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LANZAROTE COMMITTEE

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

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**Declaration of the Lanzarote Committee on protecting children
in out-of-home care from sexual exploitation and sexual abuse**

As adopted by the Lanzarote Committee at its 25th meeting (15-18 October 2019)

Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse

a. *Reaffirming that the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) are determined to contribute effectively to the common goal of protecting children against sexual exploitation and sexual abuse, whoever the perpetrator may be, and of providing assistance to victims;*

b. *Recalling that “out-of-home care” represents all settings in which children can be placed out of their home for care, and that “residential care” is a non-family-based form of alternative care where care is provided in smaller or larger group settings by paid professionals working in shifts, and highlighting that when a care facility hosts a large number of children, this facility is called “an institutional setting”;¹*

c. *Emphasising that international research has demonstrated that residential care and institutional settings place children in a vulnerable situation, increasing the risk of those children being sexually abused by the professionals or volunteers taking care of them or by other children residing in these settings;*

d. *Highlighting also that once victimised in residential care and institutional settings children face additional difficulties in disclosing their experiences and thus bear long-lasting psychosocial implications throughout their childhood and adult life, and thus calling for the need to ensure that appropriate assistance and support by competent services is available;*

e. *Reaffirming the need to promote safe and appropriate out-of-home care settings for children;*

f. *Recalling that Article 18 of the Lanzarote Convention specifically requires Parties to criminalise “engaging in sexual activities with a child where:*

- *[...] abuse is made of a recognised position of trust, authority or influence over the child [...];*
- *abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence”;*

g. *Recalling that in accordance with Article 28 of the Lanzarote Convention, circumstances such as “c. the offence was committed against a particularly vulnerable victim” and “d. the offence was committed by (...) a person cohabiting with the child or a person having abused his or her authority” are to be considered as aggravating circumstances of sexual offences against children insofar as they are not already part of the constituent elements of the offence;*

¹ This Declaration, however, does not cover placements for education (e.g.in boarding schools), nor does it cover criminal justice measures.

h. Acknowledging moreover that in accordance with Article 26§2 of the Lanzarote Convention a legal person may be held liable when the lack of supervision or control by a natural person has made possible the commission of a sexual offence against children;

i. Drawing attention to the findings of its first monitoring round on the “Protection of children against sexual abuse in the circle of trust” as outlined in its implementation reports adopted on 4 December 2015 and 31 January 2018, as well as recommendations 22, 23 and 24 adopted on 3 March 2017 in the context of its report on “Protecting children affected by the refugee crises from sexual exploitation and sexual abuse”;

j. Taking also into due account relevant international instruments of international organisations and bodies on children’s rights in institutional settings and States’ obligations to protect, promote and fulfil their rights;

The Lanzarote Committee calls upon the States Parties to the Lanzarote Convention to:

1. take all necessary measures to develop appropriate and suitable community-based services to strengthen the capacities of families as an alternative to out-of-home care settings;
2. ensure that in all types of out of home care settings there are:
 - (i) comprehensive screening procedures for all persons taking care of children;
 - (ii) specific measures to prevent abuse of children’s increased vulnerability and dependence;
 - (iii) adequate mechanisms for supporting children to disclose any sexual violence;
 - (iv) protocols to ensure that, in the event of disclosure, effective follow-up is given in terms of assistance to the alleged victims and investigation of the alleged offences by the appropriate authorities;
 - (v) clear procedures to allow for the possibility of removing the alleged perpetrator from the out of home care setting from the onset of the investigation;
 - (vi) effective monitoring of the practices and standards, to prevent/combat child sexual abuse;
3. apply the following prioritisation, where appropriate:
 - (i) family strengthening and support;
 - (ii) foster care;
 - (iii) supervised independent accommodation for older children or other forms of non-institutional care;
 - (iv) placement in small-scale institutional units; and
 - (v) reform traditional institutional formats towards deinstitutionalisation and into the aforementioned types of out-of-home placement, in order to minimise the danger of sexual abuse victimisation;

4. provide victims of sexual abuse in out-of-home care settings with long-term assistance in terms of medical, psychological and social support, and also provide them with legal aid and compensation;
5. provide children who sexually offend in out-of-home care settings with access to intervention programmes or measures which are developed or adapted to meet the developmental needs of children who sexually offend, with the aim of addressing their sexual behavioural problems;
6. ensure that professionals working in the public, private or voluntary sectors either committing or failing to report offences occurring in out-of-home care settings are held liable;
7. ensure that legal persons failing to protect children in their care are held liable;
8. encourage research and action at national and international levels to:
 - (i) analyse and review the phenomenon of child sexual abuse in all types of out-of-home care, including the issue of liability of legal persons;
 - (ii) allow the voices of the survivors of child sexual abuse in out-of-home care to be heard and acknowledged;
 - (iii) identify best practices for supporting survivors of child sexual abuse that occurred in out-of-home care;
 - (iv) develop comprehensive planning for addressing child sexual abuse in out-of-home care by effective measures for prevention, service provision and the prosecution of offenders.