

REPORT ON THE ASSESSMENT OF

the Governmental Decision on the approval of the Instructions on the inter-agency cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking and

the Governmental Decision for the approval of the Instruction on the cross-sectoral cooperation mechanism for primary prevention of child welfare risks



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The *Report on the Assessment of the Governmental Decision on the approval of the Instructions on the inter-agency cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking and the Governmental Decision for the approval of the Instruction on the cross-sectoral cooperation mechanism for primary prevention of child welfare risks* (Report) was carried out under the auspices of the Children's Rights Division of the Children's Rights and Sport Values Department of the Council of Europe, within the framework of the Council of Europe projects "Protecting children from sexual exploitation and sexual abuse in the Republic of Moldova" and "Combating violence against children in the Republic of Moldova".

The Council of Europe committed to undertake this exercise at the request of the Ministry of Health, Labour and Social Protection (MoHLSP) given the need to determine whether these Government Decisions comply with Council of Europe and other international standards in the area of child sexual exploitation or abuse.

In the preparation of this Report, the relevant national legal framework and international standards, as well as other relevant materials and documents were used. The findings of the Study are based on contributions of relevant stakeholders during the online meetings organised in October 2020.

The Research was carried out by the international consultant Dr **Maria Andriani Kostopoulou**, human rights lawyer, Chair of the Steering Committee of the Council of Europe for the Rights of the Child and member of the Consultative Board of the European Programme for Human Rights Education for Legal Professionals (HELP) based on valuable contributions of the national consultant **Tatiana Danilescu**, experienced lawyer in the rights of the child area, as well as Council of Europe project team.

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Abbreviations

CSEA	Child sexual abuse and sexual exploitation
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
GD 270/2014	Government Decision no. 270 of 08.04.2014 approving the Instructions on the cross-sectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking
GD 143/2018	Government Decision no. 143 of 12.02.2018 approving the Instruction regarding the cross sectoral cooperation mechanism for primary prevention of risks on child's welfare
Lanzarote Convention	Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse
Law 140/2013	Law No. 140 of 14.06.2013 on the special protection of children at risk and those separated from their parents
MoECR	Ministry of Education, Culture and Research of the Republic of Moldova
MoHLSP	Ministry of Health, Labor and Social Protection of the Republic of Moldova
MoIA	Ministry of Internal Affairs
NGO	Non-governmental organization
UN	United Nations
NRS	National Referral System
SEA	Sexual abuse and sexual exploitation

Executive summary

The Report at hand was developed in the framework of the Council of Europe project “Combating violence against children in the Republic of Moldova”. It provides an assessment of compliance of the Government Decisions no. 143 for the approval of the Instruction on the cross-sectoral cooperation mechanism for primary prevention of child welfare risks¹ (GD 143/2018) and Government Decisions no. 270 on the approval of the Instructions on the inter-agency cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking² (GD 270/2014) with international and Council of Europe standards for combatting child sexual abuse and sexual exploitation (CSEA), such as the the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention), the Lanzarote Committee reports, the Convention of the Rights of the Child, the General Comments of the Committee on the Rights of the Child, the European Court of Human Rights standards and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

The Report highlights that both GDs constitute a major step towards a multidisciplinary and holistic approach for the prevention of child sexual exploitation and abuse (CSEA) and the protection of children against CSEA. Both Government Decisions create a common assessment framework for professionals working with child victims and enables them to best serve children’s interests in a given case. It is noteworthy that the GD 270/2014 brings together a wide range of professionals who are asked to coordinate and cooperate for the protection of children.

The assessment reveals also areas where steps could be taken in view of further aligning the implementation of the GDs with the relevant standards. With regard to GD 143/2018 these steps concern mainly the clarification of the roles and responsibilities of all stakeholders involved in the mechanisms, the improvement of their capacities and specialization in CSEA peculiarities and risk factors, the screening that should be carried out for the selection and employment of these professionals, the improvement of the data collection with a view of evaluating policies and carrying out impact assessment.

Concerning the GD 270/2014, it seems that further guidance on the implementation of certain protective principles and safeguards as well as on the assistance provided to child victims or potential victims could be enhanced. Moreover, the scope of the GD 270/2014 could be extended to cover also victims whose age has not been confirmed when there are reasons to believe that they are children. Lastly, the Report addresses also the issue of the interaction of GD 270/2014 with other cooperation mechanisms and the need to further invest on the capacity building of professionals working with children.

At the end, the Report includes the main conclusions and a list of recommendations. These recommendations do not intend to underrate the important progress made with the establishment of the cross-sectoral mechanisms of GDs 143/2018 and 270/2014, but to address areas which promote further compliance with international and Council of Europe standards for combating CSEA.

1. Available in Romanian at https://www.legis.md/cautare/getResults?doc_id=102076&lang=ro
2. Available in Romanian at https://www.legis.md/cautare/getResults?doc_id=18619&lang=ro

Introduction

The GDs 143/2018 and 270/2014 were adopted in order to enforce Article 20 of Law on the special protection of children at risk and those separated from their parents.³ Both of the mechanisms established under the GDs constitute a noteworthy step towards a multidisciplinary and holistic approach to protect children against sexual exploitation and sexual abuse (SEA).

The Report at hand provides an assessment of compliance of the GDs Nos 143/2018 and 270/2014 with international and Council of Europe standards for combatting CSEA, such as the Lanzarote Convention and the UN Convention of the Rights of the Child. It assesses the scope and nature of the GDs in the light of these standards and analyses their compliance with regard to a number of issues, including the multidisciplinary aspects of cooperation mechanisms, the selection and capacity improvement of professionals, the provision of assistance to child victims and the data collection and evaluation policies.

The Report has not the primary objective to assess the effectiveness and efficiency of the implementation of mechanisms provided by both GDs, since this exercise has been recently carried out by the Ombudsperson for Children's Rights.⁴

In this context, this Report builds on the work already carried out at national level to protect children from sexual exploitation and sexual abuse in the Republic of Moldova and aims at further promoting the implementation of relevant standards, by making recommendations that could be taken into account in the context of legislative and policy development processes.

The first Chapter of the Report analyses the GD 143/2018 in the light of international and Council of Europe standards and the second Chapter assesses the GD 270/2014.

3. Law no. 140 of 14.06.2013 on special protection of children at risk and those separated from their parents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110518&lang=ro

4. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection available at <http://ombudsman.md/wp-content/uploads/2020/10/Raport-inter-sectorialENGL.pdf>

Chapter 1 – The Government Decision no. 143/2018

The GD 143/2018 sets up the instructions regarding the cross-sectoral cooperation mechanism for primary prevention of risk on child's welfare. It aims at contributing to a better realization of functional obligations and already existing responsibilities and equips professionals within universal services with knowledge and working tools⁵.

Child protection must begin with proactive prevention of all forms of violence. The established mechanism of GD 143/2018 contributes to the State's responses on preventing violence or violations of children's rights. By focusing on primary prevention in national coordinating frameworks, the GD 143/2018 supports the development of a respectful childrearing environment free from violence that furthers the realization of children's individual personalities. GD 143/2018 addresses thus the recommendation of the Committee on the Rights of the Child for a development of a national coordinating framework on protection against all forms of violence, including comprehensive prevention measures.⁶

This Chapter will analyse the compliance of GD 143/2018 with key international and Council of Europe standards to prevent and combat sexual abuse and exploitation against children. The assessment's overall objective will be to identify challenges and achievements related to the GD 143/2018 from the angle of the relevant Council of Europe and international standards on a range of issues, such as the scope and nature of the GD (1), coordination and collaboration (2), selection and employment of professionals involved in the implementation of the GD (3), improving capacities of professionals working in contact with children (4) and data collection, evaluation of policies and impact assessment (5).

1. SCOPE AND NATURE OF THE GD 143/2018

Effective prevention of CSEA requires a broad understanding of the particularities of the phenomenon and of the relevant risk factors. Preventive measures that are of general nature and not specific to CSEA, although important, may not necessarily be sufficient. In its implementation reports, the Lanzarote Committee recommends organisation of preventive measures that would focus on peculiarities of sexual exploitation and abuse of children, including on specificities related to the CSEA within the circle of trust.

GD 143/2018 covers the cross-sectoral cooperation mechanism for primary prevention of risks on child's welfare. In other words, it has a broad scope aiming to prevent risks to child well-being, including violence. Measures addressing risks to child welfare contribute undoubtedly to the prevention of violence against children, including CSEA. However, CSEA crimes are very particular and complex; thus, their prevention may require also specific preventive measures that address the peculiarities of such crimes.

An instrument that deals with the risks to the child well-being may not necessarily address specific concerns and considerations related to the prevention of CSEA crimes. For example, the GD 143/2018 provides that the designated person, before making the exchange of information with other specialists, must make sure that (s)he has the approval of the parent, except where obtaining the approval could be a "threat to the life and health of the child"⁷. It is not clear though what "threat to the life and health of the child" encompasses exactly and whether the concerns related to CSEA within the circle of trust are included therein.

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5. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 14.
 6. Committee on the Rights of the Child, General Comment no. 13, *The right of the child to freedom from all forms of violence – Convention on the Rights of the Child*, 18 April 2011, para 69, available at https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf
 7. See, GD 143, para 34.

In order to address more efficiently the prevention of CSEA, the stakeholders involved in the implementation of the mechanism established under the GD 143/2018 should receive specific training to risk factors of CSEA⁸ and guidance on how to adapt the mechanism to the peculiarities related to the prevention of CSEA, including within the “circle of trust”. Indeed, in most of the cases of CSEA, the perpetrator is a person known to the child and belonging to the child’s “circle of trust”. Professionals that come into contact with children should be aware of this and should be able to adapt the implementation of the Instructions of GD 143/2018 accordingly. For example, when there are signs or suspicions that a child could be at risk of CSEA within the circle of trust, depending on the case, the requirement of the prior approval of the parent before the exchange of information with other specialists should be applied only when this does not jeopardise the best interests of the child.

