procedure for Provision of Information about the Patient to State Institutions and Other institutions" stipulates that:

*Pursuant to Laws and other legal acts of the Republic of Lithuania, a health care institution submits information about the patient on its own initiative (without a written request of an authorised institution to receive information about the patient) and without the patient's consent in the following cases:*

- 1. where there is a necessity to report a crime;*
- 2. to child rights protection divisions of municipalities according to the place of residence of the child or the place of the health care institution immediately, where there is a necessity to protect the child rights and interests as well as in the event of justified suspicions of violations of child rights;*
- 3. in other cases”.*

## **LUXEMBOURG**

### **Question 8 of the TQ / du QT**

Tout citoyen est obligé de porter secours à une personne en danger. Cette obligation résulte des dispositions de l'article 410-1 du Code pénal, relatif à la non-assistance à personne en danger. Ces dispositions valent également pour les soupçons d'abus sexuels.

Les fonctionnaires (y compris tous les salariés ou agents chargés d'une mission de service public), donc les instituteurs, le personnel de la maison relais, CPOS etc. sont encore soumis à l'obligation de l'article 23, 2° du Code d'instruction criminelle : obligation d'informer le procureur s'ils ont connaissance de faits susceptibles de constituer des crimes ou délits « nonobstant toute règle de confidentialité ou de secret professionnel lui étant applicable le cas échéant ».

Il existe depuis 2011 également l'infraction d'entrave à la justice telle que prévue par l'article 140 du Code pénal qui est donc également susceptible d'être invoqué. Pour les médecins, il importe de lire ensemble les articles 458 et 140.2 du Code pénal : les médecins qui ont connaissance de ce genre d'infraction dont il est encore possible de prévoir ou de limiter les effets ou dont les auteurs sont susceptibles de commettre de nouveaux crimes sont tenus d'informer le parquet (mais uniquement pour des mineurs).

Des mesures spécifiques pour le signalement de soupçons d'abus sexuels commis par des personnes faisant partie du cercle de confiance n'existent pas.

### **Question 13 of the GOQ / du QAG**

a)

L'exigence de signalement des soupçons d'exploitation ou d'abus sexuels formulée par l'article 12 de la Convention de Lanzarote est mise en œuvre par la loi du 10 juillet 2011 portant incrimination des entraves à l'exercice de la justice et qui érige en infraction pénale le fait de ne pas dénoncer aux autorités compétentes un crime dont il est encore possible de prévenir ou de limiter les effets, ou dont les auteurs sont susceptibles de commettre de nouveaux crimes. Cette obligation de dénonciation s'applique sans exception à toute

personne, y compris l'entourage proche de l'auteur et du complice, qui a connaissance d'un crime commis à l'égard d'un mineur de moins de 18 ans.

L'article 140 du Code pénal introduit par la loi du 10 juillet 2011 portant incrimination des entraves à l'exercice de la justice dispose ce qui suit :

« Le fait, pour quiconque ayant connaissance d'un crime dont il est encore possible de prévenir ou de limiter les effets, ou dont les auteurs sont susceptibles de commettre de nouveaux crimes qui pourraient être empêchés, de ne pas en informer les autorités judiciaires ou administratives est puni d'une peine d'emprisonnement de un à trois ans et d'une amende de 251 à 45.000 euros.

2. Sont excepté des dispositions qui précèdent, sauf en ce qui concerne les crimes commis sur les mineurs:

- les parents en ligne directe et leurs conjoints, ainsi que les frères et sœurs et leurs conjoints, de l'auteur ou du complice du crime;

- le conjoint de l'auteur ou du complice du crime, ou le partenaire au sens de la loi modifiée du 9 juillet 2004 relative aux effets légaux de certains partenariats;

- les personnes astreintes au secret professionnel et visées par l'article 458 du Code pénal ».

Un grand nombre de professionnels travaillant au contact avec les enfants sont astreints au secret professionnel tel que visé à l'article 458 du Code pénal. « Les médecins, chirurgiens, officiers de santé, pharmaciens, sages-femmes et toutes autres personnes dépositaires, par état ou par profession, des secrets qu'on leur confie, qui, hors le cas où ils sont appelés à rendre témoignage en justice et celui où la loi les oblige à faire connaître ces secrets, les auront révélés, seront punis d'un emprisonnement de huit jours à six mois et d'une amende de 500 euros à 5.000 euros ».

Les règles du Code pénal visant le secret professionnel ne font pas obstacle au signalement auprès des services de protection de l'enfance des cas de soupçons d'exploitation ou d'abus sexuel. Toutefois, il y a lieu de souligner que l'infraction de non-dénonciation telle que prévue à l'article 140 du Code pénal concerne uniquement les infractions qualifiées de *crimes* commis sur les mineurs.

#### Secret professionnel

Les professionnels de la santé sont, en principe tenu au secret médical, mais dans le cas d'une attente à l'intégrité de l'enfant ce droit prime ; tout doit être mis en œuvre pour le protéger.

Il n'y a aucun texte spécifique régissant le secret professionnel des enseignants.

L'article 11 de la loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat s'applique à tous les fonctionnaires et également donc aux enseignants.

« Art. 11.

Il est interdit au fonctionnaire de révéler les faits dont il a obtenu connaissance en raison de ses fonctions et qui auraient un caractère secret de par leur nature ou de par les prescriptions de leurs supérieurs hiérarchiques, à moins d'en être dispensé par le ministre du ressort [...]. »

Le secret professionnel qui est ancré à l'article 458 du code pénal s'applique aux professionnels y énumérés, à savoir « médecins, chirurgiens, officiers de santé, pharmaciens, sages-femmes », mais également à « toutes autres personnes dépositaires, par état ou par profession, des secrets qu'on leur confie ».

La question est donc de savoir si l'enseignant ou n'importe quel autre professionnel travaillant au contact d'enfants peut être considéré comme étant dépositaire des secrets qu'on lui confie. Elle se pose ainsi aussi pour le psychologue, l'assistant social ou l'éducateur travaillant au sein d'une équipe pluridisciplinaire à l'école.

Si au début on voyait dans le secret professionnel essentiellement une obligation assortie de sanctions pénales, on s'accorde aujourd'hui à mettre en avant également le droit de se taire, de ne pas révéler à des tiers des informations à caractère confidentiel. Il importe de souligner que le secret professionnel est donc aussi un droit, même s'il n'est pas absolu, autant qu'une obligation instaurée par le législateur.

On s'accorde aujourd'hui sur le fait que la notion de secret professionnel ne doit pas non plus donner lieu à des interprétations trop restrictives qui ne laisseraient par exemple plus de place aux objectifs pédagogiques à atteindre par l'école. Il n'y a que le caractère confidentiel réservé par essence à certaines informations ou des renseignements qualifiés confidentiels par l'élève lui-même qui pourront amener le confident à ne pas en révéler le contenu à des tiers, à moins qu'il n'ait été délié de son secret professionnel par l'élève lui-même.

