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Steering Committee for the Rights of the Child (CDENF)

Revised Draft Explanatory Memorandum to Draft Recommendation CM/Rec(2023)XX of the Committee of Ministers to Member States containing Guidelines on Strengthening reporting systems on violence against children

Compilation of comments received as of 17 March 2023

The present document presents comments made by Delegations in the context of the paragraphs of the draft Explanatory Memorandum (CDENF(2023)03) to which they refer. Comments and drafting proposals, as well as national good practices, are highlighted in grey. The comments and proposals have already been considered and integrated in the revised draft of the Explanatory Memorandum (CDENF(2023)03rev).

Switzerland's comments refer to the previous version of the draft Explanatory Memorandum (CDENF(2022)25rev2).

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Draft Explanatory Memorandum to Draft Recommendation CM/Rec(2023)XX of the Committee of Ministers to Member States containing Guidelines on Strengthening reporting systems on violence against children

GENERAL COMMENTS

ITALY (Contribution from the Ministry of Labour and Social Policies) – Examples of good practices:

The “Guidelines for Family Foster Care”, the “Guidelines for the assistance in residential services for children” and the “Guidelines for intervention with children and families in vulnerable condition” are the main national orientation tools for the care of children and families.

These soft law instruments for the governance are the result of a collective and long-term work carried out within national institutional boards at the Ministry of Labour and Social Policies with the participation of all the stakeholders involved. Their aim is to build a uniform national system to offer fair and appropriate services to children, adolescents and families.

The methodology lies in the definition of common guidelines on specific lines of action, concerning in particular the protection of children who enter the foster care system, the protection of children who are placed in residential services and the support to vulnerable families to prevent the removal of children from their family of origin. Therefore, the Guidelines cover the area of protection (Guidelines for Family Foster Care and Guidelines for the assistance in residential services for children) and the area of prevention (Guidelines for intervention with children and families in vulnerable condition).

All the guidelines are addressed mainly to political decision-makers and administrators, but also to social workers and citizens.

The Guidelines for Family Foster Care are a relevant achievement of the national program “A path in foster care”, promoted by Ministry of Labour and Social Policies in 2009 with the aim to increase the availability of families and communities towards foster care, building and reinforcing care services to support families and children during foster care.

The Guidelines aim to address, support and regulate foster care as a shared and uniform measure to protect and care for children; they contain recommendations to make the interventions of professionals and services more child-oriented, according to the principle of the best interest of the child.

They cover topics such as the different kind of foster care, the organization of the services, the planning and regulation, the relationship with the judicial authority, the local best practices and the operative tools.

The Guidelines have been approved by the Unified State-Regions Conference on 25th October 2012.

The Guidelines address the problem of child abuse and neglect throughout the entire report.

The definition of “child in foster care” states that the child has parents with difficulties in meeting his/her needs and he/she has experienced problems in his/her own family: neglect, rejection, physical and/or psychological abuse and harassment, relational isolation, break-ups, socio-economic difficulties, etc.

Moreover, Recommendation 121.1 establishes and implements a regional system of interventions and responses to the needs of at-risk children that enables the implementation of appropriate care and protection projects.

The Guidelines deals also with family foster care in emergency situations: it provides a foster family to all those children involved in emergency and dangerous situations that require ‘prompt intervention’.

The Ministry of Labour and Social Policies established in 2015 a national commission involving representatives of central, regional and municipal administrations, experts, associations and representatives of the networks of communities for children to define guidelines for children in residential care.

The main aims were to promote the development of a national care system based on the respect of the fundamental rights of the child and their needs, to start a debate over possible answers to each need and to develop the multiple dimensions of care in residential services in the so-called “family-like” residential childcare.

The commission adopted the “Guidelines for the assistance in residential services for children” as an updated tool of technical and political orientation in the field of residential services for children and adolescents.

The three main aspects of the “Guidelines” are the meaning and implication of residential care; residential care conceived as a plurality of possible paths inside a shared frame and a necessary answer to the rights of the “growing citizens” that are temporary out of their own families; the description of an integrated system for the residential care for children and adolescents (with different services according to different needs).

They have been approved by the Unified State-Regions Conference on the 14th of December 2017.

The Guidelines provide for “Emergency residential care” for the instant protection of a child in a real state of danger and neglect as temporary accommodation service that addresses situations where the child's psychological and physical health is in serious danger or where the child is at risk of trauma, and therefore immediate or short-term external intervention is required.

Particular attention is given to *Children and adolescents who are victims of trafficking and sexual exploitation* (The conditions of extreme violence they face call for special attention to the levels of risk and danger to which they are exposed) and to *Children in mothers' shelters* (the traumatic experiences of women and children who are victims of violence or witnessing violence require a residential response that can ensure protection and at the same time 'recover' and 'enhance' personal resources and skills to start an independent life.)

The "Guidelines for intervention with children and families in vulnerable condition", lie on the experience of the multiannual experimental program P.I.P.P.I. (Program of Intervention for Prevention of Institutionalization), with the aim to prevent institutionalization through parental support.

The guidelines cover topics such as interventions for the care and for the protection of children inside their family environment, focusing on all the interventions aimed to prevent child removal from parents' care.

The main objective is to draw up an operational tool able to coordinate models of interventions and to widen the opportunities to help children that live in vulnerable family environment.

The structure of the guidelines includes an in-depth examination of the institutional actors and stakeholders involved, the path of support for families and children and the intervention tools.

The "Guidelines for intervention with children and families in vulnerable condition" have been approved by the Unified State-Regions Conference on the 21st of December 2017.

The Guidelines focus on promoting positive parenting and intervening with children and families in vulnerable situations, a socially determined condition that can generate parental neglect or negligence, lack of responsiveness to children's developmental needs. Neglect may relate to the needs for health, education, psycho-emotional development, nurture, protection, a safe living environment, or the omission of necessary supervision, care, education and protection of children.

The guidelines clearly distinguish *ill-treatment and sexual abuse*, which require early intervention in the area of protection and safeguarding from *neglect*, which is less visible and exposes children to the risk of being neglected twice: by their families and by social services, creating situations of harm that are considered by the scientific community to be as bad as or worse than abuse.

The participatory and shared path that led to the drafting of the Guidelines involved the active participation of the beneficiaries of the interventions, specifically children and families, in order not to reduce them to passive beneficiaries, but instead to leading actors and stakeholders in social change.

In this perspective, involving institutional and non-institutional stakeholders, the ETR (Easy to Read) version of the three Guidelines was drafted with the involvement and operational support of boys and girls in both the drafting of the texts and the evaluation of the effectiveness of the tool.

This collective and long-term work carried out within national institutional and non-institutional stakeholders is constantly evolving, reaching relevant outputs such as the inclusion of PIPPI within the National Social Policy Plan as an essential level of provision (LIVEAS).

Moreover, in 2021, the Ministry of Labour and Social Policies set up the Joint Review Board on the "Guidelines for Family Foster Care", and on the "Guidelines for the assistance in residential services for children", with the task of updating the documents on the basis of new legislation and in response to input from the territories and social workers.

The updating process, which is still in progress, will be completed shortly.

Below we refer to the experience of P.I.P.P.I. Intervention programme for the Prevention of Institutionalization in Italy, as an example of good practice capable of holding together the issues related to the need for social control and help for families by guaranteeing the participation of children and families and the transparency of decision-making processes.

P.I.P.P.I. is an intensive-care-programme for families whose children are at risk of being placed out-of-home because of neglect. Its name (an acronym for Programme of Intervention for Prevention of Institutionalisation) is inspired by the fictional character Pippi Longstocking, as a symbol of child resilience. It is the result of an innovative public action paradigm between the Ministry of Labour and Social Policies and Padua University, through a multi-level governance co-managed by University, Ministry and Regions, in application of national and EU legislation that recognises parenting support as an essential strategy to break the cycle of social disadvantage; (REC 2013/112/EU). The programme is aimed at fostering positive parenting and the full, well-rounded development of the child 0-11 aged. It is based on a comprehensive assessment, looking at the needs but also at the strengths of the children, family and of the community, which can be important resources to build upon. Importantly, all people who are significant to the child's development (parents, teachers, practitioners, other relatives, etc.) are expected to work together to foster his/her development. It focuses on three aspects that may be crucial to improve the parental functions: helping parents to reflect on the responses to children's developmental needs; providing full support to the children developmental needs; improving the organization of the children's life and the quality of his environment.

