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LANZAROTE CONVENTION

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

FOCUSED QUESTIONNAIRE

Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse

LATVIA

(Replies sent by the State)

Replies registered by the Secretariat on 19 September 2016

DATA (Lanzarote Convention, Chapter III)

- 1) How many migrant and asylum-seeking children (accompanied and unaccompanied)¹ are in your country as a result of the refugee crisis?
 - a) Please provide estimates, if exact data is not available, for the period between 1 July 2015 and 30 June 2016,² and specify how many of these children are victims or presumed victims of sexual exploitation and sexual abuse;

According to the information provided by the Ministry of Interior, 97 minors (88 of them accompanied by parents and 9 of them unaccompanied) requested asylum in the Republic of Latvia (hereinafter - Latvia) during the period of time between 1 July 2015 and 30 June 2016.

During the reference period 38 minors (11 of them accompanied by parents and 27 of them unaccompanied) were registered as immigrants who had crossed the border illegally.

According to the information provided by the Office of Citizenship and Migration Affairs (hereinafter - OCMA), the State Border Guard and the State Police, none of these minors (immigrants who have illegally crossed the border or asylum seekers) were identified as victims of sexual abuse or sexual exploitation.

According to the Asylum Law Section 1, Paragraph 7 an unaccompanied minor is defined as: *"a third-country national or a stateless person who is less than 18 years of age and has arrived or resided in the Republic of Latvia without being accompanied by such person who is responsible for him or her in accordance with the laws and regulations of the Republic of Latvia in the field of family law (father, mother, guardian) until the moment when the responsible person resumes the fulfilment of the obligations in relation to him or her"*³.

- b) Describe how the victims of sexual exploitation and sexual abuse were identified or describe the challenges faced to identify them. Specify whether a distinction is made between victims of sexual exploitation/abuse prior to the entry on your territory (Group 1) and after entry (Group 2) and provide data/estimates of the two groups of victims. Please also explain how the age is determined in case of doubt;

Sexual exploitation or sexual abuse of minors is identified in the early stage of the procedural actions - as soon as the person encounters the State Border Guard officials. Examples could be as followed: during the border checks, at the time of the interview, during an in-depth examination or during the asylum procedure. Most of asylum seekers submit an application for asylum in Latvia while at the state border. Thus identification of

¹ Please provide the definition of accompanied/unaccompanied children in your country and, if available, provide separate figures for accompanied and unaccompanied children. If such data is not available, please provide data on migrant and asylum-seeking children.

² If figures for this period are not available, please provide the most recent annual data.

³ Asylum Law, adopted 17.12.2015. ("Official Gazette", 2 (5574), 05.01.2016.) [into force since 19.01.2016.]; <http://likumi.lv/ta/id/278986-patveruma-likums>.

children as victims of sexual exploitation or sexual abuse during the asylum procedure is carried out in accordance with a specific methodology followed by the State Border Guard officials.

If during the minor's identification process the State Border Guard official has any doubt regarding person's age, the State Border Guard official has the right with the person's parents or guardian's agreement to designate a medical examination for age determination. If after the medical examination for age determination the State Border Guard official still has doubt regarding the asylum seeker's age, the person who claims to be a minor shall be treated as such during the application process.

Up to now Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis. Thus there is no distinction made between victims of sexual exploitation and abuse prior to entry in the territory of Latvia and after entry.

- c) Indicate also how the data collected is used to offer a coordinated response between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children;

If a child is an unaccompanied minor seeking asylum in Latvia the Asylum Law shall be applied. In the case of unaccompanied minors, the State Border Guard official immediately contacts the Orphan's Court. During the asylum procedure the personal and property relations of the unaccompanied minor shall be represented by the Orphan's Court (child protection authority) or a guardian appointed thereby, or the head of a child care institution (Section 6 Paragraph 5 of the Asylum Law). With regard to the specifics of working with children asylum seekers, the Asylum Law Section 25, Paragraph 1, article 5 provides that the initial and personal interview with a minor asylum seeker is conducted by an official, who has the necessary knowledge regarding needs of minors, in the presence of a representative. In case the official suspects that the minor could be a victim of sexual exploitation or sexual abuse, the State Border Guard official inform the State Police which takes the necessary measures within the limits of its competence for the alleged victim to be legally identified and to receive the statutory protection.

