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LANZAROTE CONVENTION

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

Comments on the replies to the thematic questionnaire

SERBIA

COALITION FOR MONITORING CHILD RIGHTS

2nd thematic monitoring round

“The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”

Replies registered by the Secretariat on 17 January 2018

This statement is prepared by members of the Coalition for Monitoring Child Rights in Serbia, consisted of five non-governmental organisations: Child Rights Centre, Uzice Child Rights Centre, ASTRA - Anti-trafficking Action, Belgrade Centre for Human Rights and Centre for Social Policy.

Legislation

The Republic of Serbia has taken a number of important steps with a view to prevent and protect children from child pornography in particular by amending its Criminal Code (Law on amendments to the Criminal Code, "Official Gazette" of the Republic of Serbia, No. 94/16) and adopting the Law on Special Measures for the Prevention of Crimes against Sexual Freedoms Involving Minors (Official Gazette RS, No.32/2013) – the so called "Marija's Law".

Serbian criminal legislation in this area largely responds to the relevant international standards. Adopted amendments to the Criminal Code have made punishable not only the abuse of children for pornography, but also obtaining or possession of child pornography, as well as production, selling or otherwise making available child pornography arising from abuse of minors or children (article 185 paras. 2, 3 and 4 of the Criminal Code).

The latest amendments to the Serbian criminal legislation go one step further and explicitly define the meaning of the term "child pornography", as well as punishment of anyone: "who by means of information technology knowingly accesses images, audio-visual or other objects of pornographic content created by an exploitation of a minor". 'Child pornography' (objects of pornographic content made by exploitation of a minor), in accordance with the latest amendments, "shall be any material that visually depicts a minor who is engaged in real or simulated sexually explicit conduct, as well as any representation of the genitals of a child for sexual purposes" (art. 185 paras. 5 and 6).

In addition, the Criminal Code criminalises online grooming of children in its article 185b para. 1 which is punishable with imprisonment of up to five years and a fine. Article 185b para. 2 provides that the penalty is imprisonment of up to eight years in case the victim is under 14 years of age. In addition, internet service providers are required by law to report these cases to national authorities.

Article 7 of the Law on Special Measures for the Prevention of Crime against Sexual Freedom Involving Minors imposes additional sanctions, including: "(a) mandatory reporting to the police and the Department for the Execution of Criminal Sanctions, (b) a prohibition on visiting places where children are, such as kindergardens and schools, (c) mandatory professional treatment, (d) mandatory reporting of any change in residence, (e) mandatory reporting of any trips abroad".

A unique registry provided by this Law has recently become active. According to the information that is currently at our disposal, in 2016 four offenders were registered in this database. However, the registry should undergo certain changes in order to become more transparent and consistent.

Specialised authorities

As to the institutions in charge of combatting child pornography, there is a special unit dedicated to cybercrimes with jurisdiction over the whole territory of the country - the Department for High Technology Crime. This department is very active, involved in a number of cooperation programmes with other relevant institutions and visible in media. However, this specialized police department lacks modern software tools for forensic work and needs additional capacity building of its police inspectors who should produce a better quality police reports. These challenges are very important since they may jeopardize outcome of further investigation.

Another relevant institution is the Special Department for High Technology Crime, established as a part of the Higher Public Prosecutor's Office of Belgrade, which also has jurisdiction over the entire territory of Serbia. The specialized prosecutor for cybercrime is under-capacitated and therefore not able to process all cybercrime cases, in particular in the area of combatting child pornography.

In addition, local centres for social work lack trained focal points on the topic of online child pornography.

Despite recent efforts made by the Judicial Academy, in partnership with the organisation Save the Children, to carry out trainings of justice professionals, implemented capacity building of prosecutors and judges in the area of child online sexual exploitation needs to be further expanded.

Another major problem is lack of licenced IT court expert witnesses that play a key role in criminal court proceedings who need additional specialized knowledge on child online sexual exploitation.

Therefore, a specialised, in depth trainings are needed for all relevant professionals dealing with child online sexual exploitation.

Preventive measures

There is a need for a more effective cross-ministerial coordination, research, monitoring and reporting in the area of child online sexual exploitation. In order to strengthen the system to address online sexual exploitation, the Strategy for developing internet security until 2020 was adopted in 2017. Also, a new draft Strategy for the protection of children from violence has integrated online-specific exploitation related priorities.

A very important development is the establishment of National Contact Centre for Online Child Safety (NCCCOS), set up by the Ministry of Trade, Tourism and Telecommunications in 2017 which has focal points in all 168 local centres for social work. In cooperation with the Ministry of Education, programmes for promoting safe internet use and informing teachers and pupils on how to report cases have been initiated.

Preventive activities should be undertaken in schools in a more coherent manner through adoption of a carefully developed school curriculum so that all school age children are aware of the risks of cyber space and ways for their protection.

Overall, there has been a number of different project initiatives led by various stakeholders, however, they were fragmented and lack a coherent and systematic approach. Thus, a more sustainable and coordinated action is urgently needed.

Protective measures and assistance to victims

The Republic of Serbia should work towards reaching a higher level of efficiency of the referral mechanism for child victims of crimes of sexual exploitation in general and developing special programmes for protection and reintegration of child victims. Also, it is necessary to improve cooperation with civil society sector, having in mind its long-standing engagement in addressing these issues.

A very important development was the establishment of four specialized Child victim protection units in four towns in Serbia that have been providing support and counselling to child victims and witnesses in criminal proceedings on a regional level. These services provided protection to children victims and witnesses of crime in almost 200 cases over the course of two years. They were established within a European Union supported project, implemented in partnership of UNICEF in Serbia and ministries in charge of justice and social welfare. However, despite of the fact that these Units are capacitated by highly specialised child protection professionals, they still need additional specialized knowledge related to online child sexual exploitation and face the risks of sustainability.