SWITZERLAND:

On the Draft Recommendation:

- The whole text, but in particular point 8 of the Recommendation and point 26 of the Explanatory Memorandum: The duty to report is defined too absolutely and without any possible alternative. In particular, the solution adopted in Switzerland, i.e. the right to report instead of an obligation to report for persons subject to professional secrecy and victim support services subject to professional secrecy, would be in contradiction with the recommendations. We refer to our comments made in the message we sent you on 2 September.

- Point 9: With regard to the sanctions for violating the obligation to report, we refer to our remarks of 2 September. We would like to add that the Swiss legislator has specifically decided against the introduction of a clear sanction, for example in the form of a fine for breach of the duty to report, in order to take account of the subsidiarity of the duty to report and the difficult choices that professionals have to make. Clear cases can be sanctioned according to the general rules in force. Here too, the recommendation leaves too little room for nuanced solutions.

- Figure 10: translation from English to be improved.

Introduction: Why a new instrument?

3. VAC is frequently underreported and undetected, which is largely due to the fact that children lack access to safe, child-friendly and reliable counselling and reporting services. Many children are too young to even understand what is happening to them or do not identify it as violence, while many others keep the abuse secret because of feelings of shame, fear, or guilt. Therefore, children's disclosures will not suffice to protect all children who suffer from violence or to prevent further violence. Hence, it is also of vital importance that adults are **[GREECE]: alert**, able to identify and **are feel** confident to report incidents and **/or** suspicions of violence experienced by a child. Frontline professionals and volunteers working for and with children, parents and other caregivers, are amongst the best-positioned persons to identify and report violence of various forms. Existing barriers to reporting by professionals, such as **[BELGIUM]: lack of knowledge of** professional confidentiality and criminal liability or other sanctions for breaking this confidentiality rule in cases of VAC **[BELGIUM]: in good faith**, should be eliminated, including by law if needed.
8. On the other hand, several countries reported that policy-based approaches are the preferred option and are generally found to be effective as well. One example of such an approach is the Reporting Code on Child Abuse and Domestic Violence of the Royal Dutch Medical Association. This Code sets out a detailed roadmap to assist professionals when they consider reporting, and involves the following steps: (1) examination, 'child check' and 'informal care check'; (2) seeking anonymous advice from *Veilig Thuis* (Safe Home) and preferably also from a colleague; (3) holding a conversation with the people involved; (4) consulting other professionals involved if necessary; and (5) deciding on further referral (to the competent authority) of the case based on specific assessment criteria. Whilst the Dutch approach does not entail an overall legal duty for the individual professional, it obliges professional organisations to introduce specific reporting codes which must be followed by professionals. However, the experience in the Netherlands has shown that the duty to report should not become an aim within itself: a legal obligation may also have potential repercussions, such as an overwhelming and unmanageable number of reports and unwanted negative effects such as possible avoidance of seeking healthcare by victims of abuse or domestic violence.

THE NETHERLANDS: Clarification on the Reporting Code of the Royal Dutch Medical Association

In general: Healthcare and other providers are obliged

- to adopt a reporting code
- and to educate and stimulate professionals to use it (statutory since 2013)

Reporting-codes must

- contain 5 steps and a 'child-check'
- support professionals to decide when reporting is necessary

Statutory in healthcare, education, social welfare and police/justice

Professionals have legal right (not duty) to break confidentiality towards 'Safe at home' 'if necessary to stop VAC or let investigate reasonable suspicions'

Reporting is necessary (professional norms) in case of:

- 1) acute and/or structural unsafety
- 2) in non-acute/ or non-structural unsafe situations, in which the doctor is insufficiently able to offer or organize effective help;
- 3) help that the doctor provides or organizes is insufficient; insecurity does not stop or repeat

Restraint in adult violence: If no children are involved in domestic violence, either as victims or as witnesses, the reporting code speaks of adult violence. Is there adult violence and does the adult victim refuse to give permission for data to be provided? In that case, more restraints are needed when breaking professional secrecy than when children are (also) involved. This has to do with the adult's right to self-determination. The degree of vulnerability of the adult victim (for example due to his (mental or cognitive) disability, old age or care dependency) must be explicitly taken into account. Restraint only applies if there is a well-considered and freely expressed refusal by the criteria for breaching professional secrecy. The report or provision of information will then only be continued if and insofar as this is necessary to avert serious danger of serious physical or psychological injury or death. Only if help cannot avert this serious danger in any way.

The Reporting Code "Child Abuse and Domestic Violence" of the Royal Dutch Medical Association sets out a detailed roadmap to assist professionals when they consider reporting. In brief, the five steps include:

Step 1 Examination, Child check and informal care check; collects of all signs that suspects or finds child abuse or domestic violence, 'child check' and 'informal care check' are tools to help identify risks that adult patients could possibly form for the children in their family or for adults who depend on them for informal care.

The doctor collects all indications that can substantiate or disprove this suspicion or finding of child abuse and/or domestic violence. He records these changes in the patient file. In case of parental signals, he does the child check. In appropriate cases, the doctor (also) carries out the informal care provision check. The doctor carefully records in the patient file: 1) which indications he has, 2) which examination he has carried out and 3) what the results were. It is important to make a clear distinction between your own opinion and the (subjective) opinion of others.

Step 2 Advice (anonymous) from Veilig Thuis (Safe Home) and preferably also a colleague

Requesting this advice is therefore without data exchange and therefore the consent of those involved is not required. Although openness remains the starting point of the KNMG reporting code, consultation is with an expert colleague. For example, if you need an injury assessment, call in an injury assessment expert.

Step 3 Conversation with the people involved. Unless this conversation poses a risk to the safety or health of the patient, patients domestic circle and professional and also when it is reasonable that the patient will avoid care after this conversation. professionals involved if necessary

Find another convenient time to notify them if possible.

Step 4 Consult the professionals involved if necessary

Particularly in case of non-acute or non-structurally unsafe situations, it may be useful to consult with other professionals who are involved in the family system prior to a possible report. No permission is required for professionals who are directly involved in the treatment; professionals who are involved as one team in an equally focused way in the treatment; professionals who are involved as on team in an equally focused way in the implementation of the same treatment agreement of the patient. This also applies to consultations with whom a referral relationship exists. For consultation with other professionals, e.g. childcare leader, teacher, social work, explicit permission is always required.

Step 5 Decision on further referral (to the competent authority) of the case via 5 assessment steps:

- a. Do I still suspect child abuse and/or domestic violence on the basis of steps 1 to 4?
- b. Based on steps 1 to 4, do I estimate that there is acute or structural insecurity?

- c. Am I able to provide or organize effective help to avert and monitor (imminent) child abuse and/or domestic violence?
- d. Do those involved accept help to avert (threatened) child abuse and/or domestic violence and are they willing and able to commit themselves to this?
- e. Does the aid lead to (restoration of) sustainable safety and/or the (restoration of) wellbeing of the person(s) involved within an acceptable or agreed time?

Step 1,2,3 and 5 are mandatory steps. In the event of acute danger – in addition to reporting to Safe home – the police can be called at (112).

Preamble

17. In addition, the Preamble of the Recommendation provides member States with relevant context, by drawing the attention to the many different forms of VAC, the considerable underreporting of VAC, and its severe and long-lasting consequences. It reminds member States that while VAC is a persistent phenomenon in all settings, it is also exacerbated in crisis situations. Finally, the Preamble underscores the important role played by professionals working with and for children across all sectors, and hence the need to ensure their training and preparedness, **[GREECE]** and to enable them to work within interdisciplinary, holistic and adequately resourced child-protection systems with clearly defined reporting duties.