On ne saurait évidemment se retrancher derrière le secret professionnel pour cautionner un acte illégal comme en l'espèce l'exploitation sexuelle ou l'abus sexuel dont serait victime un enfant.

Conformément à l'article 23, paragraphe 2 du code d'instruction criminelle « toute autorité constituée, tout officier public ou fonctionnaire qui, dans l'exercice de ses fonctions, acquiert la connaissance d'un crime ou délit, est tenu d'en informer le procureur d'Etat auprès du tribunal d'arrondissement de Luxembourg et de transmettre à ce magistrat tous les renseignements, procès-verbaux et actes qui y sont relatifs ».

Toute personne a l'obligation de signaler (aux autorités judiciaires lorsqu'il travaille à titre indépendant et à son supérieur hiérarchique au cas où il a la qualité de salarié) toute situation qui met en danger l'intégrité de la personne de l'élève. Sinon il se rend coupable de non-assistance à personne en danger (article 410.1 du code pénal prévoit un emprisonnement de huit jours à cinq ans et une amende de 251 à 10.000 euros).

Dans le cadre de la déontologie médicale, il y a lieu de préciser que le médecin, appelé à prendre en charge une victime d'agression, peut se trouver dans une situation délicate, pris entre son devoir de protection de la santé de ses patients et le secret professionnel.

Toutefois, des articles suivants de la déontologie médicale, il ressort son devoir de procéder en faveur de l'aide et de la défense de la personne sujette d'agression.

Art.3. Il est du devoir de tout médecin de défendre la santé physique et mentale de l'homme et de soulager sa souffrance dans le respect de la vie et de la dignité de la personne humaine sans distinction selon l'âge, le sexe, la race, la religion, la nationalité, la condition sociale et l'idéologie politique, en temps de paix comme en temps de guerre.

Art.4. Un médecin qui se trouve en présence d'un malade ou d'un blessé en péril, ou qui est informé qu'un malade ou un blessé est en péril, doit lui porter assistance ou s'assurer qu'il reçoit les soins nécessaires.

Art.46. Dès lors qu'il a accepté de répondre à une demande, le médecin s'engage à assurer personnellement à son malade des soins consciencieux et dévoués et à faire appel, s'il y a lieu, à l'aide de tiers compétents.

Art.54. Lorsqu'un médecin discerne qu'un mineur auprès duquel il est appelé est victime de sévices ou de privations, il doit mettre en œuvre les moyens les plus adéquats pour le protéger en faisant preuve de prudence et de circonspection, mais en n'hésitant pas, si cela est nécessaire, à alerter les autorités compétentes.

Art. 55. Lorsque le médecin se trouve confronté avec des affaires de famille, il doit procéder avec tact et bon sens en évitant toute prise de parti inopportune

**b)**

Actuellement il n'existe pas de règles spécifiques encourageant le signalement d'enfants victimes d'exploitation ou d'abus sexuel. Or, il existe depuis peu un groupe de travail interministériel et interprofessionnel coordonné par le service des droits de l'enfant du ministère de l'Education nationale, de l'Enfance et de la Jeunesse visant à préciser des lignes directrices en matière de signalement. Le résultat de ce travail doit être communiqué au grand public.

Ville de Luxembourg – service médico-psycho-scolaire.

Formation particulière d'une personne professionnelle référente, spécifiquement formée au diagnostic, à l'approche psychologique de la victime, de l'entourage, au signalement, à la prise en charge immédiate de la victime. En cas d'une situation d'une maltraitance quelconque, cette personne peut être convoquée à n'importe quel endroit de la ville de Luxembourg, par tous professionnels ou adulte au contact d'un enfant ou adolescent, qu'elle atteindra dans le ¼ d'heure pour prendre en charge la situation.

Cette approche

- garantit une grande compétence et expertise professionnelle dans la gestion de ces situations difficiles,
- évite des interventions effectuées par des personnes sans (aucune) expérience dans le domaine, manquant souvent également de connaissances scientifiques, psychologiques, législatives en la matière, n'étant pas à l'aise avec les procédures en application dans ces cas,
- ne connaissant peu les infrastructures responsables pour la bonne suite de gestion et de prise en charge,
- contribue d'une manière efficace et compétente à l'amélioration de la prise en charge rapide et adéquate de la victime

Dans le cadre de la collecte de données il y a lieu de relever que dans le cadre de l'étude HBSC / Health Behaviour in School Aged Children, enquête s'adressant à un échantillon représentatif des enfants et adolescents entre 11 et 17/18 ans.

Série de questions concernant la violence dont la violence sexuelle dans le questionnaire.

## **MALTA / MALTE**

### **Question 8 of the TQ / du QT**

The Protection of Minors (Registration) Act has introduced an obligation on any officer or any person who may in any way be involved in the management of a relevant entity and who becomes aware of the commission of a scheduled offence which is committed in the relevant entity to report the fact to the Commissioner of Police. Failure to do so would render such officer liable to criminal prosecution.

Child Protection Services strives at creating important networks with professionals working with children in order to encourage them to report cases of suspected child sexual abuse whenever these emerge. This is done through regular meetings with school staff, professionals and other entities working with children. Furthermore, training sessions have been given to such professionals in order to raise awareness of abuse from the child's circle of trust and the need to report such occurrences.

The media has also been utilised on a couple of occasions to emphasise with the general public the importance of reporting such suspected abuse.

### **Question 13 of the GOQ / du QAG**

Did not reply to this question / N'a pas répondu à cette question

## **REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

### **Question 8 of the TQ / du QT**

Under the Law no. 45 from March 01, 2007 on prevention and combating domestic violence, one of the basic principles of preventing and combating family violence is privacy. The victim is guaranteed rights and interests. People with responsibility, others who are aware of a threat to life or health of a potential victim must notify authorities responsible for the prevention and combating domestic violence. The victim has the right to physical, psychological and social rehabilitation assistance through specialized medical, psychological, legal and social action. Granting protection and assistance services is not conditioned upon the willingness of victims to make statements and attend court to prosecute the aggressor. The right to privacy and confidentiality of information on the victim is guaranteed.

Authorities responsible for preventing and combating family violence must react promptly to any complaint and inform victims about their rights, about the authorities and institutions responsible for preventing and combating domestic violence, about the type of services and organizations that they can contact for help, about the assistance available to them, where and how to lodge a complaint, etc. Any action of the specialist in the detection of a child at-risk, a child in need, child sexual abuse or any other situation is directed to respect the best interests of the child respecting all the rules, the privacy and legal norms. According to the same principle occurs intersectoral cooperation and multidisciplinary intervention.

For this purpose the seminars conducted with the police representatives in order to strengthen their communication skills aimed at encouraging the family members or friends of children to communicate the possible cases of abuse and to detect the danger from early time.

