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Strasbourg, 25 November 2020

CDENF-GT-VAE (2020)06rev

Steering Committee for the Rights of the Child (CDENF)

Working group on responses to violence against children (CDENF-GT-VAE)

**Revised outline for a feasibility study
regarding a draft Recommendation on the Development of effective mechanisms
for professionals to report violence against children (*working title*)**

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1. Background and milestones of the activity

At its first meeting held on 23-24 June 2020, and after consideration of an expert study and a discussion paper respectively prepared by Prof. Mathews (Queensland University of Technology/Australia) and by Prof. Bruning (Leiden University/Netherlands), the working group CDENF-GT-VAE (“VAE group” hereafter), had agreed that:

- the key objective of its work in the area of reporting violence against children would be to draft a Recommendation on mandatory reporting containing possible guidelines;
- the draft Recommendation would consider all forms of violence against children and promote a holistic approach based on cooperation between stakeholders;
- reporters would firstly include different professionals working with children and adults;
- emphasis should be put on victim’s assistance and support, also considering the consequences of reports on children and their families;
- the voice of the child should be listened to and taken into account for reporting procedures and subsequent support proceedings.

Subsequent to the VAE meeting of 23-24 June, the Secretariat undertook to:

- making relevant preparations for a survey identifying challenges and good practices related to reporting mechanisms, involving the VAE group (step 1) and possibly the CDENF plenary (step 2) – *see document CDENF-GT-VAE(2020)07rev for details*;
- asking the consultant, Prof. Bruning (Leiden University), to prepare an outline for a feasibility study on the need for and possible contents of a draft Recommendation on reporting mechanisms.

At its second meeting held on 5-6 October 2020, the VAE group undertook the following to make progress on this activity:

- examined and provided feedback to the outline for a feasibility study prepared by Prof. Bruning (Leiden University/Netherlands);
- heard two national experts on specific reporting mechanisms on violence against children, notably a representative of the Royal Dutch Medical Association and a representative of the Irish Child and Family Agency (Tusla), who both shared information about their relevant national legislation and reporting procedures in place;
- discussed certain sensitive issues related to reporting mechanisms, including the scope of different forms of violence to be included, the settings of violence to be considered, and the threshold of signs triggering a report by professionals.

At the CDENF meeting held on 16 November 2020, the outline for a feasibility study was shared with the Steering Committee in plenary and further feedback received from members and observers.

2. Contents of the present document

The Annex to the present document contains the revised outline for a feasibility study regarding a draft Recommendation on the Development of effective mechanisms for professionals to report violence against children (*working title*), as prepared by Prof. Bruning, supported by her collaborator and doctoral student, Stephanie Ohlson, and in close collaboration with the Secretariat of the Children’s Rights Division.

This document shall serve as a basis for another in-depth exchange of views to be held during the 3rd meeting of the VAE group.

3. Questions to be considered by the VAE

The CDENF-GT-VAE is – once again - invited to review the revised outline for a feasibility study, in the light of members' own experiences in this area, by considering:

- Members' own experiences in this area, or information received on national practice and challenges in their respective countries;
- the experiences shared by invited practitioners during the exchange held on 5 October 2020;
- by reverting to the sensitive aspects yet to be clarified, as discussed partly at the same meeting on 5 October; amongst the **most sensitive issues identified** at or following this meeting (e.g. through comments provided in writing) were:
 - the scope of application of the draft Recommendation (the child's circle of trust or beyond?);
 - the difference between "reporting" and "signalling" violence and subsequent procedures to be followed (involving criminal justice or social service intervention);
 - the "minimum signs" for reporting/signalling violence (on suspicion, on evidence etc.);
 - the confidentiality rules/professional secret to be respected by professionals;
 - the implications of reporting for levels of trust (in professionals, by professionals in reporting systems etc.);
 - the consequences of and follow-up provided to reporting/signalling VAC (possibly including: the removal of children from their families, family support, therapeutic support, both for victims and offenders);
 - the role of children themselves;
 - the role of the general public.

The aim will be to provide the consultant and the Secretariat with sufficient guidance to prepare a first "skeleton" of a draft Recommendation for the upcoming meeting of the VAE group, suggested to be held on 22-23 April 2021.

Annex:
Outline for a feasibility study regarding
a draft Recommendation on the Development of effective mechanisms
for professionals to report violence against children
(working title)

1. Why is a draft Recommendation needed and useful?

Definitions

Legal mandatory duty to report: a duty to report VAC is embedded in domestic law.