I Aim, scope and definitions

20. VAC can take place in different contexts: whether in private or public sphere settings including, but not limited to, any place within the child's circle of trust, such as their home, in care and justice institutions and at school; **[GREECE]: in recreation and sport areas;** or anywhere else within the community and greater society, including in an online format through the use of digital technologies. The same multidimensional nature implies that VAC can also take place on an individual, interpersonal, community or societal level.
24. In addition to professionals involved in matters concerning children through their positions or occupations, who are expected to report VAC and who can be employed by or provide services both to public and private entities working with and for children, the Recommendation also concerns professionals on the receiving end of such reports. Depending on the different national systems in each member State, such actors may be public authorities and services or private/non-governmental organisations responding to or processing reports **[GREECE]: (e.g. INHOPE hotlines which receive reports for online Child Sexual Abuse Material-CSAM and Child Sexual Exploitation Material-CSEM).**

III Legal and policy-based duties to be reported

27. The Recommendation includes Guidelines to member States on how legal and policy-based duties to report VAC can effectively be adjusted or implemented in national legislation and policy frameworks or how a mandatory code for specific professions can be established to report concerns or suspicions of violence against children. Whether a member State opts for a legal or policy-based duty to report, or adopts a mandatory code for certain specific professions, there should be clear rules establishing the responsibilities to report and the procedures to be followed. Moreover, national laws should thoroughly cover the prevention of all forms of VAC **[GREECE]:, including online environment while using new technologies**, however mild, and include a clear prohibition of all forms of violence at *all* times and in *all* settings. They should also include reporting of children going missing. Appropriate legislative measures should repeal legal defences and authorisations for any form of violence, including those inflicted for disciplinary purposes, whether within the family context or outside of it. Member States should ensure that all types of VAC – either by commission

or omission – are clearly defined and prohibited under national law and should guarantee an effective implementation of the legislative prohibition of VAC.

Examples of legal duties to report include Albania, Denmark, Malta, Portugal and Sweden.

DENMARK (correction of previous text):

In **Denmark**,¹ a framework law² covers all cases of VAC, whether in private or public settings. The duty to **notify the municipality in cases of report** VAC applies to all adults in Denmark. However, the Danish State has wider authority when it comes to regulating duties, procedures and policies regarding public institutions and authorities compared to private organisations.

ITALY (addition):

Under Italian law, all public officials and persons in charge of a public service (e.g. members of law enforcement and judicial authorities, physicians, health care workers, pediatricians, nurses, teachers, school workers, social and health service workers, social workers, psychologists, as well as community workers, foster caregivers, and individuals/entities performing a function delegated by the public body) are obliged to report to the judicial authority (public prosecutor or a judicial police officer) crimes prosecutable ex officio (including mistreatment, trafficking, sexual violence against minors under the age of 18, sexual exploitation, sexual acts with a minor if committed by the relative, parent, including adoptive parent, or cohabiting parent, guardian or other person to whom the minor is entrusted for reasons of care, education, instruction, supervision or custody or who has a cohabiting relationship with the minor), of which they have become aware in the exercise or because of their functions or service (art. 331 of the Code of Criminal Procedure). Failure to do so constitutes a crime (Articles 361 and 362 of the Criminal Code). Article 332 of the Code of Criminal Procedure describes the content that the complaint must have.

In addition, for public servants and public officials who become aware of a situation of prejudice, distress or material or moral abandonment to the detriment of a minor, many special laws prescribe an obligation to report (regardless of the intentional or unintentional nature of the conduct engaged by the alleged perpetrator and the existence of a crime) addressed to the juvenile judicial authority so that the Juvenile Court may take measures to protect the child (e.g., Art. 9 of l. 184/1983).

Similarly, Article 403 of the Civil Code stipulates that when the minor is morally or materially abandoned or is exposed, in the family environment, to serious harm and danger to his or her psycho-physical safety and there is, therefore, an emergency to provide for, the public authority, through child protection bodies (e.g., territorial social services), will conduct him/ her in a safe place (usually a residential facility for minors) until a definitive protection will be assured. Following such removal, proceedings are opened before the Juvenile Court, adversarial with the parents, for the adoption of measures to protect the child. Moreover, in the Italian legal system, there are two types of precautionary measures in the civil and criminal sectors that provide tools for the protection of victims of intra-family violence (introduced by Law 1524/2001): the protection order against family abuse (Articles 342-bis, 342-ter of the Civil Code) and the precautionary measure of removal from the family home (282-bis of the Code of Criminal Procedure). The main objective of these provisions is to provide prompt and timely protection in the event of harmful behavior-not necessarily constituting a crime in the case of civil interventions-held by both parents and other cohabiting partners, through measures aimed at interrupting the "cycle of violence" with respect to the facts themselves, removing the perpetrator of violence from the family home (and instructing him/her not to approach places habitually visited by the victim) and thus preventing victims from being subjected to the additional trauma of leaving their homes.

¹ In Denmark, "duty to report" is called "duty to notification" (underretningspligt) in the social system. The references to the Danish reporting system relate to the Danish legislation and practice in this regard.

² The Consolidations Act on Social Services is the main legal framework in Denmark regarding reporting procedures, casework and measures of special support within the social system.

28. In order to protect children from all forms of violence, legal duties, policy-based duties or mandatory duties to report VAC for professionals are vital. Where legal duties are implemented through policy-based reporting duties, States should ensure co-ordination between them. Developing and reviewing relevant legislation and policy to guarantee an effective duty to report for professionals in the course of their profession is imperative. Such legislation and/or policy should ensure compliance with the CRC and include a clearly defined duty to report VAC which is embedded in national law or policy standards, including, at least: 1) a clear definition of the concept of VAC in line with the CRC; 2) a clear list of the designated occupational groups covered by the duty to report, which are in line with the professionals targeted by the Recommendation; 3) clear instructions on what details the report must include; 4) clear instructions concerning the recipients of reports, and; 5) clear instructions about the elements and steps involved in the follow-up process, including with regard to perpetrators, victims and witnesses of violence; as well as 6) clear instructions on the roles and responsibilities of each agency and agent throughout the whole process, both with regard to individual measures taken and collaboration with others.

SWITZERLAND (comment on paragraph 28) :

The duty to report is defined too absolutely and without any possible alternative. In particular, the solution adopted in Switzerland, i.e. the right to report instead of an obligation to report for persons subject to professional secrecy and victim support services subject to professional secrecy, would be in contradiction with the recommendations.

29. Depending on the national system of each member State, professionals covered by the duty to report may vary. Such professionals may be attached to public authorities at national, regional and/or local levels, including for instance police and other law enforcement staff, social workers, medical and para-medical staff, legal professionals, educational and child-care personnel, and professionals or volunteers working with and for children in sectors such as sports, culture and leisure [GREECE]: **and professionals working in national HelpLines and hotlines who deal with cyber threats (CSAM, CSEM, sexual harassment, grooming)**. In addition, also depending on the national system of each member State, reporting duties may cover professionals and volunteers involved in the abovementioned professions and activities also when these are privately run. In all cases, it is essential that all professional groups covered by reporting duties are adequately informed and prepared for this task and aware of their responsibility, the consequences of non-reporting, and the procedures to follow.

DENMARK: correction of the footnote.

Example: Financing of reporting duties in Denmark

Under the Danish Constitutional Act,³ Danish municipalities have the right to manage their affairs independently under the State's supervision. The framework for the total expenditure of municipalities is decided upon annually as provided by law⁴ in an agreement between the Government and Local Governments of Denmark. It also deals with the framework for total local government expenditure for the delivery of services, including social services. When imposing new concrete obligations to the Danish municipalities by law, the State is required to compensate the municipalities financially for the undertaken task. Hence, when introducing the obligation to notify municipalities of VAC,⁵ and the obligations for the municipalities to process and assess all incoming notifications, the Danish municipalities have been financially compensated by the State for the entailed tasks.

³ Section 82 of the Danish Constitutional Act.

⁴ Act on provision of expenditure limits for state, regions and municipalities.

⁵ According to § 153 and § 154 of the Danish **Consolidation** Act on Social Services.

Child participation mechanisms in Belgium, Malta and Portugal

BELGIUM (new drafting):

In Flanders (Belgium), the Flemish government subsidises [Cachet](#), a client organisation and network for young people with experience in youth care (and thus sometimes VAC). Cachet organizes activities and regional and thematical focus groups to hear young people's opinions about youth care. The young people choose own topics or comment topics on demand of the government or care services, always based on their experiences. Cachet (and sometimes young people themselves) also participate in the monthly advisory group on the public policy of youth care. Cachet is an important interlocutor in developing new policy. Cachet is member of the client forum ('cliëntenforum') which is tasked with bringing the voices of the various clients of youth care (children, youngsters, parents, ...) into policy. The Flemish decree on youth help foresees in structural client participation.