Protection of the Rights of the Child Law Section 73 provides the duty to safeguard the safety of person's own and other children and to inform the police, the Orphan's court or other institutions for the protection of the rights of a child in regard to any abuse of a child and criminal offence or administration violation against a child, violation of the rights of a child or other threat to a child, as well as in case the person suspects that the child has articles, substances or materials, which may be a threat to life or health of the child himself or herself or of another person. The information must be submitted no later than the same day.

Health care, pedagogical, social field or police employees, and elected State and local government officials, who have received information regarding violations of the rights of a child and who have failed to inform the respective institutions, shall be held liable as laid down in law for such failure to inform.

- d) Identify the institution(s) responsible for the collection of above data.

Statistical data on asylum seekers, including asylum seekers who are minors and unaccompanied minors, are collected by OCMA, while delinquency detection and prevention, as well as data on victims of child sexual exploitation or sexual abuse is competence of the State Police.

PREVENTION (Lanzarote Convention, Chapter II)

- 2) What are the specific measures taken to prevent that children affected by the refugee crisis fall victims of sexual exploitation and sexual abuse?
- a) Highlight in particular the measures (e.g. awareness raising material, specialised training, screening of professionals, etc.) which have proven to be effective;

Up to now Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis. Nevertheless, Latvia is implementing specific measures to educate and train the included actors to identify these issues.

Firstly, the Ministry of Interior ensures representation of the National Co-ordinator for working in Council of the Baltic Sea States Task Force Against Trafficking in Human Beings (hereinafter - CBSS TF-THB), within the scope of which co-ordination of co-operation and exchange of information is ensured on international level in the Region of the Baltic Sea States, as well as ensures the operation of National Contact Point for Unaccompanied and Trafficked Children in order to ensure co-ordination of co-operation and exchange of information between the 11 member states of Council of the Baltic Sea States (hereinafter - CBSS), Belarus, Ukraine and Moldova.

According to Cabinet Order No. 729 of 14 December 2010, On Participation of Latvia in the Working Group of the Council of the Baltic Sea States, the Ministry of Welfare ensures representation of Latvia in the CBSS Expert Group for Co-operation on Children at Risk, the priorities of which are protection of children against any form of sexual exploitation and sexual violence, protection of children subjected to trafficking in human beings and children involved in migration processes and protection of their rights, early intervention and prophylaxis as the means for ensuring the rights of children to protection against any kind of violence, forms of violence and negligence. Within the scope of German presidency of TF-THB, it was decided during the CBSS TF-THB meeting, which took place from 13-16 March 2012 in Berlin, Germany, that one joint meeting with CBSS EGCC will be organized within the scope of the presidency of each state.

Secondly, with financial support of the Prevention of and Fight against Crime Program of the European Union the Information System for the Support of Minors was developed by the Information Centre of the Ministry of the Interior. The main goal of the project "Development of the Information System for the Support of Minors" was to facilitate the protection of the children's rights. Project duration: December 2009 - April 2012. The Cabinet Regulation No 157 of 25 March 2014 "Regulation on Information System for the Support of Minors" prescribes the procedures how information is submitted to and received from the Information System for the Support of Minors, as well as an amount of information and the order of processing of information. The Cabinet Regulation was developed according to the Protection of the Rights of the Child Law Section 67.²

"Information System for the Support of Minors" which provides that the Information System for the Support of Minors is a part of the State information system "Integrated Information System of the Interior", in which the information necessary for the protection of the rights of a child is included, integrating information of State and local government institutions, as well as of medical practitioners regarding minors who need support in cases when preventive measures should be taken for the protection of the rights of children. The purpose of the information system for the support of minors is to promote the protection of the rights and interests of children, ensuring processing of the necessary information and promoting inter-institutional co-operation in the following issues:

- 1) defense of the rights and interests of a minor;
- 2) supervision of ensuring the rights and interests of a minor;
- 3) preventive work;
- 4) provision of social assistance and social services;
- 5) prevention and resolving of criminal offences and other violations of the law;
- 6) searching for a minor;
- 7) ensuring execution of administrative punishments, criminal punishments, means of security and compulsory measures of correctional nature;
- 8) implementation of settlements and preparation of evaluation reports on a probation client.

