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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 18 October 2022

CDENF-GT-VAE(2022)PV2

# Steering Committee for the Rights of the Child (CDENF)

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

**7<sup>th</sup> Meeting by videoconference**

**22-23 September 2022**

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### **Draft Meeting Report**

#### Proposed meeting times:

##### Day 1:

Thursday 22 September  
9:30-12:00 / 14:00-16:30 hrs

##### Day 2:

Friday 23 September  
9:30-12:00 / 14:00-16:30 hrs

*Prepared by the Children's Rights Division*

[www.coe.int/en/web/children/cdenf-gt-vae](http://www.coe.int/en/web/children/cdenf-gt-vae)

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## Draft Meeting Report

### **Part I of the meeting (Thursday 22<sup>nd</sup> September 2022): 09:30 – 12:00 / 14:00 – 16:30 hrs**

#### **Agenda item 1: Opening of the meeting**

1. **Rosário Farmhouse** (Portugal), Chair of the Working Group and Chair of the Steering Committee for the Rights of the Child (CDENF), opened the seventh and last (online) meeting of the Working Group on responses to violence against children (CDENF-GT-VAE; “Working Group” hereinafter) and welcomed all members and observers, inviting them to actively contribute to the meeting.
2. She introduced the objectives and structure of the present meeting, underlining that most of the discussion would be dedicated to the first main item on the Working Group’s task list: to examine and finalise the draft Recommendation containing Guidelines on strengthening reporting systems on violence against children in view of its submission to the Steering Committee for the Rights of the Child (CDENF) for its consideration and possibly approval at the 6<sup>th</sup> plenary meeting on 15-17 November 2022.

#### **Agenda item 2: Adoption of the draft agenda and order of business**

3. The adopted agenda appears in Annex I; the list of participants in Annex II.

#### **Agenda item 3: State of play of CDENF-GT-VAE activities in the context of the new Strategy for the Rights of the Child**

4. **Maren Lambrecht-Feigl**, Programme Officer at the Children’s Rights Division and Secretary to the Working Group (“Secretariat” hereinafter), reminded participants of the state of play of the work undertaken by the CDENF-GT-VAE and activities relating to violence against children more generally, as envisaged by the CDENF in 2022/2023. Moreover, she introduced some elements aimed at guiding the discussion on the draft Recommendation and Explanatory Memorandum.

#### **Agenda item 4: Contribution to the development of non-binding instruments or tools containing guidance for member states**

5. The Chair briefly reminded the Working Group of the state of play of the current activity and recalled that the meeting was aimed at advancing with the work on the draft Recommendation and its draft Explanatory Memorandum.

#### **Agenda item 4.1: Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children**

6. The Chair and the Secretariat briefly introduced the latest comments received from relevant stakeholders consulted in spring 2022, including notably professional federations and professionals concerned by reporting systems in the field, and the subsequent changes made to the Draft Recommendation and Guidelines and the Explanatory Memorandum. Comments had also been provided by the Secretariats of certain Council of Europe monitoring bodies, notably those supporting the Lanzarote Committee and the Group of Experts on actions against Trafficking in Human Beings (GRETA). Finally, several CDENF delegations had sent written comments to the text following its general examination at the 5<sup>th</sup> plenary meeting on 4-6 July 2022.