MALTA (correction of the previous text):

In **Malta**, the Foundation for Social Welfare Services (FSWS) **with** the Ministry for Social Policy and Children's Rights uses its experience with children, and takes on the voices of the children who speak to the professionals during all of their interventions to shape its future work in a way that fits the best interests of children.

IV Creating a favorable context for reporting VAC

37. More precisely, to encourage reporting, professionals should be able to request to report VAC anonymously vis-à-vis third parties in instances where reporting would expose them to serious risks. This includes, for example, situations in which the professional received serious threats from a third party to deter them from reporting. In such cases, the professional should be able to apply for the possibility to anonymously report due to certain circumstances, such as danger or serious threats. This refers to anonymity towards the parties to the case and not the child protection or reporting authority. The possibility to report acts of VAC anonymously vis-à-vis third parties offers professionals with an additional degree of protection and participates in fostering a favourable context for reporting.

SWITZERLAND (comment on paragraph 37):

Here the report is much less nuanced than the recommendation (para. 13). We consider the wording of the recommendation to be sufficiently moderate. The report seems to be too absolute, and in this respect we refer to the remarks made in September concerning the consultation of the files.

Good practice examples of anonymity

GREECE (addition):

One more example for anonymous reporting is the ability to report, even anonymously online Child Sexual Abuse Material and Child Sexual Exploitation Material to national hotlines, members of INHOPE. The national hotlines provide to the public online reporting forms through their websites where everyone can submit the url which contains illegal internet content.

ICELAND (new drafting):

Under Article 19 of the Icelandic Child Protection Act, any person who gives notification to a child protection service shall identify him/herself. However, Article 19 allows a notifying party to request anonymity vis-à-vis parties other than the child protection service, this shall be respected unless there are special reasons not to do so.

Anonymity under Article 19 only applies to individuals who report to child protection services according to Article 16 of the Child Protection Act. These are usually relatives, neighbours or others who are familiar with the child's

circumstances, and it is important that they can enjoy a certain degree of protection. Those who work with or are involved in matters concerning children, cf. Articles 17 and 18 the Child Protection Act, do not enjoy anonymity. Generally, notifications are sent in the name of the institution in question and not from an individual employee who is in close contact with the child and / or his or her parents, such as named teacher or nurse. In most cases, the institution in question informs parents that the matter has been reported to the child protection service, but this is not obligatory.

A decision by a child protection service regarding anonymity or a refusal to lift anonymity may be appealed to the Welfare Appeals Committee. Notifying parties, and parents, shall be informed of their right to appeal against the child protection service's decision.

38. Moreover, confidentiality rules should not hamper reporting. In this context, professionals should benefit from immunity from sanctions when reporting in good faith. Disciplinary measures aimed at sanctioning non-reporting of known acts of violence should be avoided.

SWITZERLAND (comment on paragraph 38):

We wonder whether there is not an error in the text, as we believe that this is about sanctions for breach of professional secrecy. Consequently, the sanction for reporting (and not for failing to report) is the focus of the paragraph: "Disciplinary measures aimed at sanctioning professionals who fail to report acts of violence of which they are aware should be avoided". This would also correspond to point 15 of the Recommendation, which states: "Legal and normative provisions should exempt professionals from disciplinary measures or, where appropriate, from civil or criminal liability when they make a report in good faith. "

On this point, Switzerland would be sufficiently compatible.

39. Most professionals interacting with children are bound to certain professional secrecy rules by virtue of their professions. For the purposes of this Explanatory Memorandum, 'professional secrecy' or 'confidentiality' is to be understood to refer to communications occurring in a recognised context, which allow the speakers to resist legal pressure to disclose its contents. Disclosure of information protected by professional secrecy and confidentiality rules may result in civil, tort or criminal liability, depending on the applicable national legal provisions. Section 6.4. of the Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children (CM/Rec(2009)10) note, among others, that confidentiality norms should not hamper reporting and that national legislations should remove requirements for parents' and caregivers' permission to file complaints. Several other international instruments also provide that States should take steps to waive statutory protections regarding confidentiality in cases of suspicion of VAC. The [BELGIUM]: **correct interpretation of, and** release from professional secrecy obligations **if needed**, is thus key to an effective reporting system.

Good practices regarding confidentiality

BELGIUM (addition):

In the French Community (Belgium), the philosophy of the youth care and protection sector is primarily based on a social and voluntary approach, on the trust between the beneficiary and the worker. But exceptions to professional confidentiality are provided for in the legislation to enable professionals to deal with situations of danger that they encounter. 1) The state of necessity: when there is a serious and imminent danger to others or to the beneficiary of the assistance, the professional may be authorised to lift professional confidentiality and alert the competent authority if he/she is unable, alone or with the help of others, to protect the person. 2) Shared professional confidentiality: it is accepted that under certain specific conditions, the professional may

share information received with other workers with whom he/she collaborates on a situation, with a view to better handling the situation.

DENMARK (addition):

In **Denmark**, the duty to notify the municipalities takes precedence over the rules on confidentiality/professional secrecy for public employees. This is clearly highlighted, for instance in the official guide to the Danish Consolidation Act on Social Services.

However, professionals can request to have their details omitted from a report if they fear the reaction from a third party. In that case, it will be an individual judgement in each case whether it is in agreement with the best interest of the child, and there has to be clear concern regarding the reporter that clearly exceeds the sake of the family and their interest in knowing the identity of the reporter.

The right of parents to have access to information

DENMARK (correction of previous text):

In **Denmark**, in most situations, the parent will have the right to be informed when the municipality receives a notification about their child. Thus, it is a general principle in the Danish Consolidation Act on Social Services that caseworkers shall always involve and co-operate with parents when this is in line with the best interest of the child. However, in cases when the municipality suspects that a parent has committed violence against the child, measures are foreseen in the law to protect the child. First, the caseworker is obliged to talk to the child about the suspected violence without the parent's consent and presence. Furthermore, it is up to the judgement of the police and the municipality in each concrete case when the parent(s) should be informed about the reported violence against the child and when they should be involved in the investigation and examination of the child.

Good practice – child safeguarding policies

BELGIUM (addition):

In the French Community (**Belgium**), there are "SOS Children" teams. They intervene on the basis of reports from front-line professionals or relatives in order to verify the situation, to accompany the family, and to refer it to protection services or to the justice system if there is the need to put the child under rapid protection.

MALTA (addition):

In **Malta**, the Office of the Commissioner for Children (CFC) is a member of the European Network of Ombudspersons for Children (ENOC) and has adopted the child protection policy published by ENOC which is available on the CFC's website here: <https://tfal.gov.mt/wp-content/uploads/2022/05/Child-protection-policy-FV.pdf>. Hence, the child protection policy published by ENOC is mandatory for CFC professionals working directly with children.

45. To increase reporting of suspected incidents of VAC, member States should promote and raise awareness of both hotlines and helplines, in order to increase accessibility for children and the general public. Methods aimed at increasing public awareness can include, for example, advising social workers or those working with families to transfer information about child hotlines and helplines to children and their families; coordinating between governmental authorities and partners to promote child hotlines and helpline information within existing public information messages, and place information in both offline and online public spaces (for example in schools and online learning platforms, tv programmes, pharmacies, health centres, police offices, markets and public transport stations, **recreation and sport facilities** [**GREECE**]); including mobile operators and social media platforms for promoting awareness of and increasing accessibility of hotlines and helplines; and, where necessary, undertaking data analysis by consulting children and families on where and how they are accessing information and communicating with others, in order to identify those who are not accessing hotlines and helplines, and using this information to conduct targeted

messaging for said groups.⁶ For any promotional and awareness-raising activities it should be kept in mind that the information should be conveyed in a child-friendly and age-appropriate manner. **[GREECE]: Similarly, reporting mechanisms should facilitate the communication with children with special needs and disabilities.**

46. Finally, though hotlines and helplines that receive reports **[GREECE]: (e.g. National hotlines members of INHOPE, national HelpLines members of INSAFE)** or requests for help from the general public, including from children themselves, can have an important complementary function in national child protection systems to signal cases of VAC and help prevent further violence, they are often distinguished from, and play a less central role for professionals reporting violence within clearly defined national reporting mechanisms and reporting duties.