2. COORDINATION AND COLLABORATION

2.1. Key international and Council of Europe standards

Prevention of violence requires cross-sectoral co-operation and co-ordination.⁹ The development of a multi-agency and multi-disciplinary approach to dealing with CSEA is undoubtedly important, premised upon the fact that no single agency would be able to address a problem of such complexity.¹⁰ The Lanzarote Convention aims at promoting a multidisciplinary co-ordination approach by requiring, in article 10, State Parties to take the necessary measures to ensure the co-ordination on a national or local level between the different agencies in charge of the protection from, the prevention of and the fight against CSEA, notably the education sector, the health sector, the social services and the law-enforcement and judicial authorities. It should be highlighted that article 10 of the Lanzarote Convention does not impose a specific or unique model or structure of a multidisciplinary cooperation and leaves it up to States to decide the exact *modus operandi* of such inter-agency mechanisms, depending on the specificities and needs of each country.

One of the key principles for a successful multi-agency cooperation mechanism is the coordination among its members. Collaborative partnerships and relationships between key actors improve the response provided to children but also make each member’s work easier as they are able to rely on others to meet some of the needs of the children.¹¹ Each member should play a specific role within the team and his/her responsibility will be different from that of other members.

At national level, an agency with primary responsibility for the protection of children against violence should assume (where possible and in conformity with national regulations) a key co-ordinating and monitoring role. Evaluations should be conducted on a regular basis with a view to identifying policies and measures that are appropriate and effective in preventing and addressing violence.¹²

2.2. Coordination and collaboration in GD 143/2018

As mentioned above, the cross-sectoral cooperation mechanism for primary prevention of risks on child’s welfare, established under GD 143/2018, constitutes a significant development towards the protection of children’s well-being. Proactive prevention of all forms of violence is a key component of child protection. The GD 143/2018 is a noteworthy initiative all the more so that such mechanisms on primary prevention of risks to the child’s wellbeing are not common in all member States of the Council of Europe.

According to the GD 143/2018, the MoHLSP, the Ministry of Education, Culture and Research (MoECR) and the Ministry of Internal Affairs (MoIA) shall take the necessary measures to implement the Instruction regarding the cross-sectoral cooperation mechanism for primary prevention of risks on child’s welfare. The GD 143/2018 stipulates that these Ministries shall ensure, within the limits of their powers, the methodological support and the coordination of activities of implementation and monitoring of actions to apply the mentioned Instruction.

8. For this issue see below, under Subchapter 3.

9. Council of Europe, CM/Rec(2009)10, *Policy guidelines on integrated national strategies for the protection of children from violence*, Appendix, p. 11, available at <https://rm.coe.int/168046d3a0>

10. Explanatory Report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, para 77.

11. See, *mutatis mutandis*, Preventing and combatting violence against women and domestic violence in Ukraine, Document based on the work of the Istanbul Convention Inter-Agency Working Group on data collection on violence against women and domestic violence (Article 11 of the Istanbul Convention) facilitated by the Council of Europe project “Preventing and combating violence against women and domestic violence in Ukraine (VAW in Ukraine)”, p. 11, available at <https://rm.coe.int/168069525a>

12. Council of Europe, CM/Rec(2009)10, Appendix, page 13.

Nevertheless, the role and powers of the above-mentioned Ministries regarding the implementation of the GD 143/2018 do not seem to be clear. First of all, apart from a reference in the Preamble of the GD to the MoIA, its contribution and role in relation to the cross-sectoral cooperation mechanism are not further specified and explained in the GD 143/2018. The same consideration applies with regard to the role and duties of the public order officers the contribution of which to the implementation of the GD 143/2018 is not clarified. Moreover, the GD 143/2018 sets out that the MoHLSP shall collect all data related to the implementation of the GD 143/2018 and shall publish annually the monitoring report. The mechanism does not foresee for the cooperation among relevant Ministries in regard to the implementation and the evaluation of the cross-sectoral mechanism. In addition, it is not clear how the monitoring report, which should be published by the MoHLSP, is considered and assessed by the relevant Ministries.

The mechanism established by the GD 143/2018 aims at equipping all relevant professionals with common language and tools necessary in activities of prevention, evaluation and intervention. In particular, it provides for the development and adoption of implementation tools, such as Child Welfare Observation, Evaluation and Planning Sheets which shall be approved by joint order of the Minister of Health, Labor and Social Protection and of the Minister of Education, Culture and Research. However, it appears¹³ that in practice only the education sector has developed the above mentioned Sheets and Methodological Guidelines for their completion. They still cannot be used because the other sectors do not yet have similar documents.¹⁴

At sectoral level, the GD 143/2018 aims at promoting the continuity of the observation of children concerned by providing, for example, that in case of a child's transfer to another institution within universal services, the tolls (observation sheets, etc.) will be transmitted as well. On the other hand, an aspect that could be further improved and specified concerns the role and responsibilities of certain actors involved in the implementation of the GD 143/2018. This is the case, for example, of the role of "leaders" in universal services, i.e. leaders of the public healthcare institutions that provide primary health care and institutions for preschool, primary, secondary (cycle I and II) and technical vocational education. In particular, points 7, 8, 15 and 36 refer to the central role and primary responsibility of "leaders" of universal services for implementing this Instruction; the latter entrust them with specific tasks (see, especially point 8 and 36). It is not very clear however which is the exact role of the family doctors, whether they are both leaders and coordinators and, if not, who would be the leader in this respect.

2.3. Conclusions and recommendations

The mechanism established under the GD 143/2018 is a noteworthy step towards the prevention of risks to welfare of children. There are yet some elements that could be further improved with a view of enhancing its compliance with international standards for combatting CSEA.

First of all, the powers of Ministries of Health, Labour and Social Protection, of Education, Culture and Research and of Interior in relation to the implementation of the mechanism could be further specified.

Furthermore, the GD 143/2018 focuses mainly on the framework and procedures for cooperation within universal services (sectoral cooperation) but not that much on inter-sectoral coordination and cooperation. There seems thus to be room for improving coordination among universal services. This could be achieved not only with the approval of common tools and procedures for the prevention and intervention of relevant stakeholders – a step which has not yet been taken in practice – but also with the reinforcement of the coordination and cooperation at ministerial level.

A holistic and multidisciplinary approach towards the prevention of risks to child welfare, including risks of CSEA, presupposes a successful coordination also at high (ministerial) level. Consequently, relevant ministries could seek to strengthen their co-ordination in terms of the evaluation and monitoring of the implementation of the mechanism and the improvement of relevant policies. The mere collection and publication of data by the MoHLSP does not respond to the need for efficient inter-sectoral coordination and cooperation.

In addition, the efficiency and harmonization of the mechanism could be further strengthened through the identification and clarification of the role and responsibilities of all stakeholders who are involved in the mechanism within a universal service, such as, for example, the role of leaders with healthcare services.

13. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 14–15.

14. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 15.

3. SELECTION AND EMPLOYMENT OF PROFESSIONALS

Where the possible risk of repeat offences make it appropriate, persons convicted of criminal acts that could endanger a child's wellbeing and safety should be prevented from exercising professional activities involving direct and regular contact with children.¹⁵ The Lanzarote Convention has been instrumental in establishing the obligation of States to protect children in the process of recruitment of professionals working with and for children.

3.1 Key international and Council of Europe standards

Article 5, paragraph 3 of the Lanzarote Convention stipulates the obligation of member States to ensure through conditions to accede to those professions whose exercise implies regular contacts with children, that the candidates to these professions have not been convicted of acts of CSEA.¹⁶ This paragraph sets an obligation for the Parties to ensure that candidates are screened *prior* to the exercise of professions involving regular contacts with children to ensure that they have not been convicted of acts of CSEA. This provision does not intend to interfere with specific legal provisions in those States which provide for the deletion of offenders' criminal records after a certain period of time.¹⁷ Moreover, States can decide to apply this provision equally to voluntary activities. The Lanzarote Committee has invited Parties to encourage continuous screening that goes beyond the recruitment process.¹⁸

In its second monitoring report¹⁹, the Lanzarote Committee identified as a promising practice the fact that in the Netherlands a certificate for good conduct is needed for almost all occupations where professionals work with children, for example teachers, youth workers and day care workers. People can apply for this certificate, which is issued on behalf of the Minister of Justice. If it emerges from the investigation that the applicant has no criminal record, the certificate will be issued. If she/he does, the authorities decide whether the offences in question are relevant to the application. The screening profiles and assessments are laid down in policy rules. The information on a criminal record will never be shared with the employer. Such a certificate is required also from volunteers working with children.

Furthermore, the Lanzarote Convention requires Parties to deny persons, having been convicted of an offence against children, to exercise temporarily or permanently, the professional or voluntary activity in the course of which the offence was committed.²⁰

Moreover, according to Article 37 para 1 of the Lanzarote Convention "[f]or the purposes of prevention and prosecution of the offences established in accordance with this Convention, each Party shall take the necessary legislative or other measures to collect and store, in accordance with the relevant provisions on the protection of personal data and other appropriate rules and guarantees as prescribed by domestic law, data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention".

The objective of this provision is to ensure that certain data on perpetrators of the offences defined in the Convention are recorded and stored for the purposes of prevention and prosecution of such offences. Article 37 does not impose the establishment of a "database", still less a single database.²¹ The data in question and the past record of the persons concerned may therefore very well be included in separate databases. This means it is also possible for information about sex offenders to exist in databases that do not necessarily contain only information about such offenders. In addition, the Parliamentary Assembly of the Council of Europe²² has recognised the key role that a register can fulfil in the supervision of offenders, especially when employed as part of a comprehensive sex offenders' management programme.

15. ECPAT, "Online child sexual abuse and exploitation on current forms and good practice for prevention and protection", p. 30, available at <https://ecpat-france.fr/en/thematic-reviews-and-guides>

16. See also in Article 10(2) Directive 2011/93/EU

17. Explanatory Report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, para 57.

18. Lanzarote Committee, *Protection of children against sexual abuse in the circle of trust*, 2nd implementation report, p. 39, available at <https://www.coe.int/en/web/children/1st-monitoring-round>

19. *Ibid.*, p. 38.

