

Poland

Information provided further the statement by the Lanzarote Committee Chair and Vice-Chairperson on stepping up protection of children against sexual exploitation and abuse in times of the COVID-19 pandemic

In March 2020, until further notice, a state of epidemic was declared on the territory of the Republic of Poland due to infections with the SARS-CoV-2 virus, accompanied by solutions introduced to ensure the safety of all citizens, including children. The limited functioning of common courts did not hinder dealing with cases classified as urgent in Article 14a of the Act of 2 March 2020 on special solutions related to preventing, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws, items 374, 567, 568, 695 and 875), hereinafter the "COVID-19 Act," among them:

- cases to remove a person subject to parental responsibility or placed with a caretaker;
- applications to appoint a guardian to represent the interests of minors in proceedings before a court or other authority in urgent cases;
- examining a witness in pre-trial proceedings before a court pursuant to Article 185a-185c or Article 316(3) of the Code of Criminal Procedure of 6 June 1997 (Journal of Laws 2020, items 30 and 413) when the suspect has been detained;
- examining a witness in pre-trial proceedings before a court pursuant to Article 185a-185c or Article 316(3) of the Code of Criminal Procedure of 6 June 1997 (Journal of Laws 2020, items 30 and 413) when conducting the examination in a manner reserved for dealing with urgent cases has been applied for by the public prosecutor.

On 16 May 2020, the Act of 14 May 2020 amending certain acts concerning protective activities connected with the spread of the SARS-CoV-2 virus (Journal of Laws, item 875, hereinafter the "Shield 3.0 Act") entered into force. Pursuant to Article 46(20) of the Shield 3.0 Act, Article 15zsz of the COVID-19 Act, whose section 6 mandated courts to deal solely with the aforesaid urgent cases, was repealed. On the other hand, pursuant to Article 15zsz1 of the COVID-19 Act added by Article 46(21) the Shield 3.0 Act, it is possible to conduct trials and open hearings in cases of all kinds provided that the health of their participants is not overly endangered. If there is a danger to the health of the participants, the trial or hearing may be conducted remotely, using technical equipment ensuring the simultaneous transmission of images and sound, even without such persons being required to appear at the court building. Moreover, the presiding judge may also order a hearing to be conducted behind closed doors if they consider that the case needs to be dealt with but conducting an open trial or hearing might cause the health of the participants to be overly endangered and such trial or hearing cannot be conducted remotely, and none of the parties objected to conducting a hearing behind closed doors within 7 days from being served a notice that the case had been moved to such hearing. If in a case examined according to civil procedure provisions the taking of evidence has been completed, the court may close the trial and issue a verdict on a hearing behind closed doors, having previously received the statements of parties to or participants of the proceedings in writing. If special circumstances are present,

when so ordered by the court president, members of the adjudicating panel may participate in a hearing using means of electronic communication, except for the final hearing of a trial.

Children are also protected against violence by solutions introduced by the Act of 30 April 2020 amending the Code of Civil Procedure and certain other acts (Journal of Laws, item 956). The bill of the act had been drafted by the Ministry of Justice. The act introduces measures to immediately isolate a violence perpetrator from the violence victim through the Police or Military Gendarmerie ordering the former to instantly leave the premises. At the same time, the guardianship court takes immediate action to determine whether it is necessary to take exercise custody of a child or prohibit the perpetrator from contacting them if they are the victim.

The president of the relevant court may order any case to be dealt with as urgent if failure to do so could result in endangering the life or health of persons or animals, serious damage to public interest or irreparable material damage, and also when the welfare of the justice system so requires (Article 14a(9) of the COVID-19 Act).

Regardless of the above, cases related to applications to apply, extend, change or lift pre-trial arrests are examined by courts regardless of whether the court is actually functioning or has limited its activities solely to dealing with urgent cases. In addition, under the COVID-19 Act, the Code of Criminal Procedure was supplemented with Article 258a, according to which if the accused prevents or hinders the execution of a preventive measure applied to them or has knowingly violated an obligation or prohibition related to applying such a measure, the court or public prosecutor is obliged to apply another preventive measure to guarantee that the original measure's objective can be effectively achieved.

The Ministry of Justice also attaches great importance to activities undertaken on behalf of victims of crimes, including children, notwithstanding the coronavirus epidemic, and takes a number of actions of both legislative and organisational nature, such as providing necessary aid through implementing programmes financed from the Victims and Post-Release Assistance Fund (Justice Fund) managed by the Minister of Justice, which focus on assisting victims and witnesses, preventing crime and providing post-release support, in order to counteract these negative occurrences.

