



T-ES(2018)ICT-UA-NGO

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

UKRAINE

LA STRADA

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

Prevention

Question 1. Awareness-raising or educational activities/tools/materials/measures

1.1. Are there awareness-raising or educational activities/tools/materials/measures addressed to children, about the risks they face when they produce and/or share:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

1.2. Are there awareness-raising or educational activities/tools/materials/measures specifically targeting children as bystanders/observers of other children producing and/or sharing:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

1.3. Are there awareness-raising activities/tools/materials/measures addressed to parents and persons who have regular contact with children (teachers, psychologists, health care professionals, etc.) about the risks children face when they produce and/or share:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

→ Please specify which entities carry out the above-mentioned awareness raising or educational activities (questions 1.1, 1.2 and 1.3) and how they coordinate their action.

→ Please share links to awareness-raising or educational materials (e.g. booklet, video, smartphone application, manual on non-formal education, tool-kit, Internet tools) produced for the above mentioned activities (questions 1.1, 1.2 and 1.3).

The National Children's Hotline operates on the basis of La Strada-Ukraine, providing advice on the protection of children's rights, incl. against violence or ill-treatment that are also facilitated by information and communication technologies.

During 2015-2017, the National Children's Hotline received almost 114 thousand calls. Of the total number of calls, about 30% concerned children's psychological health (loneliness, fears, etc.), 7-9% – violence, ill-treatment and commercial exploitation of children.

Also, the National Trainer Network was set up and operates on the basis of La Strada – Ukraine CSO, with approximately 8,500 events held by this network in 2014-2017 on the following topics: prevention of trafficking in human beings – 42%, adaptation of educational

process participants in educational institutions to the conflict situation in Ukraine – 19%, resolution of conflicts by peaceful means – 10%, combatting violence – 11%, rules of safe behaviour – 5%, children’s rights - 5%, safe use of information and communication technologies, including the global Internet network – 3%, gender culture – 3%, prevention of commercial sexual exploitation of children – 2%. Of the total number of events, 300 concerned precisely the protection of children against trafficking, exploitation, including through information and communication technologies.

The operation of the National Trainer Network under La Strada – Ukraine CSO to combat trafficking in human beings, incl. in the above areas, was supported by the Ministry of Education and Science which, on 08/04/2016, issued the Order No. 405 ‘On approval of the Action Plan by the Ministry of Education and Science to combat trafficking in human beings for the period until 2020’ that provides for joint activities.

In 2016, La Strada – Ukraine CSO published the manual ‘Social and educational framework for protection of human rights, combating trafficking in human beings and exploitation of children’ (http://la-strada.org.ua/ucp_mod_library_view_322.html) that includes elective (optional) courses ‘Prevention of trafficking in human beings’ for students of 9-11(12) forms in secondary and vocational schools, and ‘Know and defend your rights’ for students of 7-9 forms in educational institutions.

In 2017, the guidelines ‘Dangerous quests for children: preventing participation’ (http://la-strada.org.ua/ucp_mod_library_showcategory_96.html) were published, which include the training session on ‘The National Children’s Hotline for and about children’ topic for students of 5-11 forms to provide them with the information on safe conduct in the Internet.

Links to awareness-raising or educational materials:

‘Dangerous quests for children: preventing participation’

(http://la-strada.org.ua/ucp_mod_library_view_323.html)

‘Social and educational framework for protection of human rights, combating trafficking in human beings and exploitation of children’

(http://la-strada.org.ua/ucp_mod_library_view_322.html)

Question 2. Civil society involvement

2.1. How do State authorities encourage the implementation of prevention projects and programmes carried out by civil society with regard to:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

La Strada – Ukraine CSO cooperates closely with such State agencies such as the Ministry of Education and Science, Ministry of Internal Affairs, National Police, Ministry of Social Policy, Ministry of Justice, Ministry of Foreign Affairs.

In order to encourage civil society organisations to collaborative preventive efforts, the Ministry of Education and Science of Ukraine develops activities that are subsequently approved by orders. Thus, joint activities by La Strada – Ukraine CSO and the Ministry of Education and Science to combat trafficking in human beings and children, incl. on the topics of alternative report, were included in the Order No. 405 'On approval of the Action Plan by the Ministry of Education and Science to combat trafficking in human beings for the period until 2020' of the Ministry of Education and Science dated 08/04/2016.