The following institutions and persons have the right to process the information included in the information system for the support of minors, including personal data, for carrying out the functions laid down for such institutions and persons in the laws and regulations governing their activities:

- 1) the State Police;
- 2) the Orphan's court;
- 3) the municipality police;
- 4) the local government social service office;
- 5) the State Probation Service;
- 6) the Latvian Prison Administration;
- 7) a social connection educational institution;
- 8) the Ombudsman;
- 9) the Ministry of Welfare;
- 10) medical practitioners;
- 11) the Social Integration State Agency;
- 12) the State Inspectorate for Protection of Children's Rights;
- 13) the State Border Guard;
- 14) the Office of Citizenship and Migration Affairs;
- 15) the State Social Insurance Agency;
- 16) other State and local government institutions, the laws and regulations governing activities of which prescribe that the functions of such institutions are related to the protection of the rights of children or execution of a criminal punishment or administrative punishment in relation to minors.

Information characterizing the child regarding his or her interests and habits, place of residence and living environment may be included in the information system for the support of minors. Information which has not been obtained within the scope of

administrative proceedings or criminal proceedings and has not been received with the aid of the resources linking information systems shall be considered information characterizing the child. The information characterizing the child included in the information system for the support of minors shall be issued only to such State and local government institutions, in the laws and regulations governing activities of which it is laid down that the functions of such institutions are related to the protection of the rights of children or execution of a criminal punishment or administrative punishment in relation to minors. The information included in the information system for the support of minors, except the information characterizing the child, shall be stored until the day when the person has attained 24 years of age, including the case if the person has died before attaining the relevant age. The information characterizing the child shall be stored in the information system for the support of minors until the day when the person has attained the age of majority, or until the day of death if the child has died before attaining the age of majority. The Cabinet shall determine the procedures and the extent to which information shall be submitted to and received from the information system for the support of minors, as well as the procedures for processing the information included in the system.

Thirdly, in order to ensure the efficient performing of border checks as well as measures to protect children from violent abuse, unauthorized independent departure of children and illegal transportation of children from the territory of Schengen the State Border Guard on 29 October 2014 approved the document which prescribes the order how a border guard should act carrying out border check of a child and measures to prevent kidnapping of a child. Children's rights and interests protection is set as the priority by this document. The order prescribed by the document is applied during the border control and performing checks in the territory of Latvia.

The State Border Guard provides partnership in the implementation of international project "PROTECT Children on the Move"* which is coordinated by the Children's Unit at the CBSS Secretariat. The project aim is to identify child rights standards and key agencies responsible for protecting children in cross-border situations. The outcomes will include guidelines and an online tool outlining relevant laws, policies and procedures - as well as responses to issues faced by child welfare and migration authorities in relation to children in challenging circumstances and child victims of exploitation and trafficking. The 4th expert meeting convened in Riga, Latvia on 25 -26 November 2014 and focused on the role of judges, social services and central authorities in transnational child protection. Several experts from Latvia participated and delivered interventions. The project has been granted funds by the European Commission's Return Fund and the Council of Baltic Sea States.

Moreover, the officials of the State Border Guard regularly participate at workshops and conferences organized by international law enforcement agencies and non-governmental organizations regarding issues related to human trafficking, the rights of human trafficking victims, observation of their best interests, specific features in practical work with unaccompanied minors, protection of the rights and the best interests of a child.

Furthermore, experts of Latvia have participated in the international project “PROTECT: children on the move” organized by the CBSS. In the framework of the project 5 international expert meetings were organized in order to discuss the necessary steps that should be taken to decrease the risk of children exploitation and sale of children. The expert meetings were attended by large variety of professionals (police, social workers, local children protection authorities, prosecutors, judges, ministry representatives, border guards etc.). The meetings facilitated development of professional competences and networking regarding children sale and children exploitation risk prevention. They also contributed to the development of:

- 1) guidelines(http://childcentre.info/public/PROTECT/Guidelines_-_promoting_the_Human_Rights_and_the_Best_Interest_of_the_Child_in_Transnational_Child_Protection_Cases.pdf),
- 2) methodological material (http://childcentre.info/public/PROTECT/Guide_for_case_workers_and_officers.pdf) as well as
- 3) a Wikipedia web page for professionals working with children on the move, including refugee children in order to prevent the sale of children and exploitation (<http://childcentre.info/wiki/>).