7. The Working Group then **revised** the text of the draft Recommendation and Guidelines, paragraph by paragraph, whilst the Secretariat took note of all changes proposed and agreed (directly on screen). The Chair gave the floor to participants who wanted to provide input into the text in the light of their respective national practice and moderated the discussion throughout.
8. With the aim of shedding light on specific and sometimes **sensitive aspects of national reporting systems**, and compare responses provided respectively by national systems involving legal and on policy-based duties, the Chair welcomed several external experts for an exchange of views. The specific questions addressed in this context included, amongst others:
  - whether a legal and/or policy duty to report should be prescribed by the Recommendation and Guidelines and how this could be formulated to reflect different approaches;
  - anonymity of reporters;
  - sanctions for non-reporting;
  - reprisals and negative consequences for professionals.
9. Experts from the Netherlands and Ireland, two countries where different approaches are followed in their reporting systems on violence against children (policy-based in the first and legal duty in the second), were respectively given the floor to present how their national systems addressed these aspects.
10. **Robinetta de Roode**, Advisor for Health Law at the Royal Dutch Medical Association, shed light on the Dutch reporting system that establishes a policy-based duty to report. She explained that, though there was no legal duty for professionals to report a suspicion of violence against children (“VAC” here-after), it was a safeguarded legal right to report. Healthcare institutions and other service providers, however, were legally obliged to introduce and make use of a reporting code. She outlined the five checks that had to be established within the reporting code for professionals to consult:
  - 1) Investigation of the injury or the complaint
  - 2) Advice
  - 3) Conversation with child and parents
  - 4) Information with other professionals if necessary
  - 5) Decision framework on whether to report
11. In the Dutch system, the necessity to report a case was namely perceived facing acute and/or structural unsafety for a child (for example, when a child systematically witnessed domestic violence) or when help and/or monitoring were impossible or insufficient. In cases of non-compliance, the Dutch Healthcare Inspectorate could enforce the implementation of the code in an institution, whilst disciplinary measures could be imposed on individual professionals for a wrongful failure to report.
12. The Dutch reporting system foresees a general duty to inform a suspected parent or caregiver of a report made (subject to exceptions). Though anonymous reporting of professionals is a legal right, she noted that this had led to issues of practicality, and that, at some point, a parent or caregiver would learn who filed a report. As a result, transparency from the very start was the preferred option. However, the duty to report should not become an aim within itself. Learning from problematic experiences already faced with mechanisms in child protection such as Veilig Thuis (Safe at Home) the Dutch experience had shown that a legal obligation could also have potential repercussions, such as an overwhelming and unmanageable number of reports and negative effects such as potential avoidance of seeking healthcare. For more information, please access Ms de Roode’s presentation [here](#).

13. **Caroline Jordan**, National Policy Manager for Family Support & Social Inclusion with the Irish Child and Family Agency (Tusla), shed some light on the Irish system which established a legal duty to report a case of VAC. Regarding the obligations prescribed by the legal duty, she explained that the obligation to file a mandated report was encumbered on mandated persons, namely professionals that were, by virtue of their qualifications, training, and experience, in a key position to protect children from harm (such as the police force, social workers, and general practitioners). Mandated persons were legally required to report when they obtained any knowledge, belief, or reasonable suspicion that a child had been harmed, was being harmed, or was at risk of being harmed. A mandated report then met a threshold for a criminal law response. The close relationship between the Garda Síochána na hÉireann (the Irish police) and the Tusla agency had been imperative for coordinating the report notification procedure and the requirements embedded within the legal duty.
14. **Mariëlle Bruning**, Professor of Child Law at Leiden University (NL), and independent child protection expert, recalled that recommending a legal duty to report would be in line with the aspirations to strive for achieving the greatest protection afforded to children, in line with the human rights standards of both the Council of Europe and the United Nations Committee on the Rights of the Child. Nevertheless, she acknowledged that there was not one child protection system that worked best, and, keeping in mind the goal of the recommendation to achieve the best possible solution for stimulating professionals to report, recommending a legal duty only would not give full credit to existing policy-based systems which seemed to be quite effective as well, such as the one in the Netherlands. She also reminded participants of the importance of the right for parents to be informed of a report, even though their consent should not be requested in many cases.
15. Following the discussions introduced by the experts, the Working Group discussed and agreed on a number of **formulations for the sensitive issues** brought to light. This included:
  - establishing either a legal and policy duty to report a suspected case of VAC or implementing a mandatory reporting code;
  - foreseeing measures to protect professionals from potential reprisals or negative consequences as a result of filing a report;
  - the right for children, affected by violence, to be informed about the functioning of the reporting system in a child-friendly manner; and
  - safeguarding the right for parents to be informed of a report, unless it puts the child, the professional or parent(s) at risk.
16. In terms of further proceedings to be followed in the final completion of the non-binding instrument, namely the draft Recommendation containing Guidelines on Strengthening Reporting Systems on Violence against Children, the Working Group agreed to proceeding as suggested by the Secretariat. All members of the Working Group could thus submit **final written comments to the text before 3 October**. The Secretariat would also once again consult the Lanzarote Committee Secretariat to ensure the draft text of the would be in line with the Lanzarote Convention.