### **Question 13 of the GOQ / du QAG**

**a)**

Under the Law no. 45 from March 01, 2007 on prevention and combating domestic violence, one of the basic principles of preventing and combating family violence is privacy. The victim is guaranteed rights and interests. However, people with responsibility, others who are aware of a threat to life or health of a potential victim must notify authorities responsible for the prevention and combating domestic violence. The victim has the right to physical, psychological and social rehabilitation assistance through specialized medical, psychological, legal and social action. Granting protection and assistance services is not conditioned upon the willingness of victims to make statements and attend court to prosecute the aggressor. Anyway, the right to privacy and confidentiality of information on the victim is guaranteed.

Authorities responsible for preventing and combating family violence must react promptly to any complaint and inform victims about their rights, about the authorities and institutions responsible for preventing and combating domestic violence, about the type of services and organizations that they can contact for help, about the assistance available to them, where and how to lodge a complaint, etc. Any action of the specialist in the detection of a child at-risk, a child in need, child sexual abuse or any other situation is directed to respect the best interests of the child respecting all the rules, the privacy and legal norms. According to the same principle occurs intersectoral cooperation and multidisciplinary intervention.

**b)**

According to Law no. 140 for special protection of children at risk and children separated from their parents, local and regional tutorial authorities provides receiving and recording complaints on violation of child rights, the matter referred for identifying children at risk. Local guardianship authority is required to take action and / or to ensure receiving and recording complaints about children who are subjected to violence, are neglected children homelessness, begging, prostitution, children are deprived of parental care and supervision due their absence from home for unknown reasons, etc. Also, local guardianship authority shall ensure evaluation of the families with children at risk and children separated from

their parents. On August 8, 2013, the President of the International Center "La Strada" - Moldova and the Head of General Police Inspectorate signed a Memorandum of cooperation between law enforcement and civil society. One of its objectives is the mutual cooperation of the parties in preventing and combating child pornography and sexual exploitation of children.

This Memorandum provides responsibilities for both parties. The GPI has the following obligations, to ensure that beneficiaries have access to information about their rights, about the authorities and organizations that are responsible for the protection and assistance, and to take all the legal measures to ensure their protection; to ensure the child's interest through application of special measures of hearing the children victims of sexual exploitation the child hearing room of the International Center "La Strada", specially designed for hearing with the use of video registration; to inform the Centre about the possible dangers posed to beneficiaries enrolled in assistance programs and their protection, and in case of necessity to undertake, at the request of the Center, the measures necessary for the protection of beneficiaries; to provide information of common interest; to monitor the current situation of beneficiaries involved in criminal procedural actions and long-term care; to manage the information received from the Centre "La Strada" in confidentiality and security etc. According to this Memorandum "La Strada" will notify the GPI about cases of sexual exploitation of children, received through the National Hotline Center and through a virtual portal.

## **MONTENEGRO**

### **Question 8 of the TQ / du QT**

a)

There is legislation that makes reporting suspicions and acts of sexual exploitation and abuse obligatory. These issues are addressed in the following laws: the Law on Protection from Domestic Violence, Family Law, Criminal Code, Law on Health Protection, Law on the Protection of Patients' Rights, as well as in the Protocols on the treatment, prevention, and protection from domestic violence.

In the abovementioned laws, the obligations and rules for professionals who work with children have been defined, and do not present obstacles in reporting when there are reasonable grounds to suspect that a child is a victim of sexual exploitation and sexual abuse.

As part of the Law on Health Care, Law on Protection from Domestic Violence, Law on the Protector of Human Rights and Freedoms, as well as other laws, the procedures protecting the privacy of victims are defined, and do not represent an obstacle for taking measures to protect the child and detect the perpetrator.

Criminal Code, Amendments from 2010:

Article 386 of the Criminal Code stipulates that: Anyone who knows that a person has committed a criminal offence punishable under law by an imprisonment sentence of forty

years or who knows that such a criminal offence has been committed but fails to report it before such a criminal offence and offender are detected, shall be punished by an imprisonment not exceeding two years.

(2) The sentence referred to in paragraph 1 of this Article shall also be imposed on an official or responsible person who knowingly fails to report the crime s/he has been informed about in the performance of his/her official duty, if it is a criminal offence punishable under law by imprisonment of five years or more.

#### Article 416 – Abuse of an official position

(1) A person in official capacity who obtains for him/herself or another person any benefit, causes damage to another or gravely violates the rights of another by unlawfully using his/her official position or authorisations, overstepping the limits of his/her official authorisation or omitting to perform his/her official duty, shall be punished by an imprisonment sentence for a term of six months to five years.

#### Article 417 – Unconscientious performance of office

(1) An official who by violation of law or other regulations or general acts, by failure to do supervision or in some other manner obviously unconscientiously acts in the performance of his/her office, although he was aware or was obliged to and had to be aware that such acts may cause serious violation of rights of another or damage to property of another, when such a violation or damage exceeding the amount of three thousand euro actually takes place, shall be punished by a fine or imprisonment not exceeding three years.

One of the basic principles of the Law on the Treatment of Juveniles in Criminal Proceedings is the right to respect for privacy of a juvenile at all stages of the proceedings. The public prosecutor for juveniles, the judge for juveniles, and the council of judges for juveniles and other persons involved in the process must be careful that there is no violation of the privacy rights of a juvenile.

#### **b)**

There is legislation that makes reporting suspicions and acts of sexual exploitation and abuse obligatory. These issues are addressed in the following laws: the Law on Protection from Domestic Violence, Family Law, Criminal Code, Law on Health Protection, Law on the Protection of Patients' Rights, as well as in the Protocols on the treatment, prevention, and protection from domestic violence.

In the abovementioned laws, the obligations and rules for professionals who work with children have been defined, and do not present obstacles in reporting when there are reasonable grounds to suspect that a child is a victim of sexual exploitation and sexual abuse.

As part of the Law on Health Care, Law on Protection from Domestic Violence, Law on the Protector of Human Rights and Freedoms, as well as other laws, the procedures protecting the privacy of victims are defined, and do not represent an obstacle for taking measures to protect the child and identify the perpetrator.

Since 2003, NGO “Children First” from Podgorica realises intervention, development and prevention programmes relating to children and families. One of the social services that is implemented now is the advisory children’s helpline “Confidential Telephone”, which became a full member of the global network of helplines for children “Child Helpline International”.

Advisory children’s helpline “Confidential Telephone” is implementing the training of advisers in partnership with NGO “Brave Telephone” (Zagreb, Croatia) and the Serbian National Children’s Helpline (Belgrade).

### **Question 13 of the GOQ / du QAG**

See question 8 above.

## **NETHERLANDS / PAYS-BAS**

### **Question 8 of the TQ / du QT**

Please see question 13 of the GOQ.