20. See Article 27 paragraph 3 of the Lanzarote Convention.

21. See the Explanatory Report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, para 245.

22. *Ibid.*

In this context, some States, such as Croatia, France, Malta, Portugal and North Macedonia additionally have established sexual offenders' registers, which must be consulted during the recruitment process in specific circumstances and subject to conditions that vary from one Party to the other.²³

Although sexual offenders registers may interfere with the private life of offenders, that doesn't mean that they are *ipso facto* incompatible with the European Court of Human Rights (ECHR) standards. In the case of *Adamson v the United Kingdom*,²⁴ the ECHR found that the obligation of the application to notify the police of his details under the Sex Offenders Act 1997 constituted an interference with his Article 8 rights, but that interference was necessary and proportionate "to the prevention of crime and the protection of the rights and freedoms of others." Therefore, the Court rejected the complaint as "manifestly ill-founded". In *Massey v. the United Kingdom*²⁵ the Court held that the indefinite registration requirements under the Sex Offenders Act 1997 were proportionate to the aims pursued by the legislation in view both of the gravity of harm which may be caused to victims of sexual offences and the duty that States have under the Convention to take certain measures to protect individuals from such grave forms of interference. Furthermore, in the case of *Gardel v. France*, the Court stressed that sexual offences were clearly a particularly reprehensible form of criminal activity from which children and other vulnerable people had the right to be protected effectively by the State. The Court found that inclusion in the national Sex Offender Database and the corresponding obligations for those concerned did not constitute a "penalty" within the meaning of Article 7 § 1 of the ECHR (No punishment without law) and that they had to be regarded as a preventive measure to which the principle of non-retrospective legislation, as provided for in that Article, did not apply.²⁶

3.2 The Framework in Moldova

The primarily responsible for the implementation of the GD 143/2018 rests with the universal services, especially leaders of institutions, coordinators and designated persons within them. An effective implementation of the GD 143/2018 towards the prevention of CSEA cannot be ensured without the fulfilment of the obligations arising with regard to the selection and employment of those professionals who can enter into contact with children.

In the Republic of Moldova, like in other states in Europe, the law defines an obligation to check the criminal record of people to be recruited in professions, which involve regular contacts with children. In particular, the Labour Code²⁷ includes general regulations on the conditions that persons who want to practice pedagogical activity should comply with Paragraph 2 of Art 296 of the Labour Code (the right to practice pedagogical activity), which sets out that persons with a criminal record for certain crimes are not admitted to the pedagogical (didactic) activity. According to this article, the list of crimes that do not allow the practice of this activity would be defined by law.

The Action no. 16 of the Action Plan on the implementation of the Labour Code approved by the Government Decision No. 1615/2003²⁸ provided that the Ministry of Education and the Ministry of Health would elaborate, by May 2004, the draft law on the lists of crimes that do not allow the practice of pedagogical activity (art. 296 EC). The GD No 1615/2003 was repealed in 2012. It appears, thus, that the above-mentioned list has not yet been developed. In other words, although the Labour Code stipulates the prohibition of exercise of didactic activity for person who have committed specific crimes, the list of the crimes concerned has not been identified.

As for the health sector, Article 8 paragraph 2 of the Law on the exercise of the medical profession²⁹ regulates the restrictions for the exercise of medical professions. These restrictions refer mainly to previous convictions of crimes in circumstances related to the exercise of their duties, or to deprivation of the right to exercise medical professions following a court decision. However, the conviction of offences related to CSEA does not appear to constitute a ground for restriction of the exercise of medical activities.

In addition, Moldova has not developed any database where a list of sexual aggressors could be consulted in the process of recruitment.

23. Lanzarote Committee, *Protection of children against sexual abuse in the circle of trust*, 2nd implementation report, p. 46.

24. ECtHR, *Adamson v the United Kingdom* (dec.), 26.1.1999.

25. ECtHR, *Massey v. the United Kingdom*, 8.4.2003. See also, ECtHR, *B.B. v. France*, 17.12.2009, *J.P.D. v. France*, 16.9.2014.

26. ECtHR, *Gardel v. France*, 17.12.2009.

27. The Labour Code no. 154 of 28.03.3003 available in Romanian at https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

28. Action Plan on the implementation of the Labour Code approved by the Government Decision No. 1615/2003 available in Romanian at https://www.legis.md/cautare/getResults?doc_id=30842&lang=ro

29. Law no. 264 of 27.10.2005 available in Romanian at https://www.legis.md/cautare/getResults?doc_id=110649&lang=ro

3.3 Conclusions and recommendations

The screening of persons who are seeking a job whose exercise implies regular contacts with children constitutes an important preventive measure against CSEA. Thus, the selection and employment of professionals who come into contact with children in the framework of the implementation of GD 143/2018 should be carried out according to international requirements.

Moldovan authorities should ensure the mandatory screening – in relation to committed acts of CSEA – of professionals in the education and healthcare sector that come into contact with children, including those who are involved in the implementation of the GD 143/2018. If possible, this screening should continue and be performed regularly.

In addition, the authorities should make sure that perpetrators of CSEA related offences are denied, temporarily or permanently, the exercise of activities involving contact with children, including the activities provided for under the GD 143/2018. The authorities could also consider setting up sex offenders register in order to prevent the exercise of activities involving children by persons who are convicted for CSEA related offences.

4. IMPROVING CAPACITIES OF PROFESSIONALS WORKING IN CONTACT WITH CHILDREN

Effective prevention requires understanding of the complex interplay of factors that influence child sexual abuse. The training of professionals working for and with children represents an important long-term investment in children's development and well-being. Awareness raising on and improvement of knowledge of potential risks to the well-being of the child are indispensable components of the prevention of CSEA. States should value these professions, which involve contact with children by attributing to them the requisite moral, financial and other forms of public and private support.

4.1. Key international and Council of Europe standards

In its General Comment No. 13,³⁰ the Committee on the Rights of the Child stressed the need for States to provide initial and in-service general and role-specific training (including inter-sectoral where necessary) on a child rights approach to article 19 (right of the child to freedom from all forms of violence, including SEA) and its application in practice. Provision of education and continued training to all relevant professionals, should also be an integral part of any measure for the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.³¹

The above training shall be provided for all professionals and non-professionals working with, and for, children. Specialised training should be offered for those who work for and with vulnerable groups of children, such as children with disabilities.

To promote knowledge of the risk factors of CSEA, relevant courses should be integrated into university and other training curricula. States should adopt measures to develop, in association with educational and training institutions and professional societies, officially recognized certification schemes in order to regulate and acknowledge such training.³² Moreover, training activities should regularly be assessed in order to ensure that knowledge and skills are translated into practice in order to effectively identify risk factors and prevent CSEA.

At Council of Europe level, Article 5 paragraph 1 of the Lanzarote Convention provides for the obligation of member states to take legislative or other measures to encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities. The reference to the "rights of the child" covers the rights guaranteed under the United Nation Convention for the Rights of the Child, which encompass the right to be protected from all forms of physical or mental violence, including sexual abuse³³.

30. Committee on the Rights of the Child, General Comment no. 13, *The right of the child to freedom from all forms of violence – Convention on the Rights of the Child*, 18 April 2011.

31. See Committee on the Rights of the Child, Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, available at https://www.ohchr.org/Documents/HRBodies/CRC/CRC.C.156_OPSC%20Guidelines.pdf

32. *Ibid.*

33. See Art 19 of the United Nation Convention for the Rights of the Child of 20.11.1989.

Paragraph 2 of the same article stipulates that States need to ensure that these persons have adequate knowledge of CSEA and of the means to identify and report any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse. As specified in the explanatory report, there is no specific training obligation in this provision. Having “adequate knowledge” could imply training or otherwise providing information for people who come in contact with children so that children who are victims of SEA can be identified as early as possible, but it is left to Parties to decide how to achieve this. Moreover, the above provisions do not refer only to professional contacts with children, but address in a broader way anyone who deals with children in any capacity. This is particularly intended to cover persons who carry out voluntary activities with children.³⁴

In the same line, the Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence³⁵ highlights that all relevant professionals should have skills, *inter alia*, to prevent effectively violence against children, including CSEA. To this end, national curriculum regulations should include compulsory, ongoing training on the prevention of these offences and the protection and continuity of care of children. The training should pursue a comprehensive approach and prioritise early identification of potential risks to a child’s well-being.

In its 2nd implementation Report, the Lanzarote Committee identified as good practice the fact that in Finland, child maltreatment is included in the basic education for medical doctors and that paediatric residents get further training on the topic. Moreover, it should be noted that the Lanzarote Committee insists on the organization of preventive measures that would focus on peculiarities of CSEA. In its 1st implementation Report,³⁶ it clearly specified that the interventions and measures taken in the context of domestic violence should not absorb the interventions nor the measures taken in cases of CSEA. Thus, the States should anticipate and take specific actions for preventing sexual abuse.

Training should aim at bringing a change on the issue. The people who work directly with child victims of or at risk of sexual exploitation and abuse need to have specialized skills that include a solid understanding of the unique needs of this population and the various dynamics of sexual exploitation. In this context, it is important that training activities provided for professionals that come into contact with children address the peculiarities, risks factors of CSEA and protection of children against SEA.

4.2. Training related to the implementation of the GD 143/2018

Training and awareness raising programmes for professionals who have regular contacts with children contribute to the prevention of SEA and allow building adequate knowledge of the means to identify and report such cases.³⁷ Continuous training of professionals referring to sexual abuse and exploitation requires often an interdisciplinary approach, as well as targeting according to the skills of each professional, in terms of knowledge, attitudes and practices.

In the Republic of Moldova it seems that professionals are facing challenges in protecting children potential victims or at risk of CSEA, due to the lack of a unique professional training on the peculiarities of these cases. Apart from some sporadic activities to address aspects of the CSEA phenomenon,³⁸ training programs for professionals who come into contact with children do not seem to include subjects dedicated to protection from CSEA. In other words, no specific training curricula have been developed to address – in one training – all issues related to CSEA. Thus, professionals who are responsible under the GD 143/2018 for the protection of children from risks of their well-being (especially leaders of institutions, coordinators and designated persons) do not receive initial and on-going adequate training on the particularities of and risks factors for CSEA, on the types of prevention activities for children (primary, secondary and tertiary).

