Gap Analysis of Pilot Countries legislation, policies and practices

Background and Guidance

Project Title	End Online Child Sexual Exploitation and Abuse @ Europe
Implementation	Children's Rights Division
Activity Duration	April 2019 - November 2019
Project Beneficiaries	All 47 Council of Europe member states
	Focus countries: Albania, Bosnia and Herzegovina, Georgia, Republic of Moldova, Montenegro, Serbia, Turkey.
	Pilot countries: Armenia, Azerbaijan and Ukraine

Prepared by the Children's Rights Division

Directorate of Anti-Discrimination

BACKGROUND

The [UN Convention on the Rights of the Child,](#) furthermore requires States to take all appropriate measure to protect the child from all forms of violence, including protection from all forms of sexual exploitation and abuse.[1] The [Optional Protocol to the Convention on the Rights of the child on the sale of children, child prostitution and child pornography](#) outlines the substantive criminal law and child-friendly procedures necessary to effectively respond to OCSEA. World leaders have reiterated their commitment to end all forms of violence and abuse of children by 2030, as part of the UN Sustainable Development Goals, in particular SDG 16.2 (End abuse, exploitation, trafficking and all forms of violence and torture against children).

The [Council of Europe Strategy for the Rights of the Child (2016-2021)](#) identifies priority areas for action including a life free from violence for all children and the rights of the child in the digital environment, including the need to address OCSEA through effective implementation of its particularly pertinent legal instruments.

The Council of Europe [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (Lanzarote Convention) and the Council of Europe [Convention on Cybercrime (Budapest Convention)](#) provide comprehensive benchmarks to prevent and combat OCSEA. To assist member states to effectively uphold the rights of the child in the digital environment, including effective protection from OCSEA, the [Council of Europe CM/Rec(2018)7 Guidelines to respect, protect and fulfil the rights of the child in the digital environment](#) also provides practical guidelines for victim-focused policing, public-private partnerships, awareness-raising activities, prevention strategies and provision of effective remedies for violations of the rights of the child.

Upholding the rights of the child in the digital environment is a shared responsibility that requires a combination of public and private, legal and voluntary measures as well as the participation of children in the development, implementation and evaluation of measures. Risks of sexual exploitation and abuse, solicitation for sexual purposes (grooming), online recruitment of children for trafficking purposes, exposure to degrading and stereotyped portrayal and over-sexualisation of women and children as well as adult content, sexual harassment, non-consensual dissemination of sexual images, extortion and hate speech are identified as being among the risks facing children.[2]

Regular research, monitoring and evaluation of the threat of OCSEA are necessary to improve national and international responses to ensure that actions to prevent and combat OCSEA are effective against new and emerging trends.

In this context, building on recent studies,[3] and on-going research relevant to this area,[4] the Council of Europe will undertake a gap analysis in the pilot countries of the project (Armenia, Azerbaijan and Ukraine).

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[1] UN Convention on the Rights of the Child, Articles 19 and 34.

[2] The [Council of Europe Guidelines to respect, protect and fulfil the rights of the child in the digital environment CM rec (2018)7](#) Paragraph 51.

[3] Cybercrime Convention Committee mapping study on cyberviolence available at: https://rm.coe.int/t-cy-2017-10-cbg-study-provisional/16808c4914

[4] Lanzarote Committee Current Monitoring round on *The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs),* States replies to thematic questionnaire available at: https://www.coe.int/en/web/children/2nd-monitoring-round

OBJECTIVES

This gap analysis will support member states to analyse and review legislation, policies and practices and to enhance multi-stakeholder co-operation to develop or strengthen national policies/strategies or action plans to prevent and combat OCSEA. These activities will be implemented in close co-operation with relevant actors at national and local level with a view to strengthening multi-sectorial co-operation and co-ordination.[5]

The review of national legislation and policies will identify areas to improve compliance with relevant international standards, including the Lanzarote Convention and the Convention on Cybercrime, as well as international guidance including the WePROTECT Model National Response.

The gap analysis will combine both desk research and fact-finding visits to meet with a multi-sectorial group of stakeholders, to ensure a holistic evaluation of the legislation, policies and practices. Findings of the gap analysis will be refined following discussion at national workshops.

The gap analysis will be complementary in nature to the baseline mapping activity which will be in essence quantitative. Therefore, the substance of the gap analysis should be qualitative, offering insights for guidance towards means of improving legislation, policies, and practices, through close contact with national experts and key factors involved.

METHODOLOGY

- Desk research;
- Fact-finding visit;
- Discussion on preliminary findings at national workshop;
- Final report, taking into account findings of national workshop;

The provider will work in close collaboration with national and local experts to prepare the initial desk research, fact-finding visit, national workshop and final report. The fact-finding with relevant stakeholders will serve to gather additional information and complement the desk-research. The stakeholders interviewed during the fact-finding visit should cover a wide spectrum of actors involved in the whole spectrum of tackling OCSEA, from: Ministries, law enforcement, judges and prosecutors, child welfare, NGO's, education, private companies etc. The international consultant will assess the following points:

- Legal and policy frameworks in relation to OCSEA, including as regards relevant international and Council of Europe conventions;
- Practical implementation of national legal and policy frameworks in relation to OCSEA, in particular for victim-support, child-victim focused investigations and criminal proceedings;
- Structures and mechanisms for multi-sectorial co-operation in relation to OCSEA, including reporting and referral mechanisms;
- Multi-sectorial co-operation in practice including between: Ministries of Interior, Justice, Social Welfare/Children's Services, Education, Health, Telecommunications, Law enforcement authorities, judicial authorities, non-governmental organisations, technology/ICT industry and other relevant industry

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[5] WePROTECT Global Alliance *Model National Response* (2016),capabilities 1, 2 and 3, available at: https://www.weprotect.org/the-model-national-response

sectors (such as tourism), faith-based organisations; and other specialist agencies working on OCSEA and violence against children.
- Specific training on OCSEA available to relevant actors involved in the multi-sectorial response including for child protection authorities, law enforcement agencies, judges and prosecutors.

EXPECTED RESULTS

A report will be produced and shared among participating countries to:
- Identify promising practices;
- Identify legal and policy gaps;
- Identify recommendations to improve legislation, policy and multi-stakeholder responses;
- Establish a roadmap to strengthen national frameworks to prevent and combat OCSEA, including through enhanced multi-sectorial co-operation.

TIMEFRAME

The schedule is as follows:
- May/July 2019 – Preliminary desk research and Fact-finding visits in Pilot countries;
- September/ October 2019 – Preliminary report on gap analysis examined and refined at national workshops in Pilot countries.
- November 2019 – publication of final report.