Good practices: facilitating reporting by citizens through hotlines and helplines

BELGIUM (addition):

In Flanders (Belgium) the professional helpline for questions by citizens with worries about violence, abuse and child abuse 1712 is available by phone, mail and chat. All kinds of violence can be reported (sexual, physical, emotional, neglect, domestic...). 1712 is a cooperation between the General welfare centres Centra ('Algemeen Welzijnswerk') and the Trust Centres for Child Abuse ('Vertrouwenscentra Kindermishandeling'). The last ones are mandated to decide whether an intervention is needed. Professional counsellors of both offer help by telephone and online. Another initiative of the Trust Centers for Child Abuse is the chat box for minors who have questions about or are victims of abuse, neglect or sexual violence "Nupraatikerover.be" (Now I talk about it), which cooperates with 1712. Stop it Now! offers a listening ear, information, advice and support to persons who are concerned about their own feelings or behavior of the feelings or behavior of their nearest ones towards children. Stop it Now! is a cooperation between the General welfare centres Centra ('Algemeen Welzijnswerk') and the University Forensic Center.

GREECE (addition):

In **Greece**, SafeLine (www.safeline.gr) is the hotline that receives reports for online Child Sexual Abuse Material (CSAM) and online Child Sexual Exploitation Material (CSEM). The hotline which has been operated since 2003 by the Foundation for Research and Technology-Hellas (FORTH) is an official member of INHOPE and one of the three axes of the Greek Safer Internet Center (www.saferinternet4kids.gr). SafeLine contributes to the ICCAM database of INTERPOL.

In **Malta**, Supportline 179 is the national helpline, which offers support, information about local social welfare services and other agencies, and a referral service to callers who require assistance. It is also a national service for people who are in times of difficulty or crisis. The primary mission of the Supportline 179 service is to provide immediate and unbiased help to those seeking information, support, and/or require a referral to social service agencies. Supportline 179 receives calls on situations of child abuse, domestic violence, drug/alcohol/gambling problems, and homelessness, amongst others. When a child reporting through the helpline, the child will be followed by professionals who will offer support and guidance.

The BeSmartOnline! is a co-funded hotline by the European Union. The consortium working on the project is led by the Foundation for Social Welfare Services through Aġenzija Appoġġ, the Office of the Commissioner for Children, the Ministry responsible for Education specifically the Directorate for Learning and Assessment Programmes and the Cybercrime Unit within the Malta Police Force. The hotline receives reports from internet users on illegal content such as child sexual abuse material. All reports which are deemed illegal by the childwebalert hotline are inputted in the ICCAM database hosted by Inhope (www.inhope.org), the international network of Hotlines which FSWS is a member of. The ICCAM database is linked to the ICSE database by Interpol and those images and videos which are highlighted as baseline are further investigated to try to find the victims and rescue them.

Awareness raising campaigns are held to promote the work of both the helpline and hotline and to raise awareness on online issues in which children can fall victims of abuse. Through the campaigns, the Besmartonline consortium aims to target all children in Malta and Gozo and to educate the parents and guardians on online risks that could expose their children to different forms of abuse.

⁶ Ibid.

ITALY (addition):

The protection of children from situations of distress and violence is also promoted by the Department for Family Policies - Presidency of the Council of Ministers - through "114 Childhood Emergency Service" (a hotline service managed by "Telefono Azzurro", promoted and co-financed by the Department for family policies). This number, which provides a multilingual service, is accessible free of charge from both landlines and mobile phones, throughout the country, 365 days a year, 24 hours a day, and is aimed at anyone who wants to report emergency or troubling situations which could be potentially damaging to the mental and physical development of the minor. The service is accessible, via different channels, both for children and adults. The service provides psychological, psycho-pedagogical, legal and sociological counseling, and may intervene in situations of distress which could harm the psycho-physical development of minors. The same service networks with the relevant institutions and territorial structures in social, judicial and public security fields.

The Department for Family Policies, in recent years, to ensure greater dissemination of information with respect to reports of situations of distress and violence against minors, has been promoting communication campaigns related to the "114 Childhood Emergency Service" as well as to cyberbullying phenomena, designed and implemented with appropriate language for children and adolescents.

MALTA (correction of the previous text):

In **Malta**, Supportline 179 is the national helpline, which offers support, information about local social welfare services and other agencies, and a referral service to callers who require assistance. It is also a national service for people who are in times of difficulty or crisis. The primary mission of the Supportline 179 service is to provide immediate and unbiased help to those seeking information, support, and/or require a referral to social service agencies. Supportline 179 receives calls on situations of child abuse, domestic violence, drug/alcohol/gambling problems, and homelessness, amongst others. When a child **reportings** through the helpline, the child will be followed by professionals who will offer support and guidance.

The BeSmartOnline! is a co-funded hotline by the European Union. The consortium working on the project is led by the Foundation for Social Welfare Services through Aġenzija Appoġġ, the Office of the Commissioner for Children, the Ministry responsible for Education (specifically the Directorate for Learning and Assessment Programmes), and the Cybercrime Unit within the Malta Police Force. The hotline receives reports from internet users on illegal content such as, child sexual abuse material. All reports which are deemed illegal by the childwebalert hotline are inputted in the ICCAM database hosted by Inhope, the international network of Hotlines, which **the** FSWS is a member of. The ICCAM database is linked to the ICSE database by Interpol and those images and videos which are highlighted as baseline are further investigated **with a view** to try to find the victims and **consequently** rescue them.

Awareness raising campaigns are held **so as** to promote the work of both the helpline and hotline **and as well as** to raise awareness on online issues in which children **can may** fall victims of abuse. Through these **se** campaigns, the Besmartonline consortium aims to target all children in Malta and Gozo and to educate the parents and **/or** guardians on online risks that **could may** expose their children to different forms of abuse.

V Effective reporting procedures

52. To facilitate the identification of VAC, member States should take action to **[GREECE]: implement set/organise** a professional environment that stimulates interagency co-operation and co-ordination, **as appropriate within the national legal context [DENMARK]**. With that aim, contact points for relevant authorities are recommended to facilitate a liaison between relevant authorities and professionals working in contact with children. A designated focal point and/or contact person for professionals (e.g. child protection officer or child safeguarding officer) within organisations is required. Professionals should be able to consult a designated person responsible for responding to suspicions of violence. Focal points are to be designated at national level as well as contact points for relevant public and private institutions, who can easily liaise with each other for effective interagency co-operation and co-ordination, with due respect to the protection of personal data.

Good practice – co-operation between professionals

MALTA (correction of the previous text):

In **Malta**, collaboration between the Child Protection **Directorate within the Foundation for Social Welfare Services** and the Ministry **responsible** for Education permits regular consultations on cases of suspected harm. The Child Protection Directorate has a consultant in every School College that regularly reviews cases. The Ministry **responsible** for Education has a mandatory reporting system that is well placed and, within that system, there is a secondary portal that provides a group of counsellors that provide in-depth professional consultancy services and review the reports received of suspected child abuse cases.

Good practice – contact points

BELGIUM (clarification of the previous text):

In Flanders (**Belgium**), there is the legal obligation for each recognised and subsidised youth and sport organisation to have an integrity contact point **abbreviated as API ('aanspreekpunt integriteit')** and to **have conduct** a policy on integrity. **The API is defined as the person or persons who is/ are the contact point for cases of transgressive behaviour where the individual physical, psychological and sexual integrity of persons is violated. The integrity contact point is in charge of initial reception and referral. The API records, reports and refers on if necessary. The integrity contact point coordinates internal procedures to promote the integrity of individuals. The API follows up and operationalises the association's integrity policy document. The youth support organization 'De Ambrassade' and 'ICES' (Centre for Ethics in the Sports) provide the API of the youth, resp. sport organizations with formation and coaching. On their respective websites you find an overview of the API of the Flemish youth organisations and of the sport clubs and sport federations.** **The Flemish Government appointed within different departments and agencies a contact person who can liaise** ~~Within the Ministry there is a supporting officer who is also the liaison for~~ the public prosecutor's office in case of serious suspicions or convictions. **The public prosecutor's office is allowed, respecting the confidentiality of the investigation, to communicate whether the person in question is effectively the subject of an investigation or prosecution.**

MALTA (correction of the previous text):

In **Malta**, the Public Schools have an internal Children Safety Service that offers daily support to the schools, who are able to ask for consultation at the school premises on observed concerns. These are trained officials, with a specialisation in child abuse, who are able to make determinations of preliminary risks and then refer the report to **the** Child Protection Services. Furthermore, the Directorate for Child Protection Services has established a Contact Liaison Leader, who is available for direct line consultations with the schools who wish for a consultation about a case of suspected child abuse. These two mechanisms have been able to sift through the hundreds of suspected cases and take good decisions as to what should be reported and what should not.