**The Working Group agreed:**

- To avoid creating an exhaustive list of forms and settings of violence in the **definition of violence against children (VAC)**, and to move examples of various and specific forms of VAC to the Explanatory Memorandum (EM);
- To include, into the draft Recommendation, a reference to reporting duties based on the **two different approaches** prevailing across Europe, as typically practised in Ireland and the Netherlands, by calling for “**a legal and policy duty** to report for professionals and institutions, **or to establish a mandatory code** for specific professions, to report concerns or suspicions of violence against children”;
- To include both “**measures**” and “**sanctions**” for professionals that fail to comply with their reporting duties;
- To include the **right to remain anonymous in reporting** for professionals, in the event of a serious risk to their or the child’s safety;
- To specify that laws and policies should foresee measures to protect professionals from **reprisals or negative consequences** as a result of filing a report;
- To include **the right of parents and caregivers to be informed of a filed report**, unless this would put the child, the professional or the parent at risk of safety;
- To specify in the EM which groups of children would be considered being in particularly **vulnerable situations**;
- To include for a reference to **reporting on the basis of a reasonable ground to believe or suspicion** of VAC, subject to verification with the Lanzarote Committee Secretariat to ensure compliance with the Lanzarote Convention;
- To add and formulate a new paragraph regarding the **engagement of institutions**.

**Part II of the meeting (Friday 23<sup>rd</sup> September 2022) 09:30-12:00 / 14:00 – 16:30 hrs**

**Agenda item 4.1: Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children (continued)**

17. The Working Group continued revising the draft Recommendation paragraph by paragraph during meeting Day 2, and the Secretariat directly included all changes proposed on screen; for the addition on institutional engagement, it was invited to come up with a formulation proposal after the meeting.
18. **A new draft of the Recommendation** reflecting all changes would be circulated for review by the Working Group on 26 September in time for consideration before final submission of changes proposed to the text by 3 October. The Secretariat would then finalise the new draft with a view to its submission to the CDENF at its 6<sup>th</sup> plenary meeting on 15-17 November 2022, for examination paragraph by paragraph and approval. The final draft by the CDENF would then be submitted to the Committee of Ministers for adoption in early 2023.

19. The Working Group also discussed and decided on a number of issues that needed to be explained in more detail in the Explanatory Memorandum; however, due to time constraints, revision of the Explanatory Memorandum was not possible during the meeting. It was decided that **any written submissions to the Explanatory Memorandum** could be made **by 17 October** before updating the draft EM for the CDENF. As the CDENF was expected to further complete the EM at its upcoming meeting, the adoption of this text was foreseen in written proceedings after the November meeting.

**The Working Group agreed:**

- With regard to the **draft Recommendation**:
  - o to submit last written comments coming from members of the Working Group **by Monday 3 October**;
  - o to finalise the text for the CDENF meeting and send it to CDENF members, observers and participants **on 10 October 2022**;
  - o to propose to the CDENF to examine the draft Recommendation paragraph by paragraph and possibly approve it at its meeting on 15-17 November;
- With regard to the **Explanatory Memorandum (EM)**:
  - o to submit any further information to be added to the EM **by 17 October**;
  - o to propose to the CDENF to send any additions to the Explanatory Memorandum to the Secretariat after the CDENF meeting for the Secretariat to finalise the EM in time for the next upcoming CDENF meeting for adaption during this meeting or via written procedure.