### **Question 13 of the GOQ / du QAG**

**a)**

Professionals working in contact with children are bound by confidentiality rules. But it is imminent that professionals who encounter cases of child (sexual) abuse report this to appropriate channels. Certainly in situations in which the victim and suspect are embroiled in a family relation, or any other relation in a circle of trust, and where the child or the parent, caretaker will not report the abuse. For cases like these the Child Care Act offers a solution in article 53, paragraph 3, where a right to report is stipulated. With reference to this article professionals can report their suspicions of child (sexual) abuse to an Advice and Reporting Centre for Child Abuse and Neglect (AMK).

**b)**

Anyone who suspects child (sexual) abuse in their surroundings can contact the Advice and Reporting Centre for Child Abuse and Neglect (AMK) and remain anonymous if desired. The AMK will advise the reporting person on possible next steps. One of these steps may be an official report. In urgent situations the AMK will see to it that the child is brought to safety.

Children who feel abused can contact or chat on line with helplines such as the Children’s telephone line (Kindertelefoon), or the on line hotline child pornography ([www.helpwanted.nl](http://www.helpwanted.nl)). In 2013 the government conducted a big awareness campaign in the media on child abuse and the possibilities to report suspicions of abuse to the competent organizations. Any person can contact hotline “M” where you can report crime anonymously. The 0800 - 7000 number, which is not a police phone line, is free of charge and available daily. You can give information in Dutch, English or German. The number can also be called from abroad.

I refer back to the use of the Child Abuse Protocol, as described in the answer to question 8.

Question 8a of the General Questionnaire:

(...)

2<sup>nd</sup> indent

For years efforts were made to encourage the use of the Child Abuse Protocol, in situations where persons who have professionally regular contact with children become aware of signs of possible abuse en refer these signs to the competent bodies, such as to an Advice and Reporting Centre for Child Abuse and Neglect (AMK). The use of protocols proves to be effective. Professionals who have a protocol report cases three times as often as those without one. 40% of professionals who come into contact with families and children in the course of their work are already using a protocol. To ensure that the rest do so, the Code has been “codified” in the Domestic Violence and Child Abuse Protocol Act in 2012, which is enacted since July 1, 2013. Organisations in the healthcare, youth care, education, childcare, social support (welfare) and justice sectors must work with a protocol and must publicise it and encourage its use. A protocol contains a step-by-step procedure that shows professionals how to respond to signs of domestic violence and child abuse. With a detailed implementation road map in 2010 and 2011, central government encouraged organisations to start using a protocol, even before the Act enters into effect. This road map consisted of communication campaigns, the development of training courses (including e-learning modules) and a toolkit including a basic model for the protocol, an app with its diverse steps, and a checklist for managers responsible for introducing a protocol into their organisation. The Domestic Violence and Child Abuse Protocol Bill provides that Domestic Violence Advice and Support Centres (SHGs) are to become the formal reporting centres for domestic violence, and that AMKs and SHGs must collaborate in cases involving both domestic violence and child abuse. The Ministry of Youth, Safety and Sport will conduct a survey to the functioning of protocol in 2015 and in 2018 the Domestic Violence and Child Abuse Protocol Bill will be evaluated.

A cohesive package of measures has been developed jointly with the national volunteer centre NOV, Scouting Nederland and the Dutch national Olympic committee and sports federation (NOC\*NSF). The measures are designed to prevent young people falling victim to sexual abuse or harassment in voluntary organisations. The project entitled ‘In Safe Hands’ has developed a toolkit that includes a code of conduct, rules on how volunteers relate to children, risk analysis, a recruitment policy, the requirement of a certificate of good conduct and a reporting protocol. The toolkit is digitally available on the website [www.inveiligehanden.nl](http://www.inveiligehanden.nl)

## **PORTUGAL**

### **Question 8 of the TQ / du QT**

Please refer to the answer given to question 13 of the GOQ. Other than the general rules of the Criminal Code and Article 70 of Law nr. 147/99, of 1 September - which requires all professionals dealing with children who have knowledge of a situation that puts the child at

risk and implies the commission of a crime to report it to the competent authorities -, no specific measures to encourage reporting of sexual abuse in the circle of trust were taken. Reporting is also encouraged via telephone and e-mail through the Criminal Police website, plataformas digitais and “alert line” (Linha Alerta).

### **Question 13 of the GOQ / du QAG**

**a)**

In the Portuguese legal system, all crimes related to Articles 18, 19, 20 and 21 of the Convention are of a public nature, save to the crime under Article 173 (sexual activities with adolescents). Therefore it is not required that a complaint be submitted by the victim or his/her legal representative to initiate criminal proceedings.

Moreover, the Criminal Code on this matter states that when the criminal proceedings depend on a complaint, the Public Prosecution Service may initiate criminal proceedings within 6 months from the date of the knowledge of the fact and of its authors, whenever the interests of the victim so advises it (i) the victim is a minor or lacks the capacity to understand the range and meaning of presenting a complaint, or (ii) the right of complaint cannot be exercised because only the perpetrator of the crime may do so. (Articles 178 (1) and (2) and 113 (5)) The public nature of such crimes makes reporting mandatory for any civil servants who become aware of them, even if the agents of the crime are not known (Article 242 of the Code of Criminal Procedure).

The concept of civil servants, which covers, among others, teachers, nurses, educators and doctors in the public sector, and also the person who voluntarily or compulsorily, paid or for free, performs an activity in a public administration service or in a court, or in the same circumstances, works or takes part in organizations of public-benefit.

The mentioned Law on the Protection and Promotion of Children and Youngsters at Risk foresees that anyone who is aware of situations that may endanger the life and the physical or psychological integrity or liberty of the child shall report the situation to the authorities with competence in childhood and youth matters, law enforcement authorities, protection commissions or the legal authorities.

It should also be noted that the staff and workers of Directorate General for Rehabilitation and Prison Services are bound to the general obligation to denounce the practice of crimes brought to their knowledge in the exercise of their functions.

## **ROMANIA / ROUMANIE**

### **Question 8 of the TQ / du QT**

See answer to question 13.

## Question 13 of the GOQ / du QAG

a)

Persons who work with children are subject to some rules of confidentiality which are specific to their activity (e.g. doctors, teachers, social workers) but these rules are not an obstacle for the possibility to activate child protection services in case there are doubts concerning sexual exploitation or abuse (for example such a person is not liable to be sanctioned by the criminal law - art. 227<sup>10</sup> of the new Criminal Code – because he/she discloses such “legal” data in a justified way).

The law also provides for the obligation of public or private institutions which, given the character of their profession, have contact with children and doubts concerning a possible case of abuse, negligence, exploitation and any form of violence on the child or ill-treatment applied to the child, to immediately inform the general directions for social assistance and child protection.

Moreover, any person who, given the character of its profession or employment, works directly with children and has doubts concerning a possible case of abuse, negligence, exploitation or any form of violence on the child has the obligation to immediately inform the social assistance service or the general direction for social assistance and child protection on whose area of territorial competence the respective case was identified<sup>11</sup>.