34. Explanatory Report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, para 54.

35. Council of Europe, CM/Rec(2009)10, Appendix, p. 15.

36. Lanzarote Committee, *Protection of children against sexual abuse in the circle of trust*, 1st implementation report, p. 30, available at <https://www.coe.int/en/web/children/1st-monitoring-round>

37. J.C.Legrand, Baseline study on systemic issues affecting the child protection system’s response to child sexual exploitation and abuse in the Republic of Moldova, p. 30.

38. In 2014, the Ministry of Education had made an attempt to integrate aspects related to prevention and protection of children in the professional training programs for teaching staff, by approving a Recommendation for education institutions, see International Centre “La Strada”, Implementation of the Lanzarote Convention by the Republic of Moldova, p. 14, available at <http://lastrada.md/eng/resources/c:3>

Beside the lack of specialised course on CSEA, trainings on protection of children have not been systematically mainstreamed as part of the core induction training for professionals who work with and for children.³⁹ Consequently, there is a need to improve the core competencies of key professionals in relation to child protection. Also, the provision of training activities on prevention of violence against children is not structured within a clear action plan and/or strategy and does not follow a unique and coherent approach.

As it is mentioned above, GD 143/2018 sets up a specific procedure for the collection of data on risks to children's welfare. In this respect, there is a lack of a single national training program on the evaluated mechanisms, dedicated to professionals across the country, in order to ensure a unique, cross-sectoral and multidisciplinary approach to processes and procedures.

More generally, alongside the training on the prevention of CSEA, there is a need for training on the *modus operandi* of the mechanism established and the specific roles and duties of various stakeholders. This kind of training should address the practical aspects of the inter-agency cooperation and proactive methods of primary prevention of CSEA. So far, it seems that such training has not been provided.

4.3. Conclusions and recommendations towards a more effective implementation of international and Council of Europe standards to combat CSEA

Efforts have already been made by the Moldovan authorities for the improvement of the capacities of professionals working with and for children. However, a more effective implementation of the mechanism established under the GD 143/2018 would require the adoption of further measures.

In particular, a solid understanding of unique needs of children and the various dynamics of CSEA is a key component of cross-sectoral prevention mechanism. This can be achieved through specific regular training about CSEA, including in the circle of trust, for professionals in the education and health care sector that are involved in the implementation of the GD 143/2018. This training should provide appropriate information and methodologic materials to specialists and should address the particularities of and risks factors for CSEA, as well as the types of prevention activities for children (primary, secondary and tertiary). National authorities could thus review the plans for professional training of the specialists in the field of prevention of risks on child's welfare through inter-sectoral collaboration, aiming to improve the quality of the trainings in terms of knowledge, attitudes and practices.

The above training for specialists from the related fields on preventing CSEA should not be provided in a sporadic way but should be institutionalised, continuous and systematic. Moldovan authorities should thus, review the approaches of the system of professional development, in-service training and pre-service specialized qualification in the field of prevention of CSEA, and ensure the systemic development of these approaches.

Moreover, training on the procedures set under the GD 143/2018 and the specific roles of stakeholders of the cross-sectoral mechanism is necessary for its effective implementation. Training should aim at learning about sectorial and intersectoral cooperation procedures and encouraging pro-active attitude among specialists who interact with children, including social workers. Competent ministries should ensure a single country-wide approach to the mechanism addressed and an equal coverage of all districts with relevant training services.

Also, data collection procedures provided for under GD 143/2018, which should serve for the development of programs and policies on child welfare and for the monitoring and evaluation of the progress made, cannot be fully implemented, without adequate and proper training. In this context, competent authorities should develop the capacity of specialists in analysing available data from the perspective of conditions and evolution of various aspects of combating CSEA.

5. DATA COLLECTION, EVALUATION OF POLICIES AND IMPACT ASSESSMENT

The availability of reliable and comparable data on sexual abuse and exploitation of children is a crucial problem, which is constantly being highlighted at a European and international level. The lack of adequate and desegregated data on this issue is often a symptom of a more general weakness in the collection of data on children.

Data collection is a tool for putting into practice the principle of the best interests of the child, which must be a primary consideration in all actions concerning children.⁴⁰ Furthermore, the availability of disaggregated data

39. J.C.Legrand, Baseline study on systemic issues affecting the child protection system's response to child sexual exploitation and abuse in the Republic of Moldova, p. 38.

40. See Art 3 of the UN Convention on the rights of the child.

is essential in order to prevent and address specific dramatic issues affecting children's lives, such as violence and exploitation. Data collection is a valuable tool for the development of programmes and policies on child welfare, for the monitoring and evaluation of the progress made and the impact assessment of relevant policies.

5.1 Key international and Council of Europe standards

At international level, the UN Committee on the Rights of the Child⁴¹ has underlined that collection of sufficient, reliable and disaggregated data on children is an essential part of implementation of the Convention on the Rights of the Child⁴², including of article 19 of this Convention which requires States to protect children from sexual abuse and exploitation⁴³. States need to establish a comprehensive and reliable data collection system on cases of violence against children.⁴⁴ The development and implementation of systematic and on-going data collection and analysis will contribute to identifying prevention opportunities and informing policy and practice. According to the UN Committee on the Rights of the Child relevant data shall be used in order to ensure "systematic monitoring and evaluation of systems (impact analyses), services, programmes and outcomes based on indicators aligned with universal standards, and adjusted for and guided by locally established goals and objectives".⁴⁵ In this context, the UN Committee on the Rights of the Child has consistently expressed its support for systems of accountability, including in particular through data collection and analysis, indicator construction, monitoring and evaluation.

At the level of the Council of Europe, art. 10 paragraph 2 b) of the Lanzarote Convention provides for the obligation of States to set up or designate mechanisms for data collection or focal points, at the national or local levels and *in collaboration with civil society*, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection.

The Lanzarote Committee has further noted the importance of having reliable data on child sexual abuse and exploitation committed in the circle of trust in order to frame, adjust and evaluate policies and measures in this field and assess the level of risk for children.⁴⁶ Policies and measures may not be best developed and appropriately targeted if reliance is placed on inaccurate or misleading information. The obligation provided in paragraph 2 (b) aims at taking measures to address the lack of information. The Lanzarote Committee has reiterated that the Lanzarote Convention does not demand the establishment of specific mechanisms; General mechanisms may thus suffice as long as they make it possible to produce data on child victims of sexual exploitation and abuse, including in the circle of trust.

Moreover, the Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence⁴⁷ call States to adopt an integrated and systematic approach to data collection, analysis, dissemination and research through the development of a harmonised methodology with a common set of indicators, allowing for the identification of groups of children vulnerable to violence.

5.2. Data collection on the basis of GD 143/2018

Data collection, analysis and management of statistics in the GD 143/2018, as core activities for identifying prevention opportunities, informing and evaluating prevention policies on child sexual abuse and exploitation have not yet been implemented.

According to the GD 143/2018, the designated person is entrusted with the task of generalising the data on the implementation of the Instruction, on an annual basis. The data are required to be collected at the level of the institutions and services by the coordinators and consequently sent to the territorial bodies and the supervisory bodies. Finally, the generalised reports on cases of primary prevention of risks on child welfare should be transmitted by the supervisory bodies to the MHLSP. The latter should publish annually the monitoring report on the application of the nominated Instruction. As mentioned, however, this system has not been activated.

In addition, the coordinator is recommended to perform an analysis of the institution's reports with a view of improving the support services within this institution and facilitating the exchange between professionals.

41. Committee on the Rights of the Child, General Comment no. 5, *General measures of implementation of the Convention on the Rights of the Child*, 27 November 2003, available at <https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx>

42. See Art 44 of the UN Convention on the rights of the child.

43. See Art 19 of the UN Convention on the rights of the child.

44. Committee on the Rights of the Child, General Comment no. 13, *The right of the child to freedom from all forms of violence – Convention on the Rights of the Child*, 18 April 2011.

45. *Ibid*, para 42.

46. Lanzarote Committee, Protection of children against sexual abuse in the circle of trust, 1st implementation report, p. 19.

47. Council of Europe, CM/Rec(2009)10, Appendix, p. 28.

Apart from this analysis of statistics, which may be carried out at the level of the institution and not at a wider level, no other procedure for the analysis and concrete evaluation of information collected with a view of framing or adjusting policies and practices at national level is provided for under the GD 143/2018.

As the mechanism has not yet been implemented, there is no information about the type of data that will be collected and the extent to which this data will be specific to the prevention of child sexual abuse and exploitation or, to the contrary, more general on the prevention of risks on child's welfare. There is no information either as to whether there will be unique indicators for segregation of data that would allow for objective analysis of the evolution, tendencies and trends of the phenomenon of CSEA and for the identification of risk factors and vulnerable groups of children.

Moreover, all relevant data are expected to be collected and submitted at sectorial level and each sector will have its own data collection procedure and figures. At the same time, the GD 143/2018 does not provide any information on cross-checking, centralising, compiling and analysing data collected. In other words, sector data collection mechanisms will exist in parallel, leading thus probably to the submission of different data. No information is given about a unique entity, which would stock, process and qualitatively analyse these data. The MHLSP, which is the authority mandated to collect data on the implementation of instructions of GD 143/2018 in an annual basis, does not seem to have its own monitoring system yet.

Such a fragmented system of information, which may give contradictory or inaccurate figures and outcomes, does not respond to the need for an overall understanding of prevention of CSEA and relevant risks factors. The data that are collected cannot be analysed and used for the purposes of evaluating policies and measures in the field of prevention of CSEA and of assessing the level of risk for children.

Another dimension in the area of data collection that should be addressed is the absence of the involvement of the civil society in the relevant mechanisms, for the purpose of observing and evaluating the phenomenon of CSEA. Indeed, the existing mechanisms for data collection under GD 143/2018 do not envisage the participation of or collaboration with the civil society. Such an involvement would improve the efficiency of the mechanisms and would lead to a better understanding of risks factors of CSEA.

5.3. Conclusions and recommendations towards a more effective implementation of international and Council of Europe standards to combat CSEA

As the mechanism established under the GD 143/2018 has not been implemented, no activities for identifying prevention opportunities, informing and evaluating prevention policies on CSEA have been carried out, so as to provide for a clear sense of the current situation and dynamics.