Good practice example of multidisciplinary prevention mechanisms

ITALY (addition):

In Italy since 2011 within the P.I.P.P.I. Programme of Intervention for Prevention of Institutionalization the Multidisciplinary Team for responding to child neglect is established. When there is a case of child neglect social service, School, NGO's, paediatricians, psychologists and all the people involved in responding to the child's needs, are asked to work together in order to assure a sole and coherent answer to the needs. One child, a sole care plan. In 2017 the PIPPI became a national soft law and in 2021 PIPPI was established as an Essential Level for Social Intervention.

53. Professionals may lack knowledge about the threshold to reach for reporting. Indeed, unclear rules on indicators triggering reports – physical evidence or suspicions arising from, for instance, a child's changing behaviour – may hamper the identification and reporting of VAC cases. On the one hand, too high of a threshold may limit reporting. On the other hand, there are concerns that child protection systems may become burdened by **[GREECE]**: over-reporting if the thresholds are too low. Based on the scientific evidence produced by the reports on which the Recommendation is based, it is recommended that the threshold for reporting VAC is very clearly defined, in order to

avoid confusion amongst professionals as to when VAC should be reported. Laws and policies should foresee the activation of the duty to report on the basis of suspicion of violence. Children who have gone missing should always trigger a report of violence. This recommended threshold entails that physical evidence or a certain knowledge of violence is not necessary for triggering a VAC report.

54. Any work undertaken with the aim of developing indicators of VAC and defining a threshold that will trigger a report on suspicion of violence must consider that indicators may be [GREECE]: ~~influenced~~ **affected** by a variety of factors. For example, different indicators may be relevant in the assessment of a suspicion of VAC by doctors or teachers, who respectively have different possibilities for detecting physical or psychological signs of violence (by seeing the child in different conditions and for different periods of time). Different indicators would also be used with regard to the age and state of development of each child; for example, the threshold to report a suspicion of violence will certainly be lower for a new-born than for a young child that is mobile or can express him- or herself orally. Also, special attention should be paid to children who are considered [GREECE]: ~~as to be~~ living in more vulnerable situations.

DENMARK (correction of previous text):

Mechanisms facilitated by Denmark

The Danish Consolidations Act on Social Services has no fixed threshold or requirement of proof regarding reports on VAC or any other concern regarding the wellbeing of a child. It is the responsibility of the relevant municipality to process any incoming report in order to assess whether any steps must be taken to further examine the needs of the child and carry out support measures.

55. Member States should develop a clear system of reporting for professionals, ensuring that reports are filed to a competent state agency in charge of receiving and processing individual cases. It is good practice to establish a single simple telephone number for all professionals working for and with children to report to such an agency. Nevertheless, when danger to the child is imminent, professionals should be instructed to first contact the general emergency number for immediate police/ambulance intervention. Such single telephone numbers for professionals are not to be confounded with hotlines and helplines that are usually the first contact points where reports are filed by the general public and children.

SWITZERLAND (comment on paragraph 55):

A single telephone number for reporting in case of danger.

This very detailed directive seems difficult to reconcile with our federal system and the competent child and adult protection authorities at local level and is not implemented, at least not today.

Good practice: training for professionals

ITALY (addition):

- In Italy, the various administrations facing issues related with violence, mistreatment and abuse against minors, alongside with institutions and entities, as well as third-sector associations, conduct numerous training activities with the aim of supporting different categories of professionals in recognizing the signs of abuse and mistreatment against minors.
- In addition, the new National Plan for Preventing and Combating Sexual Abuse and Exploitation of Children 2022-2023, drawn up and approved, on 5 May 2022, by the Observatory for the fight against paedophilia and child pornography – a body chaired and coordinated by the Department for Family Policies - has envisaged actions to raise awareness and organize training, in different contexts, on the issues of child sexual abuse and

exploitation aimed at multiple target groups (minors, families, caregivers, etc.) through specific basic, multidisciplinary and integrated information and training courses for public and private operators, as well as specialized courses aimed at sectoral professionals working in contact with minors (in health, social protection, territorial education, justice, police settings, as well as in family-type communities, voluntary social work, sports, cultural and leisure activities). Such actions are aimed at the early detection of signs of violence, abuse and mistreatment.

- Since 2011 the P.I.P.P.I. Programme of Intervention for Prevention of Institutionalization is established as an opportunity for Municipalities to experiment participative and ecological ways for responding to child neglect. In 2017 the PIPPI became a national soft law and in 2021 PIPPI was established as an Essential Level for Social Intervention. Since 2022 a 20-hour MOOC is available for all professionals dealing with child neglect (social services, schools, NGOs, Court, etc.) in Italy, with the aim to train professionals in accountable and participative strategies responding to the child's needs.

63. Therefore, professionals working in reception centres and in border facilities should be specially trained to recognise and assist children exposed to all forms of violence during their migration, **including those through the use of the new technologies [GREECE]**. Good practices such as the following can be used as a source of inspiration for member States.⁷
64. A dialogue with parents or caregivers and the child is preferable when this is in the best interests of the child at risk of VAC. Professionals should be encouraged to discuss any concerns about the child's safety or well-being or suspicions of violence (including neglect, maltreatment or abuse) with parents or caregivers and the child. In more serious cases that involve the parents or caregivers in the perpetration of violence, professionals should swiftly report to the competent state authority that may initiate judicial proceedings without informing [GREECE]: **either** the parents **not or** the child.
67. For authorities processing reports on VAC, having access to databases with offender registries may be helpful in order to verify whether an alleged offender of VAC has a criminal record. Nevertheless, such access should be restricted in accordance with national laws and only specifically trained and designated officials should have access to such databases.

SWITZERLAND (Comment on paragraph 67) :

This request goes very far, further than the recommendation which, in point 23, rightly refers to the "national legal context".

New box after paragraph 69: A model of interagency collaboration for cases of violence

ITALY (addition):

Article 609 *decies* of the Italian Criminal Code prescribes that when a criminal trial is initiated for the crimes of slavery, child prostitution, child pornography, sex tourism, trafficking in persons, sexual violence, solicitation of minors, or mistreatment, sexual acts with a minor and persecutory acts committed against a minor or by the parent of a minor against the other, the Public Prosecutor shall notify the Juvenile Court so that this specialized authority can take appropriate measures to protect the minor. The same rule prescribes that the affective and psychological assistance of the minor victim shall be ensured, at all stages and levels of the proceedings, by the presence of the parents or other appropriate persons indicated by the minor, as well as groups, foundations, associations or nongovernmental organizations with proven experience in the field of assistance and support for victims of the crimes referred to in the first paragraph and registered in the special list of persons entitled to this purpose, with the consent of the minor, and admitted by the prosecuting judicial authority. In any case, the minor is supported by the assistance of the Juvenile Services of the Administration of Justice (Department of Juvenile and Community Justice of the Ministry of Justice, through the Offices of Social Service for Minors - U. S.S.M.) and services established by local authorities.

⁷ Ibid, p. 16-17.

In addition, Law No. 69/2019 (the so-called “Red Code”) prescribes the mandatory transmission of measures adopted in the criminal sector to the civil judge who is in charge of the proceedings for the personal separation of spouses or cases relating to under-age children, or exercising parental responsibility for the purpose of decision (Art. 64 bis of the Implementation, Coordination and Transitory Rules of the Code of Criminal Procedure) to ensure that, in any case, the judge of the Juvenile Court or ordinary court (where a personal separation or divorce of the parents is underway) may have any useful element to decide with respect to the care and assignment of minors, in cases in which a form of violence, abuse or mistreatment to the detriment of a minor has been reported.