These materials are further used in the framework of international training of professionals of Baltic Sea Region Countries for protection of the children who are in migration processes (including refugee children) from human trafficking and exploitation. In 2016, a set of three trainings is organized in Riga, Tallinn and Helsinki. Altogether more than 100 professionals working with children in migration will be trained in accordance to the aforementioned training materials (guidelines, methodological material, Wikipedia). The trainings are organized by the Nordic Council of Ministers in cooperation with the CBSS.

- b) Underline any lessons learnt from specific challenges (e.g. in raising awareness on sexual violence amidst other urgent priorities, etc.) that had to be faced to improve prevention.

In order to improve the ability of border guards to identify the potential victims of human trafficking during border control, border guards are regularly provided with the opportunities to participate in training regarding human trafficking prevention, identifying victims of human trafficking, options of helping the victims, and unaccompanied children who are victims of human trafficking.

The State Border Guard uses the handbook to combat human trafficking (elaborated by FRONTEX). This handbook contains information on identifying trafficking victims during border control, the methodology for identifying human trafficking victims, potential trafficking victims, traffickers and supporters, as well as the provisions of interviewing and information acquiring techniques. A particular attention is paid on identifying trafficked minors, and the handbook contains specific methods for working with under-age children. People crossing the external borders to enter Latvia or depart from Latvia are checked by border guards at border crossing points. In suspicious cases the State

Border Guard officials verify whether the third-country national has sufficient financial resources to stay in Latvia or other Schengen Member State in order to verify the purpose of entry and its eligibility. Besides, the State Border Guard ascertain that a third country national departs from the territory of Schengen Member States. Structural units of the State Border Guard carry out profiling of people in airports, sea ports, bus stations and train stations, immigration control of international bus passengers and checks on main transit roads on a regular basis. On internal borders the mobile patrols of the State Border Guard's immigration structural units are active. The mobile patrols perform random checks on suspicious vehicles and people in the territory of Latvia.

Issues related to constitutional rights and freedoms, entry and staying of minor foreigners in Latvia, rights and obligations of asylum seekers (unaccompanied minors) are covered by the State Border Guard College study program.

Moreover, there are prevention activities implemented by NGOs. Such activities are addressed to the general society (pupils, young people etc.) and professionals and media. Such preventive activities are implemented in the framework of EU projects. For example, the association “Patvērums “Drošā māja”” organizes informative and educational activities (training, lectures, forum theatres, simulation games and other educational games, seminars, train the trainers, exchange of experiences, workshops etc.), social campaigns regarding the risks of human trafficking.

PROTECTION (Lanzarote Convention, Chapter IV)

- 3) Has a coordinated child protection approach been put in place to cater for the specific needs of migrant and asylum-seeking children victims of sexual exploitation and/or sexual abuse?

The laws and regulations of Latvia provide a specific procedure and conditions of reception, taking into account the best interests of a child, for vulnerable asylum seekers. According to the provisions of the Law on OCMA, an institution (OCMA) examines whether an asylum seeker has the specific procedural or specific condition of reception needs. In accordance with the Asylum Law the Orphans' court shall immediately decide on the appointment of a guardian to unaccompanied minors, as well as ensuring the appointment of a guardian or foster family to the child. Furthermore, the accommodation center for asylum seekers (which includes minors) provides housing, taking into account the asylum seeker's admission requirements, and ensures protection of their physical and mental health.

As Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis, specific actions in this regard have not been conducted.

In accordance with the Law On Social Services and Social Assistance⁴ of December 2nd 2015, the Decree of the Cabinet of Ministers of No. 759 "the Action Plan on Relocation,

⁴ Law On Social Services and Social Assistance, adopted 31.10.2002. ("Official Gazette". 168 (2743). 19.11.2002.) [into force since 01.01.2003.];<http://likumi.lv/ta/id/68488-socialo-pakalpojumu-un-socialas-palidzibas-likums#pl3>

Resettlement and Reception in Latvia of Persons in Need of International Protection"⁵, children who are identified as victims of sexual exploitation or abuse have the right to claim on State funded social rehabilitation services:

- as victim of sexual exploitation – human trafficking victims;
- as victim of sexual exploitation or sexual abuse.