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<sup>10</sup> ARTICLE 227

Disclosure of professional information

(1) Unrightfully disclosure of data or information concerning a person’s private life, of a nature to produce damages to such person by the one who was informed to this aimed, in the virtue of the profession or position held and who has the obligation to keep such information confidential shall be punished with 3 months to 3 years imprisonment or a fine.

(2) The penal action shall start upon the prior complaint of the injured person

<sup>11</sup> Law no. 272/2004 on the protection and promotion of the rights of the child:

ARTICLE 85

(1) The child has the right to be protected against any forms of violence, neglect, abuse or maltreatment.

(2) Any natural or legal person, as well as the child, can notify the authorities empowered by law to take appropriate measures, in order to protect the child against any forms of violence, including sexual violence, harm or physical or mental abuse, maltreatment or exploitation, abandonment or neglect.

(3) The staff of the public or private institutions who come into contact with the child through the nature of their profession and have suspicions concerning a potential case of child abuse, neglect or maltreatment, must urgently notify the general department for social security and child protection.

ARTICLE 91

(1) Any person who, through the nature of his or her profession, works directly with a child and has suspicions concerning the existence of a case of child abuse or neglect, must notify the public social security service or the general department for social security and child protection in whose territorial range was identified the respective case.

(2) For the notification of the cases of child abuse or neglect, at the level of each general department for social security and child protection, a “child telephone line” will be established, and the number should be widely publicized

(...)

ARTICLE 96

In case the child abuse or neglect were committed by persons who, based on a legal working contract or another type of contract, were providing the protection, upbringing, care and education of the child, the employers of these persons must notify immediately the criminal investigation authorities and must separate the respective persons from the children who are in their care.

Law No. 272/2004 also provides expressly for the obligation of the public social assistance service to immediately inform the general direction of social assistance and child protection when it ascertains that the physical, mental, spiritual, moral or social development of the child is jeopardized<sup>12</sup>.

Moreover, based on the provisions of art. 48 para. 4 of Law No. 272/2004, „teachers have the obligation to refer to the district centers for resources and educational assistance / the Bucharest Centre for Resources and Educational Assistance the cases of abuse, negligence, exploitation and any other form of violence on children and to inform the public social assistance service or, as case may be, the general direction of social assistance and child protection about these cases.”

The Government’s Decision No. 49/2011, Annex 1, contains as a working principle the following: “Respect of the confidentiality and of the professional deontological norms without prejudice to the activity of reporting cases of violence or to the activity of investigation of these cases.”

As regards the probation services, according with the provisions of art. 66 para. (1) of Law. 123/2006 concerning the statute of the probation staff, the probation staff has the obligation to respect the confidentiality of the data retained in relation to the performance of their professional duties. However there are also exceptions from the confidentiality of data:

- an exception from the provisions of para. (1) is allowed for data provided to judicial bodies within the criminal trial” – art. 66 para. (2) of Law No. 123/2006;

- Probation officers undertake to maintain the confidentiality of documents which they have access to, according with the applicable legal provisions, for professional purposes. Making these documents and other information acquired in the exercise of their professional duties available to judicial bodies, in accordance with the legal provisions, shall not be an infringement of confidentiality, as probation services have the obligation to cooperate with judicial bodies upon their written request”- art. 7 lit. d) of the Deontological code of probation staff.

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<sup>12</sup> ARTICLE 36

(1) If there are sound reasons to suspect that the child’s life and security are endangered in the family, the public social security service or, if the case, the representatives of the general department for social security and child protection at the level of each sector have the right to visit the children at their residence and to gather information on how the children are being cared for, on the children’s health and physical development, education and professional training, and may grant, where needed, the necessary advice.

(2) If, following the visits stipulated under paragraph (1) it is noticed that the child’s physical, mental, spiritual, moral or social development is endangered, the public social security service must immediately notify the general department for social security and child protection, in view of undertaking the measures stipulated by the law.

(3) The general department for social security and child protection must refer the case to the court, in case it considers that the conditions required by the law regarding the partial or complete termination of the parental rights of one or both of the parents are met.

As regards the education system, the confidentiality rules do not affect the cooperation of institutions of education and practices of psycho-pedagogical assistance with the general directions of social assistance and child protection, with the district police inspectorate – prevention department, as well as with other legal persons involved in the field of education, which is explicitly mentioned in art. 5 of the Framework Regulation concerning the organization and functioning of district centers / the Bucharest center and of practices of psycho-pedagogical assistance approved by virtue of the Minister’s Order No. 5555/2011 for the approval of the Regulation concerning the organization and functioning of district centers / Bucharest centre for resources and educational assistance.

b)

As a general rule provided for in the **Code of criminal procedure**, any person who has knowledge about an offence having been committed can inform the law enforcement agencies (law enforcement agencies are the prosecutor, the criminal investigation structures of the judicial police, special criminal investigation bodies) by filling a criminal complaint. Judicial authorities can also become active ex officio when they find out in any way about an offence having been committed<sup>13</sup>. **Regarding non-judicial institutions:** The General Direction for Child Protection is subordinated to the Ministry of Labor, Family and Social Protection and has as its responsibilities, among other things, the coordination and methodological guidance of activities for the support of the families and of the victims of

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<sup>13</sup> ARTICLE 288

Notification types

(1) The prosecution services are notified by complaint or denunciation, according to the documents drawn by other investigation authorities provisioned by the law or shall be notified ex officio.

(2) *When, according to the law, the commencement of the penal action is made only upon the prior complaint of the injured party, upon the notification made by the person provisioned by the law or upon the authorization of the institution provisioned by the law, the penal action cannot be started in their absence.*

(3) In respect of the offences committed by militaries, the notification of the commanding officer is required only in what concerns the offences provisioned in Article 413-417 of the Penal Code.

(...)

ARTICLE 290 Denunciation

(1) Denunciation is the information made by a natural or legal entity concerning the commission of an offence.

(2) Denunciation can only be made in person, as provisions of Article 289 (2), (4) - (6) and (8) - (10) shall apply accordingly.

ARTICLE 291

Notifications made by persons in leading positions and by other persons

(1) Any person holding a leading position within a public administration authority or other public authorities, public institutions or other legal entities of public law, as well as any person having control duties, who during the exercise of such duties, found out the commission of an offence for which the penal action starts ex officio are compelled to notify the prosecution services at once and to take measures to prevent the consequences of the offence, the corpus delicti and any other means of evidence from disappearance

(2) Any person holding a public office who was appointed by the public authorities or is submitted to the control or supervision of the public authorities in respect of compliance with that public service, who during the exercise of the duties, found out the commission of an offence for which the penal action starts ex officio are compelled to notify the prosecution services at once and to take measures to prevent the consequences of the offence, the corpus delicti and any other means of evidence from disappearance.