70. In addition, data protection legislation or practices may sometimes be perceived as an obstacle to information sharing. All reporting procedures must be in line with data protection and privacy legislation at European and national levels, to ensure that both children’s and the alleged perpetrators’ privacy and data are protected. [GREECE]: **Privacy by default and by design, as they are set in the European Data Protection Regulation (GDPR), should be followed while processing of personal data takes place in online platforms.**
71. With regard to refugee children and children in migration, co-operation between national and international child protection authorities as well as international civil society organisations specialised in the cross-border protection of children is particularly important and can allow recipients of VAC reports to swiftly obtain information about previous child protection concerns, reports and decisions made in another jurisdiction affecting a child who moved across national and international borders. Such co-operation can thus [GREECE]: **highly contribute by speeding up the investigation process and ensuring ensure** a timely response to a VAC report.

VI Responding to reports on violence against children and follow-up

74. Several barriers to professionals’ reporting cases of VAC exist. One barrier in reporting is concern about consequences of reporting for the child. For example, if professionals do not receive any follow-up on their reports, this casts doubt for them on the efficiency of the reporting system and the safety of the children involved.⁸ Moreover, the fear that responses to VAC reports may be too punitive is also a deterrent for professionals considering reporting. Another barrier is the lack of trust in the reporting and follow up mechanisms. Effective, timely and appropriate interventions aimed at keeping families together, if in the best interests of the child, supporting child victims, stopping the abuse and preventing further violence are crucial.

SWITZERLAND (comment on paragraph 74)

The wording is also too absolute. In Switzerland, a right to information on the course of the procedure for the persons reporting has been deliberately avoided for reasons of protection of the privacy of the children and families concerned. Corresponding feedback could be given here.

New box after paragraph 76: Quality services adapted to children’s needs

ITALY (addition):

In Italy, the provisions of the Code of Criminal Procedure specify that the Judicial Police, the Public Prosecutor or the defense counsel, when listening to a minor victim or witness of a crime (i.e. slavery, mistreatment, sexual violence, sexual abuse or exploitation, persecutory acts) during the investigation, shall be supported by an expert in psychology or child psychiatry, and shall ensure that he/ she is not forced to make multiple statements and has no contact with the suspect (art. 351, art. 362, art. 391 bis of the Code of Criminal Procedure). In addition, for the aforementioned crimes, there are specific rules which guarantee a broad protection for the child witness or victim of such crimes when he/she must be heard during all stages of the criminal proceedings (so-called protected hearing): it is provided that the judge may establish a special location, time and procedures (e.g., special rooms with

⁸ Florescu, 2021, p. 13-14.

one-way glass-mirror and intercom system, as well as audio/video recording) for the child's hearing (*art. 392 paragraph 1 bis,, art. 398 paragraph 5 bis, art. 498 paragraph 4, art. 190 bis paragraph 1.bis* of the Code of Criminal Procedure) aimed at ensuring a suitable environment, greater protection of the child and avoiding the need to be heard several times.

At the local level, worthy of mention is the fact that in numerous Italian settings, special Protocols are stipulated between the diverse bodies operating in the field of juvenile protection (ex. Juvenile Courts, Ordinary Courts, Public Prosecutor's Offices, Police Headquarters, Prefectures, Police/ law enforcement offices, Social Services and Health Services, Anti-Violence Centers, Local Authorities) aimed at defining specific roles and procedures to be implemented in cases of violence, mistreatment and abuse against minors, which generally report all the necessary useful information, reporting templates and often identifying reference persons for each body/institution involved, thus creating a synergy and a more direct collaboration between the different subjects.

Barnahus/Children's Houses in Denmark and Malta

DENMARK (correction of previous text):

In **Denmark**, the Children's Houses (børnehuse) are regulated by the **Consolidation** Act on Social Services. It is an institution under the municipalities, which facilitates co-operation between the municipalities, the police and the health services. If the municipality knows or suspects that a child is a victim of violence or sexual abuse, and when the police and/or the health system is involved in the case, then the municipality is obliged by law to use a Children's House as part of the child protection examination. Also, the police use the Children's Houses for questioning and video interviewing of children for the purposes of police investigations.

MALTA (correction of previous text):

In **Malta**, with the enactment of Chapter 602 of the Laws of Malta (**Minor Protection [Alternative Care] Act**), its Children's House was established, ~~which~~. **The Children's House** operates on the standard Barnahus Procedures. Whilst legislations to officialise the jurisdiction and procedure of the Children's House may be underway, the **Children's** House is in operation.

The Children's House was fully functional by 2020. In legal terms, the obligation to use the Children's House (CH) by the judiciary stems out of Chapter 602, **which** essentially implies that the Juvenile Court, during proceedings related to requests for Protection Orders (**CAP 602 Article 19 of Chapter 602**), where children are meant to be heard, the Court should do so through the functions of the CH. Other courts are insofar not obliged to use this measure, even though there is much local effort by the Directorate for Child Protection Services (DCPS) to encourage the Judiciary to migrate this procedure to the CH. This has ensured that the child victim (and potentially other family members) is given the chance of going through the entire forensic process safely in premises that are designed for this purpose. Great care is taken in the Barnahus model to protect victims of violence; and this is evident in the core principles of the project that are all in some way feeding into the commitment to keep children safe throughout the process. In fact, apart from ensuring that the victims have the littlest contact with perpetrators, it ensures that the gathering of evidence is done in a child-friendly manner whilst ensuring that it is done in a forensically sound manner to protect the narrative of the child in court (therefore enhancing the likelihood for justice). It also ensures that the climate of the process is not a burden to the child. The Barnahus project also looks into the need for expedient therapy soon after the forensic process is settled. The Child Protection Service makes sure that the gathering of evidence is done as swiftly as possible without engaging in practices that are troubling to the child. CPS workers liaise continuously with the **Police** Vice Squad for this effect, and the Service is quick to refer children and their families for support at the Victim Support Unit, other services in the community, private practitioners, or therapeutic services within the **FSWS Foundation for Social Welfare Services**.

80. Additionally, and in line with General Comment No. 8 by the UNCRC on corporal punishment, the prosecution of parents or caregivers, or the formal intervention in the family in other ways (for example, by removing the child or the perpetrator), should be a measure of last resort and, if nevertheless necessary, be a step taken with great caution in order to protect the child. The underlying reasons for this notion include children's dependent status and the unique intimacy of family relations. The formal intervention should only happen when it is in the best interests of the affected child and necessary to protect the child from harm. The child's views should be given due

weight, according to his or her age and maturity. Nevertheless, if the act committed by a parent amounts to a criminal offence, judicial intervention through criminal proceedings is necessary. Children having committed violence themselves should also receive the necessary attention and support for [GREECE]: **time resilience and** full rehabilitation.

81. However, in General Comment No. 13, the UNCRC also recognises that much of the violence experienced by children, including sexual abuse, takes place within a family context and stresses the necessity of intervening in families if children are exposed to violence by family members, including intimate partner violence, as experiences of violence may be harmful and traumatising for the child, whether they are themselves the victims or witnesses of [GREECE]: intrafamily/**domestic** violence.

Referral to Juvenile Courts in Belgium:

BELGIUM (new drafting):

The Flemish ACT of 15 February 2019 on juvenile delinquency, which applies to minors who have committed a youth offence between the ages of 12 and 18, first of all prioritise the possibility of both mediation and family group conferencing ('hergo') in the procedures for minors.

Mediation is possible at any stage. At the level of the public prosecution office, the youth magistrate must consider systematically for every case if a mediation is suitable and possible. He can propose a mediation between the minor, his parents and the victim in all cases where a victim can be identified, where there is sufficient evidence of guilt and the young person does not deny the offence. After a successful mediation, most cases are dismissed, but the youth magistrate can still decide to send the minor to court in more severe cases.

Also at the level of the youth court a restorative justice offer can be made at the investigation and decision stage and under the same conditions The youth court judge should even prioritise a restorative justice offer. If the judge decides not to make a restorative justice offer, he/she should explicitly motivate his/her decision. In contrast to the prosecutor's office, the youth court judge can also propose a family group conference (hergo). In the conference not only the minor, his parents and the victim participate but also people of the respective social contexts

The Act provides further in offence-specific responses which are limited in time. The decree attaches great importance to juveniles' legal safeguards. The Act aims to provide fast, constructive and restorative responses, adapted the young person's needs and capabilities. A placement is seen as a last resort. In addition, the Act also gives great importance to the involvement and active participation of both the young person and his/her parents.