Mandatory duty to report: a duty to report VAC is embedded in regulations, professional standards, guidelines, manuals, or codes of conduct which are based on policies concerning individuals practicing a given occupation and/or certain institutions. Usually this concerns individuals and institutions working for and with children.

Violence against children (WHO, 2020): Violence against children includes all forms of violence (physical, sexual, or emotional violence or neglect) against people under 18 years old, whether perpetrated by parents or other caregivers, peers, romantic partners, or strangers. Most violence against children involves at least one of six main types of interpersonal violence: **Maltreatment** (including violent punishment); **bullying** (including cyber-bullying); **youth violence** (among children and often in community settings); **intimate partner violence** (including child marriages and early/forced marriages); **sexual violence** (including non-consensual completed or attempted sexual contact and acts of a sexual nature not involving contact); **emotional or psychological violence**.

Child maltreatment (WHO, 2020): Child maltreatment includes all forms of violence against people under 18 years old; it includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.

Children have the right to be protected against all forms of violence according to Article 19 of the [UN Convention on the Rights of the Child \(UNCRC\)](#). The Council of Europe has always prioritised responses to violence against children in its subsequent Strategies for the Rights of the Child since 2006. In its current Strategy (2016-2021), the issue of reporting violence against children (including in their circle of trust) has been identified as a priority theme in the implementation of the priority area 'a life free from violence for all children' of the Strategy. In 2009, the Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence introduced the promotion of the development and implementation of a holistic national framework to safeguard the rights of the child and to eradicate violence against children.

These guidelines encourage the development of an integrated national strategy for the protection of children against violence that includes an effective reporting mechanism and a mandatory duty to report for all professionals. These guidelines do not particularly focus on reporting, but on a general holistic strategy.

Reporting mechanisms, including the identification, actual reporting, processing, and reception of reports of violence against children (“VAC” here-after), as well as the continuous support provided to child victims, are essential to respond to violence against children, especially when occurring in their “circle of trust”.¹ Particularly in this context, VAC often remains hidden from outsiders, as children remain silent and do not disclose their secret. Hence, it is of vital importance that outsiders are able and willing to identify and report suspicions of VAC occurring in children’s circle of trust, in order to protect them from such violence in their direct surroundings. Professionals working for and with children and parents are amongst the best-positioned persons to identify and report VAC in various forms and settings, including the circle of trust.

However, reporting mechanisms and with them (views on) best practices in this regard still differ significantly across Europe, providing unequal opportunities for the protection of children. Therefore, a new Council of Europe Recommendation, **providing guidance for the development of effective mechanisms for reporting violence against children, notably violence occurring within the circle of trust**, is needed and will be instrumental in improving the protection of children against this secluded type of crime across Europe.

2. Objectives and key challenges

Most European countries have a legal mandatory duty to report VAC incorporated in national legislation.² In other words, these countries are prescribing duties to report VAC by law. However, a few European countries have incorporated a duty to report VAC in professional standards or other policy documents instead, stimulating and urging professionals to take the necessary steps to respond to violence and to protect children. Aside from promoting the implementation of a legal mandatory duty to report VAC or other types of reporting mechanisms in this regard, depending on the national context, the key issue to be addressed through an upcoming draft Recommendation will be effective reporting mechanisms that are part of an effective child protection system.

The aim of a draft Recommendation on VAC reporting mechanisms would first and foremost be to **provide guidance to member states for:**

- **detecting and responding to VAC** by way of reporting all forms of violence against children within current systems and in an appropriate manner (from criminal law to social service responses);
- preparing or reviewing **relevant legislation** as needed, and in a format judged useful in a given national context;

¹ The “Lanzarote Committee (LC)” (Committee of State Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) follows a broad interpretation of “circle of trust” [...], including in it members of the extended family, persons having care-taking functions or exercising control over the child, persons with which the child has relations, including his or her close peers (i.e. another child who may exert influence over the child and may thus obtain his or her invalid and non-informed consent to engage in sexual activities)” (2nd LC monitoring report).

² Discussion Paper Prof. M.R. Bruning, ‘Current international and European reporting mechanisms for professionals, of violence against children, as well as key challenges and recommended future actions in this regard’, June 2020; Paper prof. Ben Mathews, Strengthening Mandatory Reporting of Child Sexual Abuse in Europe: A Study Setting the Scene for Further Action Responding to Violence against Children, June 2020.

- (further) developing **effective reporting mechanisms** and thereby improving the protection of more children in this context, including through the **prevention** of future violence.