In particular, there is no information on whether the data collection system will address the issue of the risks to child welfare in general and not the issue of CSEA more specifically. In this respect, the development of indicators and disaggregated categories could serve as a basis for data collection on CSEA; this would allow for a further qualitative analysis of these data and understanding of the risk factors and vulnerable categories of children who are in greater risk of sexual abuse and exploitation. Compiled data should ensure a harmonised classification (by sex, gender, form of abuse or exploitation etc.).

Moreover, the data collection and processing are expected to be performed at sectorial level and relevant stakeholders act in parallel and without any coordination provided in the GD 143/2018. This practice will have a direct impact on the ability to depict the actual situation on the ground and produce accurate and reliable data. Thus, it should be ensured the data collection and processing will be performed by a unique authority/entity that will be responsible for the centralisation, the compilation and analysis of data collected. These tasks should be performed by specialists who have the necessary capacity in analysing data related to offences of CSEA from the perspective of conditions and evolution of various aspects of combating CSEA.

In addition, the data collection and analysis should not be an end in itself. It should be the basis for the observation and evaluation of the phenomenon of CSEA and the development and further adjustment of policies and practices. In the above context, the collaboration with the civil society is also recommended.

Chapter 2 – The Government Decision no 270/2014

According to article 10 of the Lanzarote Convention, each Party shall take the necessary measures to ensure the co-ordination on a national or local level between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children, notably the education sector, the health sector, the social services and the law-enforcement and judicial authorities.

The Instructions of GD 270/2014 establish the cross-sectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking. These instructions are drawn up in accordance with the family, civil, labour and social protection, criminal and contravention legislation of Moldova. They apply to a wide range of professionals and in particular to employees of central and local public authorities, structures, institutions and services within or subordinate to them, working in the fields of social assistance, education, health care, law enforcement, which must cooperate to prevent violence, neglect, exploitation, trafficking in children, and combating them through social assistance, educational, public order and medical services.

The adoption of the Instructions on the cross-sectoral cooperation mechanism constitutes a major step towards a multidisciplinary and holistic approach for the protection of children against SEA. The Instructions create a common assessment framework for professionals working with child victims and enables them to best serve children's interests in a given case.

This Chapter will analyse the compliance of GD 270/2014 with key international and Council of Europe standards to prevent and combat sexual abuse and exploitation against children. The assessment's overall objective will be to identify challenges and achievements related to the GD 270/2014 from the angle of the relevant Council of Europe and international standards on a range of issues, such as the protective principles and safeguards included in the GD (1), the scope of the GD with regard to the age of the victims (2), the interaction of DG 270/2014 with other cooperation mechanisms (3), the assistance provided to child victims or potential victims (4) and the capacity improvement of professional working with children (5).

1. PROTECTIVE PRINCIPLES AND SAFEGUARDS

1.1. Key international and Council of Europe standards

Article 3, paragraph 1, of the Convention on the Rights of the Child gives the child the right to have his or her **best interests** assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere. According to the Committee for the Rights of the Child,⁴⁸ the best interest of the child has three dimensions: it is a substantive right, a fundamental, interpretative legal principle and a rule of procedure. The notion of the best interest of the child is guaranteed in a number of international and European instruments.

The European Court of Human Rights has highlighted that, in cases of sexual abuse and exploitation, children are particularly vulnerable.⁴⁹ It has also found that the right to human dignity and psychological integrity requires particular attention where a child is the victim of violence⁵⁰. The obligations incurred by States Parties under Articles 3 and 8 of the European Convention on Human Rights in cases involving and affecting a child, such as in cases of alleged victims of sexual abuse, require the effective implementation of children's right to

48. See, also Committee on the Rights of the Child, General comment no. 14 (2013) *on the right of the child to have his or her best interests taken as a primary consideration* (art. 3, para. 1), available at https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf

49. See, ECtHR, *M.C. v. Bulgaria*, 4.12.2003, paras 150 and 183, *M.G.C. v. Romania*, 15.3.2016, para 56.

50. ECtHR, *C.A.S. and C.S. v. Romania*, 20.3.2012, para 82, *Z v. Bulgaria*, 28.5.2020, para 69.

have their best interests as a primary consideration and to have the child's particular vulnerability and corresponding needs adequately addressed by the domestic authorities.⁵¹

Moreover, article 12 of the Convention on the Rights of the Child establishes the right of every child to freely express her or his views, in all matters affecting her or him, and the subsequent right for those views to be given due weight, according to the child's age and maturity. This right has been highlighted *inter alia* in the Committee of Ministers Guidelines on Child Friendly Justice⁵² and the case-law of the European Court of Human Rights.⁵³ It imposes a clear legal obligation on States parties to recognize this right and ensure its implementation by listening to the views of the child and according them due weight. This obligation requires that States parties, with respect to their particular judicial system, either directly guarantee this right, or adopt or revise laws so that this right can be fully enjoyed by the child.⁵⁴

Besides, any assessment of a child's best interests must include respect for the child's right to express his or her views freely and due weight given to said views in all matters affecting the child. In other words, article 3, paragraph 1 of the Convention on the Rights of the Child, cannot be correctly applied if the requirements of article 12 are not met. Thus, the correct implementation of the child's right to have his or her best interests taken as a primary consideration requires the establishment of the some child-friendly procedural safeguards. In this context, in the Secretary General's Study on Violence against Children States Parties are urged to provide the space for children to freely express their views and give these views due weight in all aspects of prevention, reporting and monitoring violence against them.⁵⁵

On 16 November 2011 the Committee of Ministers of the Council of Europe adopted the Recommendation on Children's Rights and Social Services Friendly to Children and Families, which sets out that in all processes where social services are provided to children, the latter should, *inter alia*, have the right to be listened to and be informed of decisions taken and the extent to which their views have been taken into account. Multidisciplinary services should be based on assessments of the children's individual needs and preferably evidence-based interventions.

Article 14, paragraph 1, of the Lanzarote Convention, which concerns the obligation to provide child victim with assistance, stipulates that the child's views, needs and concerns must be taken into account when taking relevant measures. However, it should be noted that the support and assistance should be provided regardless of whether children recognise themselves as victims.

1.2. The Instructions of the GD 270/2014

The GD 270/2014 refers to the principle of the best interests of the child and defines them as the interests for ensuring the adequate conditions for the harmonious growth and development of the child, taking into account the individual particularities of his/her personality and concrete situation. Another reference to this principle can be found in the definition of the "protective interview", i.e. the first discussion with the child in the process of initial evaluation which – according to the Instructions – is carried out if it serves the best interests of the child.

Thus, the only reference to the best interests of the child is made at the section of the general provisions and in particular in the definitions of notions for the purposes of the Instructions. No other reference to or use of the best interest of the child is made in the main part of the Instructions which describes the procedures, the roles and duties of the professionals involved in the implementation of the mechanism. In other words, apart from a definition, the best interest of the child is not used as a guiding principle for the implementation of the Instructions on the cross-sectoral cooperation mechanism established by the GD 270/2014. Thus, the relevant stakeholders are not clearly instructed to assess and take into account the best interests of the child as a primary consideration in all actions or decisions that affect him/her.

51. See, ECtHR, *A and B v. Croatia*, 20.6.2019, para 111, and *M.M.B. v. Slovakia*, 26.11.2019, para 61, *M.G.C. v. Romania*, cited above, paras 70 and 73.

52. Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies), available at <https://rm.coe.int/16804b2cf3>

53. ECtHR, *M. and M. v. Croatia*, 3.9.2015, para 171.

54. Committee on the Rights of the Child, General Comment no. 12 (2009), *The right of the child to be heard*, para 15, available at <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>

55. Report of the independent expert for the United Nations Study on Violence against Children (A/61/299), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>

Moreover, the mechanism established under GD 270/2014 leaves up to authorities to consult the child only in the stage of reviewing the individual plan.⁵⁶ The exercise of the child's right to be heard and the subsequent right for those views to be given due weight, according to the child's age and maturity is not contextualised nor formally set out in the GD 270/2014. Professionals who are involved in the cross-sectoral mechanism are not given clear instructions to provide the space for children to freely express their views and give these views due weight in all aspects of prevention, reporting and monitoring of SEA against them.

1.3. Conclusions and recommendations

Although the best interest of the child is defined as a notion in the general provisions of the Instructions of the GD 270/2014, it is not further used in any way (e.g. as a right, guiding principle or a rule of procedure) for the implementation of the GD 270/2014. Relevant stakeholders should receive clear guidance on the need to assess and determine the best interests of the child before taking any decision that will affect him/her. In the same line, the exercise of the right of the child to be heard and to have his/her views duly taken into account should be clearly provided in the Instructions and the procedures described in it.

2. SCOPE OF THE GD 170 WITH REGARD TO THE AGE OF THE VICTIMS

2.1. Key international and Council of Europe standards

While children need special protection measures, it is sometimes difficult to determine whether someone is over or under 18. This is why article 11 paragraph 2 of the Lanzarote Convention establishes the principle that where a victim's age is uncertain and there are reasons to believe that (s)he is a child, Parties should ensure that the special protective measures afforded to child victims of sexual offences are provided to those victims until their age is verified. The same rule is included in the Council of Europe Convention on Action against Trafficking in Human Beings, which stipulates in article 10 paragraph 3 that Parties shall presume that a victim is a child if there are reasons for believing that to be so and if there is uncertainty about their age. Until their age is verified, victims must be given special protection measures, in accordance with their rights as defined, in particular, in the United Nations Convention on the Rights of the Child.

Moreover, article 34 paragraph 2 of the Lanzarote Convention requires Parties to ensure that any uncertainty as to the actual age of the victim does not prevent the initiation of criminal proceedings. Similarly, the Optional protocol requires States Parties to ensure that uncertainties as to the actual age of the victim shall not prevent the initiation of criminal investigations, as well as investigations aimed at establishing the age of the victim (article 8 paragraph 2).

According to article 35 of the Lanzarote Convention, any uncertainty regarding the age of the victim shall not impede the implementation of protective measures for the victim or witness during interviews. The main purpose of the provision is to safeguard the interests of the child and ensure that he/she is not further traumatised by the interviews.