In 2015, between the Ministry of Social Policy and La Strada – Ukraine CSO signed the agreement on cooperation and approved the Action Plan for 2015 on the operation of the National Children's Hotline and the National Hotline on prevention domestic violence, trafficking in human beings and gender discrimination. One of the provisions of the said document is the creation and introduction of a mechanism for referral to the relevant State agencies of the persons contacting the National Hotlines. However, this agreement expired on 01/01/2017. La Strada – Ukraine CSO applied to the Ministry of Social Policy on three occasions suggesting that the term of the agreement be extended, however, received no replies to its letters.

2.2. Please provide information on prevention activities (including awareness-raising and educational activities, research etc.) implemented by civil society (including those carried out by civil society at their own initiative) with regard to:

- a. self-generated sexually explicit images and/or videos;
- b. self-generated sexual content?

http://la-strada.org.ua/ucp_mod_library_view_306.html – the 2014 study 'Sexual exploitation of children in Ukraine: Current state and countermeasures' (La Strada – Ukraine CSO, 'Vira, Nadiya, Lyubov' Social Movement, 'School of Equal Opportunities' International CSO under the 'Reducing violence against children, with special focus on sexual exploitation of children and child sex tourism' project sponsored by the Kingdom of the Netherlands and administratively supported by ECPAT International);

http://la-strada.org.ua/ucp_mod_library_view_179.html – the 2012 study 'Child sex tourism in Ukraine: An attempt at situational analysis' (La Strada – Ukraine CSO; Centre of Social Expertise at the Institute of Sociology, NAS of Ukraine; Criminological Association of Ukraine; Kharkiv National University of Internal Affairs in collaboration with the Ministry of Internal Affairs, supported by the UniCredit Foundation).

Question 3. National curriculum

Does national curriculum (primary and secondary schools, and vocational education) include awareness-raising about the risks of:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

In 2016, La Strada – Ukraine CSO published the manual 'Social and educational framework for protection of human rights, combating trafficking in human beings and exploitation of

children', Section 5 of which includes the following programmes of studies: elective (optional) courses 'Prevention of trafficking in human beings' for students of 9-11(12) forms in secondary and vocational schools, and 'Know and defend your rights' for students of 7-9 forms in educational institutions.

(http://la-strada.org.ua/ucp_mod_library_view_322.html)

In 2017, La Strada – Ukraine CSO published the guidelines 'Dangerous quests for children: preventing participation' that include the training session on 'The National Children's Hotline for and about children' topic for students of 5-11 forms to provide them with the information on safe conduct in the Internet.

(http://la-strada.org.ua/ucp_mod_library_showcategory_96.html).

Question 5. Research

5.1. Have public authorities or other bodies initiated/supported research on the issues raised by:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

→ Please specify whether the public authorities or other bodies having initiated/supported the research above (questions 5.1 and 5.2) are aware of their outcomes.

In 2012, the study 'Child sex tourism in Ukraine: An attempt at situational analysis' was conducted by La Strada – Ukraine CSO; Centre of Social Expertise at the Institute of Sociology, NAS of Ukraine; Criminological Association of Ukraine; Kharkiv National University of Internal Affairs in collaboration with the Ministry of Internal Affairs (http://la-strada.org.ua/ucp_mod_library_view_179.html).

Based on the findings of the study 'Child sex tourism in Ukraine: An attempt at situational analysis', recommendations were developed, including improvements to the national law in the field of combating child sex tourism. Findings were posted on the La Strada – Ukraine CSO website (http://la-strada.org.ua/ucp_mod_library_view_179.html).

Protection

Question 6. Assistance to victims

6.1. What specific reporting mechanisms, including helplines, are in place to ensure that child victims of exposure online of:

- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
- b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

→ Please provide, if any, information on the number of victims who received support, assistance and psychological help in the above mentioned specific contexts (questions 6.1 and 6.2).

The National Children's Hotline operates on the basis of La Strada-Ukraine, providing advice on the protection of children's rights, incl. against violence or ill-treatment that are also facilitated by information and communication technologies.

During 2015-2017, the National Children's Hotline received almost 114 thousand calls. Of the total number of calls, about 30% concerned children's psychological health (loneliness, fears, etc.), 7-9% – violence, ill-treatment and commercial exploitation of children.