Furthermore, a draft Recommendation would pursue some general objectives reminding member states of their obligation to protect children from all forms of violence and some specific ones, including, for example, the reporting of VAC within the circle of trust. Regarding the general objectives, a draft Recommendation would once again invite member states to adhere to the Council of Europe Policy guidelines on integrated strategies against violence, as mentioned above.

More specifically, member states will be invited to:

- Consider that the well-being and best interests of children are fundamental values shared by all member states and must be promoted without any discrimination;
- Recognize that violence against children constitutes a violation of the rights of the child, compromises children's development and affects the enjoyment of their other fundamental rights,
- Observe that violence against children exists in every state and cuts across boundaries of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, state of health, disability or other status;
- Consider that children's fragility and vulnerability and their dependence on adults for the growth and development call for greater investment in the prevention of violence and protection of children on the part of families, society and the state;
- Bear in mind the United Nations Convention on the Rights of the Child, especially Article 19 thereof, providing for the clear obligation that states protect children from all forms of violence at all times and in all settings;³
- Taking due account of other relevant international instruments and commitments in this field.⁴

Regarding the specific objectives, **the recommendation aims to address and provide ways to overcome the following key challenges concerning the reporting of violence against children** (in the circle of trust):

- The implementation of children's rights is very challenging: violence against children is often hidden from plain sight, evidence is hard to find, and dark numbers are enormous, particularly in the case of violence against children in the circle of trust.
- Reporting mechanisms are still often not sufficient/effective, especially due to reporters' unwillingness or fear to report as well as overburdened reporting systems and ineffective child protection systems.

In addition, its aim is to **increase as well as encourage the accurate identification of cases of violence against children** (in the circle of trust) by stating and recommending to member states that:

- The identification and reporting of violence against children is vital to protect children; effective reporting mechanisms are necessary in order to take action to protect children who are at risk of or suffer from violence against children;

³ See also [UNCRC General comment No. 13 \(2011\): The right of the child to freedom from all forms of violence 18 April 2011, CRC/C/GC/13.](#)

⁴ Recommendation CM/Rec(2009)10, [Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence.](#)

- Some children are at heightened risk of experiencing violence. They include children living in alternative care; children without a legal identity; children living or working on the streets; children with disabilities; children living in poverty; children from ethnic, religious or linguistic minorities; lesbian, gay, bisexual or transgender children; and children who are on the move as migrants, refugees or as internally displaced persons. It is also essential to recognize the gender dimension of violence against children and the way in which gender-based stereotypes, power imbalances, inequalities and discrimination create different risks for children;⁵
- Reporting by professionals and citizens is essential to respond to violence against children;
- Reporting of children themselves - which is often unlikely considering the private family sphere and children's loyalty to parents and caregivers - should be encouraged;
- Reporters will be protected from (criminal) liability and freed from confidentiality issues.

Reporting starts with the recognition of signals of violence against children, followed by the act of reporting. However, this is only a first step: in order to protect children against violence, a (holistic) reporting system is essential (i.e., identification, reporting, reception, follow-up). This Recommendation also aims to develop national child protection systems that are effective and fit to protect children against all forms of violence in the circle of trust. Multi-stakeholder cooperation, including information-sharing, to identify, report and respond to VAC is essential for an effective child protection system. Furthermore, it is vital to prohibit all forms of violence against children in national legislation, including corporal punishment in order to guarantee the child's right to be protected against all forms of violence.

3. Area of application/ scope

The draft Recommendation could include all forms violence committed in the circle of trust.⁶ This includes **all forms of child maltreatment** (i.e., physical, sexual and psychological/emotional abuse and neglect) **committed at home or other places belonging to the circle of trust.**⁷ One should recall that very often, violence is the consequence of poor living condition, poverty, discrimination and lack of access to support, social and health services. The State has the obligation to support the family, to guarantee the rights of all children and to protect the child in the family environment. Separation of parents or caregivers and child should be avoided and should only be a measure of last resort. Keeping families together is key to guarantee the child's right to grow up with his or her family members. Nevertheless, when including all forms of violence, this could lead to overreporting and overburdened reporting centres. Overreporting and overburdened systems could lead to an increasing unwillingness to report (no faith in responses of reporting centres with waiting lists) and to less effective responses to violence against children at home. Therefore, it might be essential to develop a minimum threshold for mandatory reporting the most severe situations of violence against children. Moreover, reporting all other forms of VAC should be stimulated.

⁵ Global Status Report 2020, UNSRSG: (undocs.org/en/A/75/149).

⁶ See further Discussion Paper M.R. Bruning of June 2020.