ARTICLE 292

Ex officio notification

The prosecution services shall be notified ex officio if finding out that an offence was committed, in any other way than those provisioned in Articles 289-291 and shall sign a record statement to this aim.

domestic violence, as well as of the services dedicated to these categories of persons; by the current hotlines (see para. (2) of art. 91 of Law No. 272/2004 in the foot note to the answer pertaining to the previous letter), as well as by the decentralized services it ensures the reception and analysis of any reports which refer to cases of abuse of any kind committed on children, followed by the information of the competent authorities<sup>28</sup>.

According with art. 92 and art. 93 of the same law, the General Direction for Social Assistance and is obliged to:

a) check and solve all reports concerning possible cases of abuse, negligence, exploitation and any form of violence on the child;

b) ensure the performance of the services provided for in art. 107, specialized for the needs of the children who are victims of abuse or negligence and of their families.

In order to check the reports concerning cases of abuse, negligence, exploitation and any form of violence on the child, the representatives of the general direction for social assistance and child protection have right of access according to applicable legislation to the headquarters of legal persons, as well as to the domicile of natural persons who care for or ensure the protection of a child. Police authorities have the obligation to support the representatives of the general direction for social assistance and child protection when they perform these checks.

In case the act of abuse, negligence, exploitation or any form of violence on the child was committed by persons, who, based on an employment relationship or other kind of a relationship, ensured the protection, upbringing, care or education of the child, the employers have the obligation to immediately report to criminal investigation bodies and to have the respective person removed from the children (art. 96).

Furthermore, according with art. 87 of Law No. 272/2004, in cases in which children do not come to school and instead work illegally, schools are obliged to report immediately to the public service for social assistance. In such cases, the public service for social assistance together with district school inspectorates and with all other public institutions in charge are obliged to take measures for the school reintegration of the child.

The conditions for such reports and the competent authorities are set out in the Government's Decision No. 49/2011, Annex 1

## **SAN MARINO / SAINT-MARIN**

### **Question 8 of the TQ / du QT**

Anyone is required to report, and more specifically to immediately inform the authorities of any people needing care, with specific reference to their age, physical or mental condition. The Criminal Code provides for sanctions in case of non-reporting.

### Question 13 of the GOQ / du QAG

a)

Art. 192 of the Criminal Code establishes the offence related to the *disclosure of official, professional, scientific or trade secret*. This rule protects the secrecy of facts of which professionals become aware while performing their duties. Even if no professional category bound by rules of confidentiality is specified, the provision lists general criteria, such as "*own status*", "*office*", "*profession*", "*art*" or "*industry*", to determine the professionals bound by this rule.

The category "*office*" may include public or private officers serving the interest of society, namely teachers and carers working every day in contact with children.

Considering that the provision was meant to protect the freedom and security of professional relationships, the rule should not punish the above mentioned professionals who, in the interest of the child, report to the services responsible for the protection of children, since their reporting is not intended to procure any benefit for them or others.

b)

Anyone is obliged to report and more specifically to "immediately inform the authorities" about people needing care, specifying their age, physical or mental condition. The Criminal Code provides for sanctions in case of non-reporting.

### SERBIA / SERBIE

#### Question 8 of the TQ / du QT

##### Ministry of Labour, Employment and Social Policy:

Under the General Protocol for Protection of Children from Abuse and Neglect, adopted by the Government of the Republic of Serbia in 2005 children are protected from violence in all situations, including: in family (natural, foster, adoptive); outside family, where they stay temporarily or reside permanently (school, pre-school facilities, residential care, summer holiday facilities and camps, day care, homes for children). Consequently, protection of children victims of abuse and neglect is a complex process in which institutions, organisations and individuals from different systems (social welfare, education, healthcare, police, justice, etc.) take part, and efficient intervention cannot be undertaken without a coordinated action of all the actors. To facilitate the process of developing a consistent and coherent framework of protection of children from abuse and neglect by professionals from different sectors, the Manual for Implementing the General Protocol has been published, intended for professional use in all relevant services and state authorities, which contains clarifications of used terms and description of difficulties the professionals regularly encounter in defining the terms of child abuse and neglect. Also, special protocols are developed, including: for protection of children from abuse and neglect residential care (Special protocol for protection of children from abuse and neglect in residential care, 2006); for the police (Special protocol on follow-up by police officers when providing protection to minors from abuse and neglect, 2006); education (Special protocol for

protection of students from violence, abuse and neglect in educational institutions, 2007); healthcare (Special protocol in healthcare system for protection of children from abuse and neglect, 2009); and justice (Special protocol on follow-up of the justice system in provision of protection to minors from abuse and neglect, 2009). Abuse (including sexual) may be reported to a centre for social work: orally (to a telephone number) or in written form.

#### Ministry of Health:

- In 2009, after the Government of the Republic of Serbia adopted the General protocol for protection of children from abuse and neglect signed by Ministry of Health and countersigned by Ministry of Education and Ministry of Labour, Employment and Social Policy, the Special healthcare system protocol for protection of children from abuse and neglect was issued by the Ministry of Health, intended for healthcare staff and healthcare associates directly involved in child healthcare, at all levels of healthcare.
- In 2012, to advance prevention and protection of children from abuse and neglect, Manual for implementation of Special healthcare protocol for protection of children from abuse and neglect was developed and widely disseminated in form of a leaflet/charts for urgent and easy use, providing every healthcare officer and healthcare associate and collaborator guidelines for immediate work in the field, and recommendations on who to hold interview with children on experiences painful for them.
- The Special protocol takes into account all the children who come into contact with healthcare staff and healthcare associates, regardless of their gender, age, family status, ethnic origin or any other social and individual characteristics (colour, language, belief, nationality etc.).
- One of the basic principles underlining the Special protocol is the principle of best interest of the child implying that the interest of the child is prevailing over interest of the parent or guardians, institution or community in situations when such interests are different from the interest of the child.
- The child's participation is ensured by allowing the child to be consulted, to enabling them to receive relevant information and to allow them to express their wishes, views and opinion in all the phases of the protection process in child-friendly manner and adjusted to their age and understanding of the situation.
- Due to the complexity of problem and need for multidisciplinary approach, the Special protocol establishes the obligation for healthcare facilities to set up an expert team for protection of children from abuse and neglect responsible to recognize when child is abused and neglected and to provide optimum solution, i.e. to take care of the abused and neglected child within the healthcare system in a best possible manner. Every member of the staff working in a healthcare facility are to be informed on the existence of such expert team, their members, active in their healthcare institution. Every member of the healthcare staff, and healthcare associate and collaborator is bound to notify the expert team in their healthcare

facility on every individual case or doubt about child abuse and neglect, whereas the expert team is bound to notify other responsible field-specific and professional institutions.