Due to introducing the requirements listed in the regulation of the Minister of Health of 20 March 2020 on the announcement of the state of epidemic on the territory of the Republic of Poland (Journal of Laws 2020, item 491), considering the need to ensure that the health of minor witnesses, including minor victims of crime, eligible for the special mode of examination provided for in Articles 185a-185c of the Code of Criminal Procedure, the Ministry of Justice asked the managers of District Courts to provide information on meeting all sanitary requirements listed in the Notice of the Chief Sanitary Inspector of 20 March 2020 concerning the potential coronavirus infection risk with respect to premises used to hear minor witnesses, including crime victims, eligible for the special mode of examination provided for in Articles 185a-185c of the Code of Criminal Procedure, and also notified them of the need to adapt such premises to sanitary requirements necessary to conduct the aforesaid activities in a manner ensuring the safety of their participants. The answers provided suggest that in the majority of courts, i.e. 294 District Courts (out of a total of 318)

and 43 Regional Courts (out of a total of 45), such rooms meet the sanitary and technical requirements specified in the CSI document. 10 courts reported difficulties on meeting sanitary requirements in technical premises. A circular was also sent to court presidents (of 18 District Courts and 2 Regional Courts) who voiced concerns about managing examinations of minors, reminding them about the rules governing the examination of minor witnesses and the ability to use premises in other units, and ordering them to remedy any discovered shortcomings and submit a notice on activities undertaken.

It should be stressed that anyone affected by a crime, especially children, can receive assistance from the Victims and Post-Release Assistance Fund (Justice Fund) established pursuant to Article 43 of the Penal Enforcement Code of 6 June 1997 (Journal of Laws 2020, item 523, hereinafter “PEC”). The Justice Fund, managed by the Minister of Justice, is a state special purpose fund focused on assisting victims and witnesses, preventing crime and providing post-release support. Means from the Justice Fund are used for, among others, providing medical, psychological, rehabilitation, legal and material aid. Such aid is implemented by non-profit units from outside the public finances sector, including associations, foundations, organisations and institutions. The Justice Fund means had also been used to operate a hotline supporting victims of crime, including children. Under the Justice Fund scheme, ongoing aid is granted to victims and their significant others via 351 centres operating within the Crime Victim Support Network. These include both persons who applied for aid before the state of epidemic was announced and those applying now. The state of epidemic notwithstanding, actions are still conducted, including in social media, to promote the places and contact addresses where crime victims, including children, can directly apply for help.

Because of the situation caused by the state of epidemic threat or state epidemic announced because of COVID-19, no changes have been made to the Criminal Code as regards provisions penalising acts against sexual liberty and decency, as well as to the Code of Criminal Procedure, to prosecute the perpetrators of crimes, including crimes against sexual liberty or decency, whose victim is a minor. The former provisions remain in force, and their regulations are used to react to any forms of sexual exploitation of children effectively and to protect the victims.

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Responses to specific questions by the Bureau of the Lanzarote Committee on the impact of the Covid-19 pandemic on the protection of children from sexual exploitation and sexual abuse

- 1. To what extent, if at all, has the threat of child sexual abuse/exploitation changed due to COVID-19? If so:**
 - Please tell us about whether the level of risk has increased/decreased/remained the same and if possible specify this with regard to the various types of sexual offences against children (Articles 18-23 of the Convention);**

- You may also wish to indicate any emerging trends relating to child sexual abuse/exploitation, as the result of COVID-19, and point at measures taken to address them.

No information received.

2. Did lockdown cause child sexual abuse/exploitation cases (identified/reported) to increase, decrease or stay the same? Please submit data (number of victims/offenders) and highlight what you think may explain the trend.

No information received.

3. Please also tell us whether and how general child safeguarding measures were, or are likely to be, affected by measures taken by governments in response to COVID-19. In addition, highlight any additional, specific measures put in place during lockdown to ensure reporting by victims of child sexual abuse/exploitation as well as to support and assist them, and whether these measures will be maintained even when the lockdown is lifted.

No information received.

4. Finally, please tell us whether children have been duly listened to on decision-making concerning their protection against sexual abuse/exploitation during this period. Please also tell us whether and how children will be involved in decision-making on or assessing the impact of COVID-19 measures in the future.

No information received.