⁷ According to the second implementation report of the Lanzarote Convention, the "circle of trust" includes members of the extended family, persons having care-taking functions or exercising control over the child, persons with which the child has relations, including his or her close peers (i.e. another child who may exert influence over the child and may thus obtain his or her invalid and non-informed consent to engage in sexual activities). <https://rm.coe.int/t-es-2017-12-en-final-lanzarotecommitteereportcircleoftruststrategies/16807b8959>.

Furthermore, the draft Recommendation shall address – in the context of the reporting of VAC – **all professionals working in direct or indirect contact with children, including, more specifically:**

- those whose functions involve regular contact with children (e.g. primary health care providers, teachers, day-care workers);
- those who may only encounter children occasionally during their work (e.g. police, lawyers, social services);
- those who work with parents or other caregivers of children (e.g. psychiatrists, psychologists).

The draft Recommendation will cover reporting systems and processes in the most comprehensive and integrated manner possible, including **the identification of, initial response to, and interventions/follow-up** provided to children who have been exposed to violence in the circle of trust.

It shall also address **the role of citizens** and **children** affected by or witnessing violence against a child (e.g. neighbours, siblings, friends etc.).

4. Guiding principles

International human rights standards recognize the rights of children to be protected against all forms of violence, as well as the responsibilities of the duty bearers in protecting and promoting these rights. The following overarching guiding principles derived from the UN Convention on the Rights of the Child (CRC) and other key international human rights standards have to be observed when responding to violence against children via reporting mechanisms:

- **Best interests of the child:** In all actions and decisions, the best interests of the child shall be a primary consideration⁸;
- **Supporting families:** Responsible authorities ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents or other caregivers⁹;
- **Evolving capacities of the child:** Responsible authorities take into account the evolving capacities of the child and seek informed consent as appropriate¹⁰;
- **Right to be heard and have opinion respected:** Responsible authorities provide the opportunity for the child to be heard in all decision-making processes and give due weight to the child's views in accordance with the age and maturity of the child; this includes providing child-friendly information, guaranteeing the right to be heard in a child-friendly environment and feedback and transparency about the weight that is given to the child's opinion.¹¹

⁸ Article 3 s. 1 CRC and CRC General Comment No. 13 (2011) (CRC/C/GC/13).

⁹ Articles 5, 18 CRC; Guidelines for the Alternative Care of Children (2009).

¹⁰ Art. 5 CRC.

¹¹ Art. 12 CRC and CRC General Comment No. 12 (2009), CRC/C/GC/12.

5. The following elements are proposed to be addressed in a draft Recommendation on reporting mechanisms of VAC:

a. Initial identification

- Increase willingness to report
For an effective VAC reporting system, a willingness to report is key. The state should therefore invest in awareness raising public campaigns (for professionals and citizens) in order to increase awareness about identifying and reporting suspicions of VAC in the circle of trust and to reduce reluctance to report. Furthermore, responsible authorities should monitor professionals' willingness to report. Furthermore, conditions should be created to stimulate and facilitate child victims to report violence.
- Permanent training and education
Continuous training for professionals is vital to improve identification and reporting of VAC; states should invest in professional training and incorporate knowledge about identifying VAC into school curricula and invest in permanent (regular and ongoing) training and supervision for professionals.
- Multi-agency co-operation
Violence against children demands an integrated, holistic and multi-stakeholder approach and requires cross-sectoral co-operation and co-ordination. States should take action to implement and evaluate a professional environment that stimulates multi-agency co-operation and co-ordination to facilitate identification of VAC.
- Professional support
Professionals (working with children or parents) are crucial to identify VAC in the circle of trust; states should support professionals to facilitate the identification and reporting of suspicions of abuse and neglect. Professionals who are normally bound by confidentiality rules should be able to do so without risk of breach of confidence and should be able to report anonymously when necessary and without criminal liability. Codes of conduct and roadmaps should be developed to guide and support professionals in their journey of identification and reporting VAC, including recommending consulting with a colleague and/or reporting centre and discuss suspicions of abuse with parents and children when possible.
- Dialogue with parents and child
Professionals should be encouraged to discuss any concerns about the child's safety (at home) or suspicions of abuse and neglect with parents or caregivers and the child unless this causes a serious risk for the child. Children should be informed about the reporting procedure.

b. Reporting / processing reports

- Promote a mandatory duty to report for professionals
States should promote a mandatory duty to report (through domestic legislation or professional standards, protocols etc.) to reporting centres that include social services as part of the child protection system for all professionals working with children or parents in order to bring more VAC cases to the attention of responsible authorities for the purpose of child protection. Reporting VAC is not primarily aimed at criminal investigation and punitive responses but is foremost needed to support child victims and keeping families intact whenever possible.