- Currently, there are 160 expert teams for protection of children from abuse and neglect (around 85%) set up at primary level, i.e. in primary-level healthcare facilities, and at secondary and tertiary level in paediatric wards/clinics recognized in the National Healthcare Facilities Network Map. In addition to the mentioned teams, there are four regional teams in Belgrade, Novi Sad, Nis and Kragujevac set up to ensure coordination of the expert teams and provide support required for more efficient implementation of the Special protocol for protection of children from abuse and neglect. The expert team in every facility is bound to submit the annual report on its activities to Ministry of Health.
- Under the Project titled *Implementation of the Special Healthcare System Protocol for Protection of Children from Abuse and Neglect*, implemented in cooperation with Ministry of Health, UNICEF and Mental Health Institute, 200 healthcare staff and healthcare associates have been trained from over 30 healthcare facilities at all levels of healthcare on how to follow Special protocol for protection of children from abuse and neglect.

Ministry of Health has continually organised training courses for healthcare staff and healthcare associates involved in protection of children from abuse and neglect.

Special training courses on protection of children from abuse and neglect have also been delivered by 75 healthcare female mediators/assistants who act as a link between the Roma community and the national healthcare system.

#### Ministry of Interior:

Under the Criminal Procedure Code, state and other authorities, legal and natural persons are bound to report criminal offences that are persecuted ex officio on which they have been notified, informed or have otherwise become aware of them. Criminal Code stipulates in which cases failure to report a criminal offence shall be regarded of as a criminal act.

#### NGO Astra:

Please see the answer to the question 13 of the GOQ.

### **Question 13 of the GOQ / du QAG**

(...)

#### Ministry of Interior:

(...)

When reporting on children and juveniles, police officers shall respect principles of ethics and comply with certain limitations under the law. Under the Law on Juvenile Criminal Offenders and Criminal Law Protection of Juveniles "No publication of the course of juvenile criminal proceeding or the disposition of such proceeding will be allowed without

permission of the Court» (Article 55). This is also applicable in the proceedings in which juveniles appear as the injured party (victims).

As police usually gets first to know about a committed criminal act or misdemeanour in which juveniles may be involved, the police officers are not allowed to disclose confidential data in order not to endanger proceedings and exercise adverse impact on dignity, mental and physical and social development of the juvenile and respect of his family.

Under the Special protocol on the follow-up of the police officers in provision of the protection of minors from abuse and neglect, when statements are given, only initial letters of the minor's full name shall be given, and not any single other data on the basis of which the identity of the minor may be inferred. The statement may contain only short description of the development (date, time and general place of the event, data on the juvenile's age and gender).

#### NGO Astra:

The right and duty of all children's, health and educational institutions, institutions for social protection, justice and other state institutions, organizations and citizens to inform the public prosecutor or guardianship authority on the need for protection of a child's rights is written in the article 263, paragraph 3 of the Family law ("Official Gazette RS", No. 18/05).

Article 281 of the Code on criminal proceedings regulates the procedure of filing and entering criminal charges. Criminal charges are filed with the responsible public prosecutor in writing, orally or by other means. If a criminal complaint is filed with the police, public prosecutor that does not have jurisdiction or with the court, they shall receive and immediately forward it to the responsible public prosecutor.

## **SPAIN / ESPAGNE**

### **Question 8 of the TQ / du QT**

See question 13 of the GOQ

### **Question 13 of the GOQ / du QAG**

a)

The Criminal Procedure Act provides for the obligation to report the facts to the Judge and Public Prosecutor when witnessing the perpetration of an offence. The offender's relatives are exempted from this rule. As for the professionals who know about the case by means of their profession or duty, the same rule applies except for lawyers and legal representatives. In addition, article 13 of the Organic Act 1/1996 on the Legal Protection of Minors reads as follows:

"Any person or authority and especially those who detect a risk or a suspected situation of abandonment of the minor by means of their profession or duty, shall report it to the nearest officers or authority without prejudice to bring immediate assistance to the child as required...

The authorities and persons who know about the case by means of their profession or duty shall act with due confidentiality.  
Unnecessary interferences in the minor's life shall be avoided.

b)

See answer above.

## "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / « L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE »

### Question 8 of the TQ / du QT

Did not provide an answer / N'a pas répondu à cette question.

### Question 13 of the GOQ / du QAG

a) and b)

#### Ministry of Labour and Social Policy

The special systemic *Law on Prevention, Combating and Protection against Domestic Violence* was adopted on September 15, 2014 ("Official Gazette of the Republic of Macedonia" No. 138/14).

The subjects of protection, the activities of execution, the consequences of the violence suffered and the forms of violence, specifically, sexual, psychological, physical and economic violence, are set with the definition of domestic violence.

The *Law on Prevention, Combating and Protection against Domestic Violence* particularly focuses on the protection of children from domestic violence, as children are victims not only when they suffer violence directly, but also when they witness violent relations within the family. For that reason, the Law provides that procedures for protection of children from domestic violence be conducted *ex officio* by the competent institutions. Furthermore, when the child is exposed to violent relations within the family, the Law provides that these situations be taken into account in the procedures for awarding the custody of the child to one of the parents and the procedures for regulating the contacts and meetings between the child and the parent who has perpetrated domestic violence, whilst bearing in mind the best interests of children.

The Law provides that measures for a child at risk, provided by the *Law on Justice for Children*, be taken when a child is a perpetrator of domestic violence, and that the necessary measures in the field of inspection of the exercising of the parental right and custody, provided by the *Family Law*, be taken.

As regards the institutional response, the responsibility of the officials and responsible persons for obligatory actions upon gaining any knowledge of perpetrated domestic

violence is emphasized, in which cases the procedures are conducted urgently. Furthermore, the need for coordination and cooperation between all relevant institutions and associations of citizens is also emphasized. The Law particularly provides the obligation for all relevant institutions to report to and inform each other, and to exchange official documentation for specific cases.

A multisectoral expert team, composed of representatives of the Center for Social Work, the police station, the healthcare institution and the non-governmental sector, shall be set up within the Center for Social Work, in order to prepare a safety plan for protection of the victim of domestic violence, which shall be mandatory when the victim is a child.

The Law provides that the procedures be conducted and that the measures for protection against domestic violence be taken by educated professionals, who have obtained the necessary knowledge for the implementation of this Law and gender equality. Moreover, the Law also regulates the keeping of records in institutions and courts for the specific characteristics required for the monitoring of the situation of domestic violence.

#### Ministry of Interior

The Law provides that competent bodies and institutions are: the relevant ministries, the institutions working in the field of social protection, child care, internal affairs, healthcare, employment and education, the associations registered for provision of such services, the Local Self Government Units and First Instance Civil Courts.

As regards the implementation of Integrated National Policies, the law provides that the Government of the Republic of Macedonia shall adopt a *National Strategy for Prevention, Combating and Protection against Domestic Violence* and that it shall establish a National Body for Domestic Violence. The aforesaid body is multisectoral and shall work with a mandate of five years, and shall be responsible to monitor and analyse the situations of domestic violence in the country, to coordinate the activities of all competent institutions and to propose measures for enhancement of the situations and for implementation of the planned activities.