When there is an underlying problematic living situation, the option to organize voluntary youth care should always be considered first.

When there is a distressing situation and help gets stuck or is not accepted, a mandated facility (Youth Support Centres and Trust Centres for Child Abuse) can follow up the assistance or start new assistance. Young people for whom voluntary help is no longer possible in a severely problematic living situation can be referred to the juvenile court.

Also, in case of a combined youth offence and an underlying problematic living situation, and voluntary youth care is no longer considered possible or proves to be insufficient, it is possible for the Public Prosecution Service to directly refer the minor to the juvenile judge/court who is already involved considering the juvenile offense.

New box after paragraph 84:

ITALY (addition):

With particular reference to points 76 and 77 of the *Explanatory Memorandum to Draft Recommendation CM/Rec(2022)XX of the Committee of Ministers to Member States containing Guidelines on Strengthening reporting systems on violence against children*, please take into account that the Department of Juvenile and Community Justice – Ministry of Justice - deals with, *inter alia*, the implementation of actions to protect minors victims of abuse, violence and ill-treatment, as well as juvenile offenders, with a view of implementing operational models in compliance with the legislation in force.

All offenders, both Italian and foreign, who enter the Italian juvenile penal circuit are taken care of through multidisciplinary teams of social workers, educators and psychologists, who draft an Individual Treatment Plan, which may involve also some experts from the National Health Service as well as the child's family, aimed at fostering awareness of one's own actual affective-emotional needs as well as of the main defence mechanisms activated (denial, attribution of responsibility, minimisation of damage, etc.), thus helping young offenders develop a conscious reading of reality, not altered by recurrent self-justifying cognitive distortions.

Pursuant to Act no. 66 of 15 February 1996, at the request of the Judicial Authority, the Department for Juvenile and Community Justice shall ensure affective and psychological support, at every stage and level of criminal proceedings, thanks to its in-house Juvenile Social Services, to juvenile victims of offences such as: ill-treatment, child prostitution or pornography, enslavement, group sexual violence etc.

As to the victims of sex crimes, the regulatory framework has profoundly changed over the last twenty years: from Act 66/1996 to Legislative Decree no. 212 of 15 December 2015, significant progress has been made in terms of expanding protection and support of offended persons through targeted interviews and with the cooperation of other social and specialized services, such as counselling centres, health local units, private communities and anti-violence shelters.

Over the years, this Department has also implemented a number of actions to protect victims, such as:

- Project 'PRO.VI - *Protecting Victims' Rights*', financed by the European Commission - DG Justice, aimed at the full implementation of the European Directive 2012/29/EU in support of the victims of crime;
- Project 'E-PROTECT II', coordinated by *Defense for Children*, aimed at the qualification of practitioners working in the field of child victims' protection in Europe;
- Project INTINT "*Integrated Trauma Informed Therapy for Child Victims of Violence*", supported by the European Commission - DG Justice and Consumers (Rights, Equality and Citizenship Programme), aimed at strengthening practitioners' capacity to offer *Trauma Informed Treatment (TIC)* oriented interventions to child victims of violence.

VII Data collection and monitoring

88. Monitoring in accordance with a set of standards at national level and carrying out regular reviews of reporting and data-collection mechanisms are important elements of an effective and mainstreamed reporting system. A national reporting mechanism needs minimum standards and information, monitoring and accountability mechanisms, and should be overseen by a competent monitoring body. The monitoring body should be independent and staffed with specially trained personnel that regularly [GREECE]: **monitors monitor** all institutions, services and facilities responsible for initiating, processing and responding to reports of professionals of violence against children, to guarantee quality of services including a child-friendly approach. Importantly, an independent monitoring body should have the mandate to make recommendations and publish findings.

SWITZERLAND (comment on paragraph 88):

A national supervisory and control authority is difficult, if not impossible, to set up in a federalist state like Switzerland.

89. Member States should guarantee a regular [DENMARK] **evaluation review** of reporting obligations and duties among professionals. Reporting obligations in law and/or policy and the effectiveness of reporting mechanisms should be examined and kept under regular review. In particular, data from VAC reports should be analysed regularly to monitor what type of information is reported and by which professional groups, and to identify where existing reporting mechanisms may need further strengthening. Indeed, the implementation of an effective reporting mechanism for VAC depends on the availability and proper analysis of data at national, regional and local levels.

Good practices: data collection

IRELAND (provision of additional information):

Tusla comprises seventeen areas spread across six regions, that in turn report to a national office. Data is collected quarterly, monthly and annually from these seventeen areas, which allows for a comprehensive analysis of the performance and activity of child protection and welfare and alternative care services within each area. Such analysis includes reviewing area and national data trends and highlighting risks to prompt appropriate responses. The performance and activity data is also considered alongside financial and human resource data to provide further insights into service provision at area and regional levels. Data gathered is published in an aggregate form and is a useful resource for stakeholder NGOs and academics interested in child and family services.

ITALY (addition):

- In Italy, the Observatory for the fight against paedophilia and child pornography (Art. 17, paragraph 1-bis, of Law No. 269, August 3, 1998, as amended) has the task of acquiring and monitoring data and information on the activities carried out by all public administrations for the prevention and repression of the sexual abuse and exploitation of minors. The same provision authorizes the establishment, within the Observatory, of a database for the collection of data provided by the relevant administrations. Such data are useful for monitoring the above-mentioned phenomena. The Observatory Database (BDO) represents a unique tool among all the systems employed to enhance the knowledge of the phenomenon of child sexual abuse and exploitation because it succeeds in providing relevant information, in a single database, of all data coming from multiple sources. Through the Observatory's database, all the information and computerized resources of the various Administrations are thus organized and systematically integrated.
- In addition, the Department for Family Policies - Presidency of the Council of Ministers - among its monitoring activities at the central level, annually edits the Report to Parliament on the coordination activities referred to in Article 17, paragraph 1, of Law No. 269, on "Norms against the exploitation of prostitution, pornography, and sex tourism to the detriment of minors, as new forms of slavery," which provides data and a detailed description of the actions conducted at national and international levels, by the relevant administrations and associations, for the prevention and countering of the phenomenon of sexual abuse and exploitation of persons under the age of 18, as well as for the support and protection of minors who are victims of such crimes.

Since 2011 within the P.I.P.P.I. Programme of Intervention for Prevention of Institutionalization participants were asked to gather data about the assessment and the care planning with the families, in periodical timeline (every 6-8 months). In 2017 the PIPPI became a national soft law and in 2021 PIPPI was established as an Essential Level for Social Intervention. In 2023 the Ministry of Labour and Social Affairs is working for giving accessibility to such data gathering to all the municipalities in order to build a national ICT.

VIII Media and communication

New box after paragraph 94: Protection of the child's privacy

ITALY (addition):

With regard to children involved in judicial proceedings, Italy prescribes specific norms of juvenile criminal procedure, as per the Code of Criminal Procedure and the Privacy Code. Pursuant to Article 13 Presidential Decree No. 448 of September 22, 1988 on juvenile criminal proceedings, the publication and dissemination, by any means, of images enabling the identification of the minor involved in the criminal proceedings is prohibited. The Privacy Code (Article 50 of Legislative Decree No. 196, June 30, 2003, as amended) extended this prohibition to judicial proceedings in matters other than criminal matters and provided that violation of the prohibition is criminally punishable (under Article 684 of the Criminal Code). Lastly, the Code of Criminal Procedure prescribes that "It is prohibited to publish the personal details and image of minor witnesses, persons offended or harmed by the crime until they have come of age. The publication of elements that even indirectly may lead to the identification of the aforesaid minors is also prohibited" (Article 114, paragraph 6, Criminal Code). A special safeguard is provided for victims of particularly serious crimes (sexual violence, sexual abuse and sexual exploitation). In such cases, anyone who divulges -including through mass media- the image of the victim, without the victim's consent, shall be criminally punished (art. 734 bis of the Criminal Code).