The identification process of a child as a victim of sexual exploitation (human trafficking victims) is regulated by Cabinet Regulation No 889 on "Procedures by which victims of human trafficking receive social rehabilitation services and the criteria for recognizing a person as a victim of human trafficking"⁶. Moreover, the process of identifying a child as a victim of sexual exploitation or sexual abuse is regulated by Cabinet Regulations No 1613 on "Procedures for the necessary assistance is provided to a child who has suffered from illegal acts". Children who are recognized as victims of sexual exploitation or sexual abuse have equal rights to receive social rehabilitation services (regardless of their age, sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status).

- a) Describe the measures taken to address the situation and cater for the children's specific needs (multiple traumas, language/cultural differences, etc.), including with respect to guardianship/placement;

As Latvia has no experience with children submitted to sexual exploitation or abuse affected by the refugee crisis no specific measures have been taken to address the situation or cater the specific needs of children who are migrants or asylum seekers (and victims of exploitation or sexual abuse).

In accordance with Section 3, Paragraph 7 of the Social services and social assistance Law children who have been recognized as asylum seekers with special admission requirements by competent institutions have the right to receive social rehabilitation services the same as children who are victims of abuse.

The right to receive these services is also for children who do not belong to the groups enlisted in Section 3 of the Social services and social assistance law if the responsible institutions have provided a statement on the need for the social rehabilitation services.

According to the law, social rehabilitation service is a set of measures aimed at the renewal or improvement of the social functioning abilities in order to ensure the recovery of social status and integration into society. It includes services either at the place of residence of a person and/or at a social care and social rehabilitation institution.

⁵ 2 December 2015 The Decree of the Cabinet of Ministers of No. 759 "Action Plan for the Relocation and Receipt in Latvia of Persons in Need of International Protection" ("Official Gazette", No. 238.04.12.2015); [came into force on 02.12.2015.]. <http://likumi.lv/ta/id/278257-ricibas-plans-personu-kuram-nepieciesama-staiptautiska-aizsardziba-parvietosanai-un-uznemsanai-latvija>

⁶ Amending Cabinet Regulation No 840, adopted 11.12.2012. ("Official Gazette ", 197 (4800)," 14.12.2012). [into force since 01.01.2013.);<http://likumi.lv/ta/id/253419-grozijumi-ministru-kabineta-2006-gada-31-oktobra-noleikuri-os-nr-889-noteikumi-pai-kartibu-kada-cilveku-tirdzniecibas-upuri-sanem...>

- b) Indicate also what measures have been taken to protect the children concerned from further exploitation/abuse and to assist the victims in seeking redress (please highlight any differences between Groups 1 and 2 of children as outlined above);

If there are signs that a child has experienced violence or there exists suspicion about the existence of violence regardless of the type of violence (sexual, physical, emotional abuse), a child has the right to receive state funded social rehabilitation service. That includes either a psychologist's individual consultations regardless of the child's location or place of residence, or accommodation in a specialized social rehabilitation institution, which ensures psychological assistance, social rehabilitation, safe shelter for the night, catering and other support for children in crisis.

- c) Underline any lessons learnt from specific challenges (in reporting suspicion of sexual exploitation and abuse, in tailoring assistance to the victims, etc.) that had to be faced to improve protection.

In order to decrease the consequences caused by illegal acts the institution, which is providing the rehabilitation follows such procedures:

- 1) informs the child about the possible manifestations of the threat of abuse and prepares the child for self-defense;
- 2) in the work with the child uses methods which are age appropriate, and suitable in relation to the type of offence and the child's individual characteristics;
- 3) involves the child's legal representative in the social rehabilitation course;
- 4) takes into consideration the child's rights and ensures operation in accordance to the objectives of social rehabilitation.