For efficient and effective multisectoral cooperation of the competent institutions, including the associations of citizens, the law provides that the Government of the Republic of Macedonia, on the proposal of the Ministry of Labour and Social Policy, adopts a Protocol for mutual cooperation of the competent institutions for taking measures for prevention, combating and protection against domestic violence.

Under the Criminal Procedure Code, police officers from the Ministry of Interior are bound to report criminal offences that are persecuted ex officio on which they have been notified, informed or have otherwise become aware of them. The Criminal Code stipulates that in cases of failure to report a criminal offence the same shall be considered as a criminal act.

When reporting on children or minor, police officers shall respect principles of ethics and comply with certain limitations under the Child Justice Act. This is also applicable in the proceedings in which minors appear as the victims. As police usually gets first to know about

a committed criminal offence or misdemeanour in which minors may be involved, the police officers are not allowed to disclose confidential data in order not to endanger proceedings and exercise adverse impact on dignity, mental and physical and social development of the minor and respect of his family.

## **TURKEY / TURQUIE**

### **Question 8 of the TQ / du QT**

See question 13 of the GOQ

### **Question 13 of the GOQ / du QAG**

a)

Professionals working in contact with children are bound by confidentiality rules. Such confidentiality is determined with regard to the ethical rules of each profession. However, these rules do not constitute an obstacle for reporting in the case where the child is a victim of sexual exploitation or sexual abuse. On the contrary, Article 278 of the Turkish Penal Code renders it obligatory for public officials to inform the authorities of the crime they have come to know of in the capacity of their professions. Article 278 reads;

*ARTICLE 278- (1) Any public officer who neglects or delays in notification of an offense to the authorized bodies being aware of commission of an offense, which requires investigation or prosecution, is punished with imprisonment from six months to two years.*

*(2) In case of commission of this offense by an officer undertaking duty in judicial department, the punishment to be imposed according to above subsection is increases by one half.*

b)

There is not any separate or specific legal arrangement to encourage persons to report actions of abuse and exploitation of children which fall within the scope of the Convention and which constitute an offence. However, in general terms, any person who witnesses an offence being committed is under to the obligation to report it to the competent authorities. Article 277 of the Turkish Penal Code rules that any person who fails to inform the competent authorities of an offence being committed or of the commission of an offence when it is still possible to limit its consequences is to be sentenced to prison. Paragraph 3 of the same Article governs that in case the victim happens to be a child not yet attained the age of fifteen, or a person lacking the capacity to protect himself/herself due to corporal or spiritual disability or pregnancy, the sentence to be imposed is to be increased by one half.

There are no conditions to the reporting of such an offence. Upon coming to know of the commission of an offence, one shall inform the nearest public prosecutor's office, police station, gendarmerie, district governorship or provincial governorship.

## **UKRAINE**

### **Question 8 of the TQ / du QT**

See question 13 of the GOQ

### **Question 13 of the GOQ / du QAG**

**a)**

Transfer of information is conducted in accordance with the Instructions on processing claims and appeals as to cruel treatment of children or realistic risk of such treatment, as approved by the Order #5/34/24/11 of the State Committee of Ukraine on Family and Youth, Ministry of Internal Affairs of Ukraine, Ministry of Education and Science of Ukraine, Ministry of Health of Ukraine as of 16.01.2004.

**b)**

In accordance with Item 15 Paragraph one, Article 8 of the Law of Ukraine “On Investigative Operations”, investigative units for the sake of conducting their professional activities may receive information on crimes which are being prepared or have been committed, as well as on threats to security of the society and state from legal entities and physical persons with or without remuneration for such information.

In parallel, in accordance with Paragraphs one and four, Article 214 of the CPCU, investigator / public prosecutor is required to enter the relevant information into the Unified registry of pre-trial investigations immediately but in any case no later than 24 hours after submission of a report / information on a criminal offense that has been committed.

Investigator / public prosecutor / other official authorized to accept and register reports / information on criminal offenses, shall be required to accept and register such report or information. Refusal to accept and register a statement or information on a criminal offense shall be inadmissible

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## **II – Other stakeholders / Autres parties prenantes**

### **FUNDACIÓN ANAR (MISSING CHILDREN EUROPE) (SPAIN / ESPAGNE)**

#### **Question 13 of the GOQ / du QAG**

The only exceptions to the obligation to report relate to members of the bar (abogados, procuradores) as well as to priests regarding information obtained under the secret of confession.

## **UNICEF (ICELAND / ISLANDE)**

### **Question 8 of the TQ / du QT**

There is a notification duty on both the general public as well as on all professionals, especially teachers and doctors. The child protection agency collects information on those that notify abuse to the child protection services and there you can see that teachers and health services staff do not notify as much as you would expect.

### **Question 13 of the GOQ / du QAG**

**a)**

There are no confidentiality rules for professionals, which sometimes hinders them to notify, because of how small the community is. There is a notification duty on both the general public as well as on all professionals, especially teachers and medical staff. The child protection agency collects information on those that notify abuse to the child protection services and the data reveals that teachers and health services staff do not notify as much as you would expect, given the special emphasis the Child Protection Act places on them.

**b)**

There is a notification duty on the general public as well as on professionals, although the general public can notify anonymously. Good practices include the campaign by the Awareness Committee where they sent out a pamphlet with information on the general public's duty to notify the competent authorities on all forms of violence and suspicion thereof.<sup>14</sup>

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<sup>14</sup> Articles 16 -19 of The Child Protection Act deal with notifications: Article 16: Public duty of notification. [All persons shall be obliged to notify a child protection committee if they have reason to believe that a child:

- a. is living in unacceptable circumstances of upbringing,
- b. is exposed to violence or other degrading treatment or
- c. is seriously endangering his/her health and maturity.

Furthermore, all persons are obliged to notify a child protection committee if there is reason to believe that the health or life of an unborn child is being endangered due to the unacceptable or dangerous life-style of an expectant mother, e.g. in the form of alcohol abuse or the consumption of drugs, or when an expectant mother is exposed to violence, or if there is reason to suspect that an expectant mother is exposed to violence, or of any incidents which may be regarded as falling within the child protection committee's concerns.])

Article 17 Duty of notification by those who deal with children. [All persons involved in matters concerning children or expectant mothers, through their position or occupation, are obliged to notify a child protection committee, if they become aware of circumstances as described in Article 16.]1) Pre-school heads and teachers, child-minders, school heads, teachers, clergy, physicians, dentists, midwives, nurses, psychologists, social workers, developmental therapists, [career counsellors] 1) and those providing social services or counselling are under an especial obligation to monitor the behaviour, upbringing and conditions of children as far as possible, and to inform the child protection committee if the child's circumstances appear to be of the nature described in paragraph 1. The duty of notification provided in this Article takes precedence over provisions in law or codes of ethics on confidentiality within the relevant professions.

## **EUROCEF (FRANCE)**

### **Question 13 of the GOQ / du QAG**

**a)**

Secret professionnel partagé ne fait pas d'obstacle au signalement.

**b)**

En France il existe une obligation de signalement.