Support for the operation of the National Children's Hotline is stipulated in the Action Plan for the National Human Rights Strategy Implementation Until 2020, approved by the Order of the Cabinet of Ministers of Ukraine No. 1393-r of 23/11/2015 (paragraph 71.5).

In 2016, cooperation with the National Children's Hotline of La Strada-Ukraine CSO was also stipulated in the 'National Action Plan for Implementation of the UN Convention on the Rights of the Child' until 2016, as approved by the Order of the Cabinet of Ministers of Ukraine No. 590-r of 23/09/16 (paragraph 24.2).

The Electronic Hotline Against Child Pornography on the Internet (www.internetbezpeka.org.ua), supported by La Strada-Ukraine CSO, also operates in Ukraine. With this hotline, every citizen of Ukraine can report child pornography in the Internet. The hotline software has been developed according to similar hotlines operating in European countries. However, this electronic hotline currently needs resources for high-quality administration and responses.

Question 8. Legislation

8.1. Does national law contain any reference to:

- a. self-generated sexually explicit images and/or videos in the context of offences covered by the Lanzarote Convention (Articles 18-23)?
- b. self-generated sexual content in the context of offences covered by the Lanzarote Convention (Articles 18-23)?
- c. non-pictorial self-generated sexual content produced by children (e.g. sound, text) in the context of offences covered by the Lanzarote Convention (Articles 18-23)?

The national law contains no references to self-generated content of any kind.

Nevertheless, the Law of Ukraine 'On Protection of Public Morality' contains a number of definitions concerning child pornography, pornography, erotic products, pornographic products, sexual products, etc.

- 8.2. Does national law tackle the involvement of more than one child (i.e. consensual posing) in generating the:
- a. self-generated sexually explicit images and/or videos?
 - b. self-generated sexual content?

The national law contains no provisions concerning participation of more than one child (i.e., collective posing) in self-generated sexual content.

It should be noted, however, that the Criminal Code of Ukraine imposes liability for importation, making, sale or distribution of pornographic items. Person older than 16 years may be prosecuted.

- 8.3. Are there specificities related to the fact that more children appear on the:
- a. self-generated sexually explicit images and/or videos when these children accept that their image and/or video are produced and shared through ICTs?
 - b. self-generated sexual content when these children accept that their image and/or video are produced and shared through ICTs?

There are no such specificities.

Question 9. Criminalisation

- 9.1. Does national law criminalise cases when adults:
- a. possess child self-generated sexually explicit images and/or videos?
 - b. distribute or transmit child self-generated sexually explicit images and/or videos to other adults?
 - c. distribute or transmit child self-generated sexually explicit images and/or videos to other children than those depicted on such images and/or videos?

Under Article 301 of the Criminal Code of Ukraine, criminal liability exists for importation, making, sale or distribution of pornographic items, including those depicting children. Person older than 16 years may be prosecuted for importation, making, sale or distribution of pornographic items.

- 9.2. Are there special circumstances (including alternative interventions) under which the above cases (9.1.a-c), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

There are no such circumstances.

- 9.3. What are the legal consequences of the above behaviours (9.1.a-c)?

For the above behaviour and, subject to the provisions of Articles 301.1-4 of the Criminal code of Ukraine:

1. Importation into Ukraine for sale or distribution purposes, or making, transportation or other movement for the same purposes, or sale or distribution of pornographic images or

other items, and also compelling others to participate in their making, – shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years.

2. The same actions committed in regard to pornographic motion pictures and video films, or computer programs, also selling pornographic images or other items to minors or disseminating such images and items among them, – shall be punishable by a fine of 100 to 300 free-tax minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term.

3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or aimed at obtaining big profit, – shall be punishable by imprisonment for a term of three to seven years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

4. Acts provided for in paragraphs 1 and 2 of this Article committed in regard to pornographic works, images or other items containing child pornography, or compelling minors to participate in making pornographic works, images or motion and video films, computer programs, – shall be punishable by imprisonment for a term of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

9.4. Does national law criminalise cases when adults:

- a. possess child self-generated sexual content?
- b. distribute or transmit child self-generated sexual content to other adults?
- c. distribute or transmit child self-generated sexual content to other children than those depicted such sexual content?

Currently, the Criminal Code of Ukraine imposes criminal liability for importation, making, sale or distribution of pornographic items, including those depicting children.