In case there is a suspicion that the child is a victim of human trafficking, the child has the opportunity to receive support of the state funded program for persons who are victims of human trafficking. In this case the child is provided with support for six months (or during the criminal proceedings). The social service provider ensures:

- 1) safe shelter and accommodation of the client if necessary by cooperating with law enforcement institutions and other social services providers or by using other possibilities of accommodation which are allowed in accordance to the regulatory enactments;
- 2) development of client's rehabilitation plan by establishing the necessary amount of social services;
- 3) during the course of social services – psychosocial assistance, including consultations provided by a social worker, psychologist, lawyer, medical practitioner and other professionals in accordance to the needs of the client and in accordance to the rehabilitation plan;
- 4) support in relation to the criminal proceedings – psychosocial support (individual consultations provided by a lawyer, social worker and psychologist), interpreters services, support in drawing up of legal documents – during the course of social services and after it has ended, as well as when there is a need for the persons representation in court;

- 5) the opportunity to acquire or improve self-care and self-service skills and if necessary to receive basic necessities (for example, food, drugs, clothing, footwear or money to be able to purchase those things);
- 6) the involvement of clients in educational and training programs if that promotes the reintegration of the client in the society and labor market.

In accordance to Section 74, Paragraph 1 and 3 of the Protection of the Rights of the Child Law if in accordance with international or national law a child is a refugee or a person to whom has been granted alternative status, the child shall receive protection and assistance irrespective of whether the child is together with parents or other adults or alone. The refugee child and the child to whom has been granted alternative status shall be provided with the same care as any other child who has been left without parental care.

Taking into account the aforementioned, if the State Inspectorate for Protection of the Rights of the Child received information about the possible violations of the rights of the children who are refugees, including information about possible sexual abuse or exploitation, in Latvia, the inspectorate would immediately get involved to solve the situation. At the same time the children may turn to the inspectorate in order to report possible violations of their rights or call to the inspectorate's Helpline for Children and Adolescents (number 116111) in order to acquire psychological support and seek assistance in crisis.

The inspectorate carries out regular in-depth inspections of the observance of children's rights in the specialized boarding schools and residential institutions for children. The aim of these inspections is to assess the risks of possible abuse, including sexual abuse.

COOPERATION (Lanzarote Convention, Chapter IX)

- 4) Provide examples of successful cooperation with other Parties to the Lanzarote Convention for the purpose of:
 - a) Preventing and combating sexual exploitation and sexual abuse of children affected by the refugee crisis;
 - b) Protecting and providing assistance to victims;
 - c) Investigations or proceedings concerning the offences established in accordance with the Lanzarote Convention.

OCMA experts actively participate in the European Asylum Support Office (hereinafter-EASO), the European Union Agency for asylum, organized trainings and seminars covering a wide range of issues related to asylum, including issues regarding the most vulnerable people, the child's best interests, etc. Member States can discuss current issues and trends to gain additional information, as well as to share good practices. An example is that EASO ongoing organizes an annual conference on Human Trafficking and international protection on June 2, 2016 in Valletta, Malta, under which, inter alia, attention was paid to the issues related to sexual abuse and sexual exploitation of minors. OCMA experts actively participate in this event.

Regarding cooperation with other parties to the Lanzarote Convention, the State Police participate in exchange programs, as well as transfer good practice and dissemination of the State Police, and it takes into account the opinions and recommendations that has been developed.

ANY OTHER ADDITIONAL INFORMATION

- 5) Please provide any other additional information which may be useful to identify areas for targeted cooperation aimed at ensuring that children affected by the refugee crisis are effectively protected from sexual exploitation and sexual abuse and in guaranteeing their human dignity and physical and psychological integrity.

In close cooperation with all involved actors Latvian legal system, is organized in a way that children victims of sexual exploitation and sexual abuse that could be affected by the refugee crisis will receive all the necessary assistance and social rehabilitation services.

It is important to mention that till 1 October, 2016, Ministry of Justice in cooperation with other line ministries should develop Strategic planning document on the *"Prevention of sexual offenses against minors for the period 2017-2020"*. The document will contain information on the concrete mechanism of institutions involved in case there is a suspicion of victims of child sexual exploitation or sexual abuse.

Improvement of the support of children who are refugees, asylum seekers etc. depends of a successful cooperation with the State Border Guard authorities, because it is crucial that the responsible professionals would be able to identify the victim and to provide support in due time.