2.2. The scope of the GD 270/2014

The GD 270/2014 on the cross-sectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking addresses all children who have not reached the age of 18. However, it seems that the cross-sectoral mechanism does not apply in cases where the age of the victim is not certain.

2.3. Conclusions and recommendations

The scope of the GD 270/2014 should be extended so as to cover all cases where the age of a victim is uncertain but there are reasons to believe that (s)he is a child. Professionals should receive clear instructions that in those cases the mechanism should apply and that victims concerned should benefit from all protective measures.

56. See Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 24.

3. COORDINATION AND COLLABORATION IN GD 270/2014 AND INTERACTION WITH OTHER MECHANISMS

3.1. Key international and Council of Europe standards

CSEA is multidimensional. Effective responses to it demand an integrated (systemic, holistic) approach and require cross-sectoral co-operation and co-ordination. This approach allows factors of different orders (cultural, psychological, pedagogical, behavioural, physical, political, socio economic, etc.) to be treated on the basis of common ground. It implies that all actions aimed at preventing and protecting children from CSEA should operate across a range of disciplines and sectors.

Article 10 of the Lanzarote Convention requires States to ensure the co-ordination on a national or local level between the different agencies in charge of the protection from, the prevention of and the fight against CSEA, notably the education sector, the health sector, the social services and the law-enforcement and judicial authorities. As far as judicial authorities are concerned, the coordination of action by the sectors mentioned should operate with full respect to their independence and to the principle of the separation of powers.⁵⁷

This provision is premised upon the fact that no single agency would be able to address a problem of such complexity as CSEA. It should be reiterated that article 10 of the Lanzarote Convention does not provide for a specific or unique model or structure of multidisciplinary cooperation. Therefore, the exact *modus operandi* and the operational principles of the inter-agency mechanisms that deal with combatting CSEA are to be designated by State parties.

In any case, however, it is important that cross-sectoral mechanisms have a clear mandate and role, and that professionals who participate in them have understood the scope and applicability of the mechanism and the cases and circumstances that trigger a specific mechanism. For an efficient response to CSEA, each member of the mechanism should have specific expertise, focus and professional responsibility in responding to CSEA. To increase the effectiveness of the overall mechanism's response, it is crucial that roles and responsibilities are clearly identified and established for each of its members and structures. Each agency/institution involved must know and understand their roles and responsibilities.⁵⁸

In respect of the necessity of a comprehensive and multidisciplinary approach, States are required under the Lanzarote Convention to encourage co-operation between competent State authorities, civil society and the private sector in the prevention of and fight against sexual exploitation and abuse of children. The reference to civil society is a generic term covering non-governmental organisations and the voluntary sector. According to the explanatory Report of the Lanzarote Convention, sometimes NGOs are more acceptable to children and their families in their search for support than formal State bodies and institutions.

Moreover, assessment of progress and evaluation of actions at cross-sectoral level, with a view to identifying policies and measures that are appropriate and effective in preventing and addressing violence, is important⁵⁹.

3.2. The cooperation and coordination in the GD 270/2014

The cross-sectoral mechanism for the identification, assessment, referral, assistance, and monitoring of child victims established by GD 270/2014 is a noteworthy step for addressing and combatting CSEA in a holistic way. The mechanism establishes collaborative work among many services and professionals with various and different discipline backgrounds which are required to cooperate and coordinate under unified procedures. This multi-dimensional approach allows factors of different orders (cultural, psychological, pedagogical, behavioural, physical, socio-economic, etc.) to be treated on the basis of common ground. It is important to be noted that the collaborative scheme of the GD 270/2014 does not originate from one sector but is established in a single, common instrument for all disciplines and professionals involved.

In this framework, the professionals who are involved in the cross-sectoral mechanism are required to use a common Form for the notification and referral of suspected cases of child violence, neglect, exploitation and trafficking which was drawn up and approved jointly by the MoHLS, the MoECR and the MoIA. Such a joint instrument is an example of a non-fragmented but truly comprehensive and collaborative work.

57. See, Explanatory Report to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, para 76.

58. See, *mutatis mutandis*, *Preventing and combating violence against women and domestic violence in Ukraine*, p. 18.

59. Council of Europe, CM/Rec(2009)10, Appendix, page 13.

Another positive aspect of the multidisciplinary teams provided for under GD 270/2014 is their flexibility and adaptability to the specific case. Indeed, the multidisciplinary team is conceived as a *modus operandi*, rather than a specific structure within local authorities. Based on the specific circumstances of a case, the local supervisory authority will immediately indicate, as needed, in the order, the specialists in the field of health care, education, law enforcement bodies, who will form the multidisciplinary team. This kind of operation, which takes into account the concrete case of suspected CSEA, is not premised on the idea of a pre-established multidisciplinary team but on a needs basis and involves sectors and specialists with most relevant backgrounds.

Furthermore, the intersectoral collaboration in child protection constitutes a major step towards the obligation to report suspected cases of CSEA. Until GD 270/2014, there was such an obligation only for doctors, while the inter-sectoral mechanism provides for the obligation of a wide range of professionals who come into contact with the child to report any suspicion of CSEA.

The mechanism operates across a broad range of disciplines and sectors and is quite inclusive. Comparing it with the non-exhaustive list of professionals that should be involved in this kind of multidisciplinary cooperation schemes according to the Lanzarote Convention,⁶⁰ it seems that the judicial authorities could also be included in this co-ordination and cooperation mechanism, especially since the GD 270/2014 provides for the performance of forensic examination and addresses some criminal investigation procedures.

In the same line and in view of article 10 para graph 3 of the Lanzarote Convention, the participation of and cooperation with the civil society could be also addressed in the cross-sectoral mechanism.

3.3. The cross-sectoral mechanisms of GD 270/2014, PD 257/2008 and GD 228/2014

In the Republic of Moldova, inter-sector activities in the area of child protection, including combating cases of sexual abuse or sexual exploitation of children are regulated by the legal and normative framework on protection of children at risk (Law no. 140 of 14.06.2013 and GD 270/2014). The Instructions target the employees of central and local public authorities, which are active in the areas of social assistance, education, health care and public order. They must cooperate to prevent and combat violence, neglect, exploitation, trafficking in children through social, educational, public health and medical assistance services.⁶¹

At the same time, the Republic of Moldova created legal and institutional framework on preventing and combating trafficking in human beings (Law no. 241 of 20.10.2005, PD no. 257 of 5.12.2008,⁶² GD no. 228 of 28.03.2014⁶³). The National Referral System for the Protection and Assistance of Victims and Potential Victims of Trafficking in Human Beings represents a special framework for the cooperation and coordination of state institutions' efforts in strategic partnership with civil society and other actors to protect the rights of victims and potential victims of trafficking in human beings.

Victims of child trafficking are thus entitled to benefit from assistance within both cross sectoral cooperation mechanisms. In addition, it appears that the mechanism of the National Referral System is intended not only for the protection of the rights of victims of child trafficking, but also of children victims of other crimes, as well as of children exposed to various risk situations⁶⁴. Children victims of CSEA are thus subject to two existing mechanisms that intersect through the categories of beneficiaries.

The National Referral System and the Cross-sectoral Cooperation Mechanism under the GD 270/2014 have different institutional and regulatory frameworks, and different procedural algorithms.⁶⁵ The fact that child victims or potential victims of trafficking and children victims of SEA may fall within both mechanisms may create confusion to professionals who work with child victims. The parallel existence of these two mechanisms, the potential overlap and the insufficient clarification of their specific scope may result in a non-uniform

60. See, the non-exhaustive list of professionals in article 10 para 1 of the Lanzarote Convention.

61. J.C.Legrand, Baseline study on systemic issues affecting the child protection system's response to child sexual exploitation and abuse in the Republic of Moldova, p. 21.

62. The National Referral System Strategy for the Protection and Assistance to Victims and Potential Victims of Human Trafficking and Action Plan of the National Referral System Strategy, adopted by Parliament Decision no. 257 of 5.12.2008. – available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=19685&lang=ro

63. GD no. 228 of 28.03.2014 on approving the Regulations of Activity of the Territorial Multidisciplinary Teams within the National Referral System, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=19094&lang=ro

64. See, the Report submitted by the Moldovan authorities on measures taken to comply with Committee of the Parties Recommendation CP(2012)6 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which states that the National Referral System model can be extended/taken over to prevent and combat other negative social phenomena and support various socially-vulnerable categories, such as sexual exploitation of children.

65. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, 8.

approach and disparity of the procedures applied to children victims or potential victims of trafficking and/or SEA at the legislative, normative and practical levels.

3.4. The cross-sectoral mechanisms of GD 270/2014 and GD 143/2018

The Instruction on the cross-sectoral cooperation mechanism under the GD 143/2018 capitalises on the role of universal services, streamlining cross-sectoral cooperation in the field of child protection by focusing on primary risk prevention and reducing the need for interventions in accordance with the Instructions on the cross-sectoral cooperation mechanism under the GD 270/2014.⁶⁶ According to the Information note on the draft of the GD, “the Instruction supplements the mechanism regulated by GD 270/2014 with a new level – that of prevention and primary intervention and clearly determines the limits of involvement of universal services and those of social assistance”.

The GD 270/2014 has a specific section that deals with the procedure of institutional organisation of activities to prevent cases of violence, neglect, exploitation and trafficking in children. Among other provisions, the GD 270/2014 stipulates that leaders of medical-sanitary, education institutions, law enforcement bodies are required to provide employees with standard forms, registers, and ensure at the level of each institution the implementation of these Instructions. The GD 270/2014 also sets out that for prevention and early identification of children at risk of violence, neglect, exploitation and trafficking, police officers shall monitor, in cooperation with the members of the multidisciplinary team, the families posing various risks for children and inform them about the legal framework in the field of child protection.

According to the Information note⁶⁷ on the draft of the GD 143/2018, employees of the universal services became aware of the existence of the two intervention levels (primary and specialized intervention), which involve different tools, actions and responsibilities.