9.6. What are the legal consequences of the above behaviours (9.4.a-c)?

The consequences of the above behaviour may entail prosecution under Article 301.4 of the Criminal Code of Ukraine:

Acts provided for in paragraphs 1 and 2 of this Article committed in regard to pornographic works, images or other items containing child pornography, or compelling minors to participate in making pornographic works, images or motion and video films, computer programs, –

shall be punishable by imprisonment for a term of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

- 9.7. Does national law criminalise cases when children:
- a. produce self-generated sexually explicit images and/or videos?
 - b. possess self-generated sexually explicit images and/or videos?
 - c. distribute or transmit self-generated sexually explicit images and/or videos of themselves to peers?
 - d. distribute or transmit self-generated sexually explicit images and/or videos of themselves to adults?
 - e. distribute or transmit self-generated sexually explicit images and/or videos of other children to peers?
 - f. distribute or transmit self-generated sexually explicit images and/or videos of other children to adults?

Under Article 6 of the Family Code of Ukraine, a person that has not attained the full age enjoys a child's legal status.

Article 22 of the Criminal code of Ukraine stipulates that persons who have reached the age of 16 years before the commission of a criminal offence shall be criminally liable.

Commission of a crime under Article 301 of the Criminal Code of Ukraine (importation, making, sale or distribution of pornographic items) entails criminal liability for persons who have reached the age of 16.

- 9.8. Are there special circumstances (including alternative interventions) under which the above cases (9.7.a-f), although established in fact and in law, are not prosecuted and/or do not lead to conviction?

There are no special circumstances.

- 9.10. Does national law criminalise cases when children:
- a. produce self-generated sexual content?
 - b. possess self-generated sexual content?
 - c. distribute or transmit self-generated sexual content to peers?
 - d. distribute or transmit self-generated sexual content to adults?
 - e. distribute or transmit self-generated sexual content of other children to peers?
 - f. distribute or transmit self-generated sexual content of other children to adults?

Under Article 6 of the Family Code of Ukraine, a person that has not attained the full age enjoys a child's legal status.

Article 22 of the Criminal code of Ukraine stipulates that persons who have reached the age of 16 years before the commission of a criminal offence shall be criminally liable.

Commission of a crime under Article 301 of the Criminal Code of Ukraine (importation, making, sale or distribution of pornographic items) entails criminal liability for persons who have reached the age of 16.

Question 10. Production and possession of self-generated sexually explicit images and/or videos by children for their own private use

10.1. For Parties having made a reservation in accordance with Article 20(3) indent 2

What measures have been taken to ensure that the production and/or possession of self-generated sexually explicit images and/or videos is not criminalised when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?

At the time of this alternative report, the national law does not contain the term 'age of consent'.

Several draft laws were submitted to the Verkhovna Rada, intended to strengthen protection of children against sexual abuse and sexual exploitation, in particular, draft laws Nos. 7390 and 7391 of 20/11/2010, No. 9540 of 06/12/2011, No. 4099a of 17/06/2014. None of these draft laws were supported.

At present, the draft law 'On Amendments to the Criminal Code of Ukraine Concerning Protection of Children Against Sexual Abuse and Sexual Exploitation', registration No. 2016 of 03/02/2015, is currently being considered by the Verkhovna Rada of Ukraine and was adopted in principle upon a first reading.

Question 13. Specialised units/departments/sections

13.1. Are there specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children, such as those referred to in this questionnaire (see questions 9-11):

- a. in law enforcement?
- b. in prosecution?
- c. in courts?

Among the units of the National Police of Ukraine is Cyber police whose tasks include:

- Participation in the development and implementation of the State policy on preventing and combating criminal offence, the mechanism of preparation, commission or concealment of which involves the application of electronic computing machines (computers), systems, computer networks or telecommunication networks (the 'field of combatting cybercrime').
 - Facilitating, in the manner prescribed by applicable laws, other units of the National Police of Ukraine in preventing, detecting and stopping criminal offences.
- No specialised units in public prosecutor's offices or courts exist.

Partnerships

Question 16. International co-operation

16.1. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?

La Strada – Ukraine CSO is a member of:

- the ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes);
- Child Helpline International (an international network of child hotlines).
- an All-Ukrainian Network Against Commercial, Sexual Exploitation of Children. This network currently included 11 Ukrainian CSOs.