**Agenda item 5: Conclusion and Outlook**

20. The Secretary also thanked all for their involvement over the past three years and congratulated the Working Group for the successful conclusion of the work on the draft Recommendation and significant progress made on the Explanatory Memorandum.
21. Members of the Working Group provided some insight into the impact this work had in their national jurisdictions. An exchange of views was held on next matters of violence to be addressed by the CDENF and its upcoming Committee of Experts on violence prevention (as of 2023).
22. Asked about any issues they would consider as interesting to be addressed at the European level, members and observers of the Working Group brought attention to the following areas, amongst others: extreme pornography and the need for sexuality education; emotional violence as a consequence of parental separation; interpersonal youth violence/peer violence; coordinated data collection, including on specific groups such as missing children or Roma and Traveller children; grooming of children leading to children going missing; and prenatal maternity care as an issue for child protection services.

**Agenda item 6: Any other business**

23. No other business was raised by the Working Group.

**Agenda item 7: Closing the meeting**

24. The Chair thanked all members and participants for their active participation in and contributions to the final meeting of the Working Group and closed the session.

## Annex I

### Agenda

Part I of the meeting (Thursday 22<sup>nd</sup> September 2022– 9:30 – 12:00/14:00-16:30hrs)

#### Opening of the meeting

*Opening by the Chairperson of the Working Group*

1. Rosário Farmhouse, Chair of the Steering Committee for the Rights of the Child (CDENF)

*Information by the Secretariat*

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2. **Adoption of the agenda and order of business** CDENF-GT-VAE(2022)OJ2

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3. **State of play of CDENF-GT-VAE activities in the context of the new Strategy for the Rights of the Child**

*Activities relating to violence against children, as envisaged in 2022/2023*

*General update on CDENF developments and activities*

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4. **Contribution to the development of non-binding instruments or tools containing guidance for member states**  
  
**4.1 Draft Recommendation containing Guidelines on the Strengthening reporting systems on violence against children**

*Introduction on the state of play of the activity by the Secretariat*

*Introduction of the latest comments received, and subsequent changes made to the Draft Recommendation and Guidelines*

*Further revision of the Draft Recommendation and Guidelines*

*NB: The discussion on the draft Recommendation and the Guidelines will be pursued in the afternoon; the related Explanatory Memorandum is planned to be considered on Day 2 of the meeting.*

#### Working documents:

CDENF-GT-VAE(2022)04rev5

Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children

CDENF-GT-VAE(2022)01rev

Draft Explanatory Memorandum completing the draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children

[CDENF\(2021\)19rev](#)

Reporting mechanisms and practices concerning violence against children in several Council of Europe Member States

#### Reference documents:

[CDENF-GT-VAE\(2021\)02](#)

Reporting mechanisms and practices concerning violence against children in selected Council of Europe Member States – summary report of the CDENF-VAE-GT survey

[CDENF-GT-VAE\(2021\)03](#)

Draft survey on national reporting mechanisms on violence against children

[CDENF-GT-VAE\(2020\)02](#) – Study on Strengthening Mandatory Reporting of Child Sexual Abuse in Europe (Prof. Mathews)

[CDENF-GT-VAE\(2020\)03](#) – Discussion paper on mandatory reporting of violence against children (Prof. Bruning)

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Lunch break from 12:00 to 14:00

**Thursday 22 September 2022 – 14:00 – 16:30 hrs**

**4.1 Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children (continued)**

CDENF-GT-VAE(2021)04rev5  
Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children

Exchange of views with external experts on specific issues covered by the draft Recommendation:

- Legal and/or policy duty to report
- Anonymity of reporters
- Sanctions for non-reporting
- Others

Reference documents:

See above

Invited experts:

- Ms Robinetta de Roode, Advisor for Health Law at the Royal Dutch Medical Association
- Ms Caroline Jordan, Irish Child and Family Agency (Tusla), National Policy Manager for Family Support & Social Inclusion
- Ms Joan Mullan, Tusla, National manager for Domestic, Sexual & Gender Based Violence Services
- Mariëlle Bruning, Professor of Child Law, Leiden University

*Continued revision of the draft Recommendation and Guidelines*

**Friday 23 September 2022 – 9:30 – 12:00 hrs**

**4. 4.1 Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children (continued)**

Working documents:

CDENF-GT-VAE(2022)01rev  
Draft Explanatory Memorandum completing the draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children

*Continued revision of the draft Recommendation and Guidelines (if needed)*

*Continued revision of the Explanatory Memorandum*

[CDENF\(2021\)19rev](#)