- Promote professionals' responsibility to respond to VAC and start a dialogue with families
Promoting a mandatory duty to report for professionals includes a professional responsibility to not let go of their responsibility regarding families and children but to use reporting as only one necessary step that should be taken together with protecting child victims, starting a dialogue with families and supporting families aimed at keeping families together. Professionals' trust in reporting mechanisms and the reporting process is key to guarantee an effective reporting mechanism as part of an effective child protection system to protect children against all forms of violence.
- Eliminate obstacles for professionals to report
States should eliminate any obstacles for professionals to report VAC in good faith, such as (criminal) liability or disciplinary measures when reporting in good faith, remove a requirement to obtain parents'/carers' permission to report, guarantee the option to report anonymously and immunity for mandated reporters. Professional confidentiality obligations can never legitimize a failure to respond to VAC to protect children.
- Eliminate obstacles for children to report and stimulate and facilitate reporting
Child victims mostly are very reluctant to report violence in their circle of trust. A supportive environment and reporting system should be developed to stimulate and facilitate reporting.
- Regular review
Reporting obligations should be examined and kept under regular review; reporting data should be analysed regularly to monitor reporting mechanisms.
- Child-friendly procedures
Child-friendly procedures are crucial; children have the right to be heard and to participate in decision-making procedures and child-friendly procedures stimulates them to form and express their own views. Child-friendly procedures comprise child-friendly surroundings when professionals talk with children and accessible information about the procedure, their right to be heard and to participate in the decision-making process. Furthermore, child-friendly procedures include transparency and feedback about the weight given to the child's voice and support during and after identifying and reporting VAC.

c. Reception: Responding to VAC reports

- Sufficient resources and capacity
Budget allocation and sufficient financial resources and capacity is necessary to cope with reports, to prevent overburdened systems and agencies and to guarantee timely access to quality services for children who risk or suffer from VAC at home/ in their circle of trust.
- Effective interventions
Effective referral mechanisms and effective interventions are necessary for children exposed to maltreatment.
- Effective child protection system
An effective child protection system as described in the CoE policy guidelines on integrated national strategies for the protection of children from violence, including multi-agency co-operation and information-sharing from a holistic approach, is key in order to respond to suspicions of child abuse or neglect.

- Co-operation
Co-operation and co-ordination involving professionals from different organizations and background is vital for an effective child protection system. All stakeholders should collaborate and share information regarding concerns about the child's safety at home or suspicions of abuse or neglect.
- Processing abuse reports
Efficient reporting systems include an organization to process abuse and neglect reports and to refer child victims of violence after an assessment of the specific circumstances of each particular child.

d. Support for victims

All children should have access to quality services adapted to their needs (e.g., age, trauma-sensitivity, cognitive and emotional capacities). Multi-agency collaboration (such as Barnahus) should exist in every member state and deliver timely and effective services to children affected by violence in a child-friendly manner. Long waiting lists and time intervals before the provision of services should be avoided. In order to provide effective services, the child's voice must be heard and his/her wishes respected. Children should be interviewed by trained professionals in a child-friendly and child-appropriate manner, taking into account the age, developmental level, and needs of the child.

Additionally and in line with General Comment No. 8,¹² the prosecution of parents or caregivers, or to formally intervene in the family in other ways (for example, by removing the child or the perpetrator), should be a last resort option and, if nevertheless necessary, be a step taken with great care in order to protect children. The underlying reasons for this notion include children's dependent status and the unique intimacy of family relations. Prosecuting parents is in most cases unlikely to be in their children's best interests. The formal intervention, as mentioned above, should thus only proceed when they are regarded both as necessary to protect the child from significant harm and as being in the best interests of the affected child. The affected child's views should be given due weight, according to his or her age and maturity.

e. Monitoring of reporting systems

Reporting mechanisms should be examined and kept under regular review, for instance, via surveys, such as proposed by Mathews, or the requirement of regular reports and sharing of data by member states. On the national level, agencies or employees within agencies should be trained to monitor the reporting trajectory. Data regarding reports should be processed and stored online, in order to be able to examine the efficiency and accuracy of reporting mechanisms (e.g., reports filed vs. reports substantiated, reports filed vs. dark numbers, assessed via anonymous surveys).

¹² CRC/C/GC/8, par. 41.