The mechanisms established under the GD 143/2018 and GD 270/2014 seem to have similarities concerning the children beneficiaries and professionals who are involved in their implementation. However, at this stage and due to the fact that the GD 143/2018 has not yet been implemented in practice, it is difficult to say whether – and to what extent – they overlap. There are some areas where the mechanisms do not overlap, such as for example the obligation, provided under GD 270/2014, to provide children with information, means and instruments, to report cases of violence, neglect, exploitation and trafficking by peers and adults. On the other hand, the conditions under which professionals should follow the one or the other procedure and Instructions may not always be clear.

According to the Assessment Report of the Ombudsperson, in the districts where the mechanism established by the GD 143/2018 was tested, the professionals participating in the process mentioned the complementarity between the mechanisms of GD 143/2018 and GD 270/2014. Other stakeholders, however, were reluctant about the complementarity mentioned above, considering that GD 270/2014 includes the segment of prevention and primary intervention and where there are ambiguities, GD 270/2014 can be supplemented accordingly.

3.5. Conclusions and Recommendations

The mechanism established by GD 270/2014 provides for collaborative work among many services and professionals with various and different discipline backgrounds which are required to cooperate and coordinate under unified procedures. As explained, it presents the characteristics of inclusiveness and flexibility. To enhance the holistic approach of the cooperation, national authorities could consider including judicial sector as well as civil sector (namely civil society) in this mechanism.

Moreover, the above questions with regard to the overlapping or complementarity between the mechanisms on cross-sectoral cooperation should be addressed. The parallel existence and scope of these mechanisms as well as the role of professionals involved in them should be clarified and determined either in the body of the Instructions or through comprehensive training.

66. See, *General provisions* of the GD 143.

67. Available in Romanian at https://www.legis.md/cautare/getResults?doc_id=102076&lang=ro

4. ASSISTANCE TO CHILD VICTIMS AND POTENTIAL VICTIMS

4.1. Key international and Council of Europe Standards

Article 14 of the Lanzarote Convention sets out the assistance measures, which Parties must provide for victims of sexual exploitation and abuse. Child victims must be assisted “in the short and long term, in their physical and psycho-social recovery”. The authorities shall therefore make arrangements for those assistance measures while bearing in mind the specific nature of that aim. Any harm caused by the sexual exploitation or abuse of a child is significant and must be addressed. According to the Explanatory Report of the Convention, assistance to victims in their “physical recovery” involves emergency or other medical treatment. “Psycho-social” assistance is needed to help victims overcome the trauma they have been through and return to a normal life in society. Similarly, article 9 paragraph 3 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography stipulates that States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

In addition, the Lanzarote Convention requires also each Party to the necessary legislative or other measures to ensure that the persons who are close to the victim (e.g. siblings, class-mates, parents, etc.) may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care.⁶⁸ In its first implementation Report, the Lanzarote Committee noted that there seemed to be a lack of specific legal frameworks for the provision of services to close relatives of children victims of sexual abuse. It also identified, as a good practice, the fact that in Croatia the health-care system provides for the non-offending parent specific treatment such as counselling with a professional. The parent has the opportunity to not only discuss and focus on the child victim, but also share his/her feelings in relation to the sexual abuse of his/her child.⁶⁹

As mentioned previously, in respect of the necessity of a comprehensive and multidisciplinary approach, article 10, paragraph 3, requires from States to encourage co-operation between competent State authorities, civil society and the private sector in the prevention of and fight against CSEA. In the same line, article 14, paragraph 2 specifies that each Party is to take measures, under the conditions provided for by national law, to cooperate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in victim assistance.

In the context of protecting victims, paragraph 3 of article 14 of the Lanzarote Convention provides also for the possibility, where the parents or carers of the victim are involved in the case of SEA, of removing either the alleged perpetrator or the victim from the family environment. It is important to stress that this removal should be envisaged as a protection measure for the child and not as a sanction for the alleged perpetrator. To minimise rupture in the child’s life as far as possible, in the context of online sexual abuse in the circle of trust, the Committee has recommended that the removal of the alleged perpetrator be taken into consideration first and that the removal of the child from his/her family environment should be foreseen as a last resort procedure, which should be clearly defined, setting out the a) conditions for the removal and b) its duration.⁷⁰

4.2. Assistance of victims in the GD 270/2014

The issue of the categories of support services, which are available and can be offered to child victims of violence, including of CSEA, is tackled in detail by the Law on the Rehabilitation of Victims of Crime⁷¹. In addition to this Law, the mechanism on cross-sectoral cooperation, established by the GD 270/2014, includes within its scope – according to its title – the issue of *assistance* and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

The GD 270/2014 refers to the assistance of victims in the context of medical emergency,⁷² the provision of information on available social assistance for the prevention and early identification of children exposed to the risk of abuse and exploitation, and the designation by the director of the educational institution or the coordinator of a trusted person for the child to assist him/her during the legal proceedings. The Instructions do not address the role of professionals in cooperating with the civil society, which provide assistance to

68. See article 14 paragraph 4 of the Lanzarote Convention.

69. Lanzarote Committee, Protection of children against sexual abuse in the circle of trust, 1st implementation report, p. 29.

70. Lanzarote Committee, Protection of children against sexual abuse in the circle of trust, 1st implementation report, p. 31.

71. Law no. 137 of 29.07.2016 on the rehabilitation of victims of crime available in Romanian at https://www.legis.md/cautare/getResults?doc_id=105870&lang=ro

72. See para 52 of the GD 270/2014.

children victims. Also, they do not deal with the issue of the assistance to persons who are close to the victim, such as siblings, friends and classmates.

With regard to the removal of the alleged perpetrator, the GD 270/2014 provides that in cases of “imminent danger to the life and health of the child”, the local supervisory authority shall submit an application in court to request the issuance, within 24 hours, of the protective order of the child victim against the alleged abuser. In line with international standards, this measure, i.e. the removal of the alleged perpetrator is preferable to the removal of the child from his/her residence and environment. According to Law No. 140, the notion of “imminent danger to the life and health” is defined as the circumstances that indicate the existence of elements of a delinquency against the child’s life and/or health that can have a serious impact on his/her physical and/or psychical integrity. Given that offences of CSEA may not – always – be considered as crimes against the life of health but, for example against the sexual integrity of the child, it is not clear whether all suspected cases of CSEA would fall within the notion of “imminent danger to the life and health” of the child.

4.3. Conclusions and recommendations

For a more comprehensive protection of children, professionals who are involved in the implementation of the GD 270/2014 could be given guidance on the interaction between the GD 270/2014 and the Law on the rehabilitation of victims of crime, as well as on the cooperation avenues between the multidisciplinary teams and the NGOs who provide support services for children victims of CSEA.

Moreover, with a view of safeguarding a holistic approach to cases of CSEA, the Instruction could also address the issue of assistance, including therapeutic assistance, to persons close to the child victim, such as siblings or non-offending parent.

In addition, the Instructions could clarify the notion of “imminent danger to the life and health” of the child so as to indicate that all suspected cases of CSEA fall with this notion and that, subsequently, in cases of CSEA, the alleged perpetrator should be immediately removed from the environment of the child.

5. IMPROVING CAPACITIES OF PROFESSIONALS WORKING IN CONTACT WITH CHILDREN

All stakeholders involved in the implementation of the cross-sectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking, should have a clear understanding of their roles and of the procedures to be followed and should have adequate skills and knowledge to better implement it. Their capacities are built and improved through clear guidance be given by instruments that define certain steps to be taken and through adequate training on specificities of the mechanism and of the issue of identifying and protecting children victims of SEA.

5.1. Key international and Council of Europe standards

Most of the standards relating to the training of professionals who work with and for children are analysed in the first Section of this Report. In addition, it should be noted that the UN Committee for the Rights of the Child has referred specifically to the need of capacity building in the context of identification, reporting, referral, investigation, treatment and follow-up of children victims of violence, including SEA.

In particular, the Committee⁷³ has stressed the need, for all those who come in contact with children, to be aware of risk factors and indicators of – *inter alia* – CSEA, to have received guidance on how to interpret such indicators, and to have the necessary knowledge, willingness and ability to take appropriate action (including the provision of emergency protection). Moreover, the person receiving the report should have clear guidance and training on when and how to refer the issue to whichever agency is responsible for coordinating the response. Professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration.

Another issue that needs to be included in the training of professionals is the confidentiality obligation. In every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by

73. Committee on the Rights of the Child, General Comment no. 13, *The right of the child to freedom from all forms of violence – Convention on the Rights of the Child*, 18 April 2011, paras 48–53.

professionals working directly with children. When reports are made in good faith, processes must be in place to ensure the protection of the professional making the report.

However, outside the above-mentioned obligation of reporting, Parties must ensure that all support mechanisms for children are safe and confidential in relation to the outside world. The fear of disclosure of sensitive details for a child's life, such as in suspected cases of CSEA, may constitute a huge barrier and hinder for the child to reveal any information. Breach of confidentiality on a CSEA case can be extremely traumatising for the child and certainly exacerbates his/her revictimization. Especially (but not only) in small societies, breach of confidentiality can be extremely and dramatically stigmatising for the child. Thus, professionals should receive training about confidentiality rules and rules for protecting the right to privacy of the child. These obligations should not limit the obligation to report cases of CSEA but should address the obligation of professionals not to reveal details of CSEA to third parties and to protect the child from stigmatisation in his/her environment and in the society in general.

5.2. The GD 270/2014

The mechanism established under the GD 270/2014 is well elaborated and the various procedures are described in detail. There are however some areas where improvement of guidance given, of understanding of the mechanism, of knowledge and skills of stakeholders is possible.