Reporting mechanisms and practices concerning violence against children in several Council of Europe Member States

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Lunch break from 12:00 to 14:00

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**4. 4.1 Draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children (continued)**

*Continued revision of the Explanatory Memorandum*

Working documents:

[CDENF-GT-VAE\(2022\)01](#)

Draft Explanatory Memorandum completing the draft Recommendation containing Guidelines on Strengthening reporting systems on violence against children

[CDENF\(2021\)19rev](#)

Reporting mechanisms and practices concerning violence against children in several Council of Europe Member States

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**5. Conclusion and outlook**

*Conclusion of the work of the CDENF-GT-VAE and outlook to next matters of violence to be addressed by the CDENF and its upcoming new sub-committee on violence prevention (as of 2023)*

Exchange of views on CDENF activities already envisaged and any new proposals for issues to be addressed coming from participants

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**6. Any other business**

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**7. Closing the meeting**

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## Annex II

### List of Participants

#### MEMBERS

##### **Portugal**

Ms Rosário Farmhouse (Chairperson)

President

National Commission for the Promotion of the Rights and Protection of Children and Young People

##### **Belgium**

Mr Tim Stroobants

Director

Flemish Expertise Center on Child Abuse

##### **Bulgaria**

Mr George Ivanov (*excused*)

Head Expert

Politics and Programs for Children Department

Council of Ministers State Agency for Child Protection

##### **Croatia**

Ms Tatjana Katrić Stanić

Head of Sector

Coordination of Policies and Improvement of Social Welfare Centres Expert Work

*Supported by:* Ms Alma Bernat

Senior Counsellor – Specialist

##### **Czech Republic**

Ms Diana Šmidová

Lawyer

Human Rights Department, Office of the Government of the Czech Republic

Children's Rights Committee's Secretary, representation of the Czech Republic before the UNCRC and preparation of periodic reports

##### **Iceland**

Ms Heiða Björg Pálmadóttir (*excused*)

General Director

Government Agency for Child Protection, Ministry of Social Affairs of Iceland

*Supported by:* Mr Páll Ólafsson

Head of Consulting and Education

Department of Consulting and Education Government Agency for Child Protection

##### **Ireland**

Ms Michele Clarke

Former Chief Social Worker

Department of Children and Youth Affairs

*(NB: mandated by her government to remain on the Working Group until the end of 2022)*

**Italy**

Ms Tiziana Zannini (*excused*)

First-level executive and Director General

Department for Family policies – Presidency of the Council of Ministers

*Supported by:* Mr Marino di Nardo

Department for Family policies – Presidency of the Council of Ministers

**OBSERVERS****United Nations Office of the Special Representative of the Secretary-General on Violence against Children (UNSRSG)**

Ms Tea Machaidze (*excused*)

Child Protection Officer

**Missing Children Europe**

Ms Aagje Leven

Secretary General

Ms Louise Bonneau

Senior Policy and Advocacy Officer

**DCI International (Belgium)**

Ms Emmanuelle Vacher

Child protection project coordinator

**Lanzarote Committee**

Ms Tijana Borovčanin

Ministry of Human Rights and Refugees of Bosnia and Herzegovina

**Mexico**

Ms Lorena Alvarado Quezada (*excused*)

Deputy of the Permanent Observer of Mexico Pizano Cejka

**PARTICIPANTS**

Ms Mariëlle Bruning, Professor of Child Law at Leiden University, Netherlands

Ms Robinetta de Roode, Legal adviser, Royal Dutch Medical Association

Ms Caroline Jordan, National Policy Manager for Family Support & Social Inclusion with the Irish Child and Family Agency (Tusla)

**Council of Europe, Children's Rights Division**

Maren Lambrecht, Programme Officer, CDENF Secretariat

Maria Asensio, Assistant Lawyer, CDENF Secretariat

Audrey Winum, Project Assistant, CDENF Secretariat

Nadia Bouquet, Policy Officer, Lanzarote Committee Secretariat

Mireya Garcia de Murcia, Project Officer, Co-operation Unit

Katherine Austin, Trainee