The GD 270/2014 refers to the development of further instruments which aim at providing concrete guidance and common framework to the professionals who are involved in the cross-sectoral mechanism. This is for example, the *Form for the notification and referral* of suspected cases of child violence, neglect, exploitation and trafficking which was drawn up and approved jointly by the MoHLSP, the MoECR and the MoIA. This Referral Form contains a standardised list of indicators on signs of neglect and violence and ensures a harmonised approach to reporting and recording among various stakeholders.⁷⁴ As mentioned in the Baseline Study, such a joint instrument shared among professionals from different ministries can be considered as a major development to be shared with other member states of the Council of Europe as a promising practice.⁷⁵

Another instrument that aims at complementing the instructions is provided under point 3 of the GD 270/2014. More precisely, authorities, structures, institutions and specialists with competences in the field of child protection are required to apply the Instructions, using a *Guide* for the practical application of the cross-sectoral cooperation mechanism. However, this Guide has not been developed. In practice, various specialists, depending on the partnerships they have, use guides or instructions prepared by civil society organizations, which they learned to apply within training sessions.⁷⁶ A similar lack of guidance is identified with regard to the *Methodology* for the development of the psychological evaluation for child victims, which is required in the context of the specialized examinations in cases of child violence, neglect, exploitation, trafficking. Such a Methodology has not yet been prepared.⁷⁷

Apart from the above need to develop the instruments that will complement the implementation of the cross-sectoral mechanism, further guidance and clarifications could be given with regard to certain procedures described in the GD 270/2014. This is the case, for example, with the power of the director of the educational institution or the coordinator and of the leader of the medical-sanitary institution to solve – within their institutions – cases of physical and psychological violence against children. The GD 270/2014 does not specify the kind of cases for which this kind of resolving of cases would be appropriate. The relevant provisions of the GD 270/2014 may create confusion.

As indicated in the Baseline Study, the Republic of Moldova has made efforts, especially after the promulgation of GD 270/2014, to provide, with the support of external donors and civil society, adequate training on identifying and assisting vulnerable children, including child victims of sexual exploitation and abuse, to professionals in regular contact with children. Many training activities have been and continue to be put in place. As concluded during the fact-finding mission of May 2019 (Baseline Study)⁷⁸ “the training sessions were usually of good quality and involve(d) a significant number of professionals in the concerned sectors”.

74. See, Baseline study, cited above, p. 30, Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 12. Joint order of MHLSP/ME/MH/MI no. 153/1043/1042/293 of 08.10.2014 on the approval of the Referral Form for cases suspect of violence, neglect, exploitation and trafficking in children. Available at https://cnpdc.gov.md/sites/default/files/document/attachments/fisa_de_sesizare_ro.pdf

75. Baseline study, cited above, p. 30.

76. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 12.

77. *Ibid.*

78. Baseline Study, cited above, p. 38.

In some sectors, including education, the participation to such training sessions was mandatory for some categories of staff. On the other hand, although the staff from the health sector has participated in thematic training sessions, including within the inter-sector cooperation mechanism on children at risk, investment in training for health professionals seems to lag behind.⁷⁹ Despite training activities that have been already carried out, relevant stakeholders have revealed the need for further capacity improvement on their specific roles and duties in the context of the implementation of the GD 270/2014.⁸⁰ Moreover, there is a lack of clarity regarding the obligations to train staff from the local guardianship authorities – the ones hired and paid by local authorities – which have an important role in the prevention of CSEA⁸¹.

5.3. Conclusions and recommendations

Moldovan authorities have made considerable efforts for the capacity building of professionals who are expected to implement the Instructions of the GD 270/2014. Further activities aiming at enhancing their understanding of the mechanism, their roles and of the specificities of CSEA would definitely improve the efficiency of responses at local level. The same applies with regard to training on protective safeguards for children who are treated by the mechanism of GD 270/2014.

In this line, the authorities could accelerate the development and approval of the *Guide* for the practical application of the cross-sectoral cooperation mechanism and of the *Methodology* for the development of the psychological evaluation for child victims.

Furthermore, authorities should continue their efforts to provide training to the relevant professionals as well as concrete guidance on their specific roles and duties.

79. "La Strada", Implementation of the Lanzarote Convention by the Republic of Moldova, p. 14.

80. Thematic Report Evaluating the Efficiency and Effectiveness of Intersectoral Cooperation Mechanisms in the Field of Child Rights Protection, cited above, p. 16.

81. Baseline Study, cited above, p. 38.

General Conclusions and Recommendations

A. Governmental Decision No. 143 for the approval of the Instruction on the cross-sectoral cooperation mechanism for primary prevention of child welfare risks

Child protection must begin with proactive prevention of all forms of violence.

- ▶ GD 143/2018 addresses the recommendation of the Committee for the Rights of the Child for a national coordinating framework on protection against all forms of violence, including comprehensive prevention measures.⁸²
- ▶ By focusing on primary prevention in national coordinating frameworks, the GD 143/2018 supports the development of a respectful childrearing environment free from violence that furthers the realization of children's individual personalities.
- ▶ The GD 143/2018 is a noteworthy initiative and important development in the field of interagency cooperation for the primary and proactive prevention of violence against children, that should be shared with other Council of Europe member States.

Some elements that could further contribute to the important steps made by GD 143/2018 by enhancing its compliance with international and Council of Europe standards are the following:

- ▶ The competent Ministries (MoHLSP and of the MoECR) should develop and adopt the necessary tools for the implementation of GD 143/2018, such as the Child Welfare Observation, Evaluation and Planning Sheets.
- ▶ The GD 143/2018 could be reviewed in order to provide concrete guidance on the role and responsibilities of specific professionals (e.g. leaders of health sector) in the cross-sectoral cooperation mechanism for primary prevention of risks on child's welfare.
- ▶ Moldovan authorities should align the selection and employment of professionals to international requirements. They should ensure the mandatory screening – in relation to committed acts of CSEA – of professionals in the education and healthcare sectors that come into contact with children, including those who are involved in the implementation of the GD 143/2018. If possible, this screening should continue and be performed regularly.
- ▶ In addition, the authorities should make sure that perpetrators of CSEA related offences are denied, temporarily or permanently, the exercise of activities involving contact with children, including the activities provided for under the GD 143/2018. The authorities could also consider setting up sex offenders register in order to prevent the exercise of activities involving children by persons who are convicted for CSEA related offences.
- ▶ The authorities should carry out institutionalised, continuous and systematic training about particularities of and risks factors to CSEA, including in the circle of trust, for professionals in the education and health care sector that are involved in the implementation of the GD 143/2018. This training should focus on the pro-active attitude of professionals that work with and for children and on proactive ways of preventing CSEA.
- ▶ Competent ministries should ensure a single country-wide approach to the mechanism established under GD 143/2018 and an equal coverage of all districts with relevant training services. This training should address the *modus operandi* of the mechanism.
- ▶ Competent authorities should also develop the capacity of specialists in analysing available data from the perspective of conditions and evolution of various aspects of combating CSEA.

82. See also, Committee on the Rights of the Child, General Comment no. 13, *The right of the child to freedom from all forms of violence – Convention on the Rights of the Child*, 18 April 2011, para 69.

- ▶ The data collection system provided under GD 143/2018 should address specifically the issue of CSEA. For this purpose, indicators and disaggregated categories should be used, allowing for a further qualitative analysis of these data and understanding of the risk factors and vulnerable categories of children who are in greater risk of sexual abuse and exploitation.
- ▶ The data collection and processing should be performed by a unique authority/entity that will be responsible for the centralisation, the compilation and analysis of data collected. These tasks should be performed by specialists who have the necessary capacity in analysing data related to offences of CSEA.
- ▶ Data collected and assessment should be used for the observation and evaluation of the phenomenon of CSEA and the development and further adjustment of policies and practices. In the above context, the collaboration with the civil society is also recommended.

B. Governmental Decision No. 270/2014

The mechanism of cross-sectoral cooperation established under the GD 270/2014 adopts a multidisciplinary approach and has gradually been recognised among professionals working with and for children, contributing thus to the protection of children against SEA.

- ▶ The mechanism of GD 270/2014 adopts a multi-dimensional approach which allows various factors related to the situation of the child to be treated on the basis of joint instruments and through collaborative schemes of a wide range of professionals.
- ▶ This mechanism represents the characteristics of flexibility and adaptability to the situation of a child in a particular case of suspected CSEA offence.
- ▶ It establishes the obligation to report suspected cases for a wide range of professionals of education, medical, sanitary and social assistance institutions.

Some recommendations aiming at further aligning the implementation of the mechanism to the existing international and Council of Europe standards to combat CSEA are the following:

- ▶ The GD 270/2014 should be reviewed to include the notion of the best interests of the child as a right, guiding principle and a rule of procedure for its implementation. Relevant stakeholders should receive clear guidance on the need to assess and determine the best interests of the child before taking any decision that will affect him/her.
- ▶ The exercise of the right of the child to be heard and to have his/her views duly taken into account should be clearly provided in the Instructions and the procedures described in it.
- ▶ National authorities should modify the Instructions to ensure mandatory provision of all protection measures guaranteed to children, victims of all forms of SEA, in situations when the exact age of the victim is not known, but the victim is presumed to be a child.
- ▶ The national authorities are strongly encouraged to involve the judicial sector as well as the civil society in the cooperation and coordination mechanism with a view to ensuring a more holistic approach towards protecting children victims or potential victims of CSEA.
- ▶ The national authorities should address issues of overlapping and confusions resulting from the parallel existence of cross-sectoral cooperation mechanisms established under GD Nos 143/2018, 270/2014, 228 (National Referral System) and should define in a clear manner the scope of each mechanism, either in the body of the Instructions or through comprehensive training.
- ▶ The Instructions of GD 143/2018 should be more precise on the available procedures and services for the provision of assistance after the identification of victims or potential victims of CSEA and should define the cooperation avenues between the multidisciplinary teams and the NGOs for the provision of assistance to victims.
- ▶ The Instructions should also address the issue of assistance, including therapeutic assistance, to persons close to the child victim, such as siblings or non-offending parent.
- ▶ The Instructions should clarify that the notion of “imminent danger to the life and health” of the child includes suspected cases of CSEA and that, subsequently, in cases of CSEA, the alleged perpetrator should be immediately removed from the environment of the child.
- ▶ The authorities should accelerate the development and approval of the *Guide* for the practical application of the cross-sectoral cooperation mechanism and of the *Methodology* for the development of the psychological evaluation for child victims.

- ▶ The authorities should continue their efforts to provide training to the relevant professionals as well as concrete guidance on their specific roles and duties. Without jeopardizing the duty to report cases of CSEA, the training should also address the issue of confidentiality of CSEA cases, with a view of protecting children from further revictimization and stigmatization.

Main resources and reference documents

- ▶ Committee on the Rights of the Child, General Comment No. 12 (2009), *The right of the child to be heard*, 20 July 2009 available at <https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-GC-12.pdf>
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