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## **LANZAROTE COMMITTEE**

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

.....  
**Special report**

**PROTECTING CHILDREN  
AFFECTED BY THE REFUGEE CRISIS  
FROM SEXUAL EXPLOITATION AND SEXUAL ABUSE**

Adopted by the Lanzarote Committee on 3 March 2017

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## Executive Summary

1. This Special Report is the outcome of an urgent monitoring round launched by the Lanzarote Committee to focus on how Parties to the Lanzarote Convention are protecting children affected by the refugee crisis from sexual exploitation and sexual abuse. It covers the situation in the 41 States which were Parties to the Convention at the time the urgent submission for a report was called for by the Lanzarote Committee.
2. The Special Report draws on replies from the Parties to the Lanzarote Convention and other stakeholders to a focused questionnaire. This questionnaire sought to evince answers that would allow the mapping of the Parties' responses to the increased risks of sexual violence that confronts children affected by the refugee crisis. Information was sought on four broad topics: 1) Data; 2) Prevention; 3) Protection; and 4) Co-operation.
3. A number of the systemic challenges that have been brought into sharp focus by the increased numbers of people arriving in Europe looking for international protection are raised by the Report. These challenges can have particularly worrying consequences for children affected by the refugee crisis, exposing them to a risk of sexual exploitation and sexual abuse. They are particularly pertinent for both those children who arrive in Europe unaccompanied, and those who go missing after arrival, with their heightened vulnerability posing an increased risk of them falling victim to sexual violence. The Lanzarote Committee commends Parties who have put in place procedures to address such challenges.
4. The Special Report regrets that it remains the case that data collection is sporadic and non-comprehensive across Parties. It is probable that the number of instances of sexual exploitation and abuse is significantly underreported. There are no specific data collection mechanisms or focal points tasked with collecting data on child sexual exploitation and abuse within the context of the refugee crisis. Reasons explaining the difficulties in capturing such data cut across a number of sectors such as limited capacity, insufficient training, abuse not reported due to linguistic or trust issues, or practical difficulties in establishing the number of migrant children on the territory. It is clear that more accurate data would help all relevant actors and stakeholders frame, adjust, and evaluate policies in this field.
5. The uneven distribution across the continent of children affected by the refugee crisis is stark, with some Parties reporting very few or no such children on their territories, whereas other Parties are receiving thousands of such children. Therefore some Parties' child support services are bearing a disproportionately large burden, while others have not tested the implementation of their child protection approaches in this context.
6. Reception centres need to provide adequate protection for children, with prolonged stays in inappropriate conditions increasing a child's risk of exposure to sexual exploitation or sexual abuse. Parties have taken steps to improve the available facilities and lodging solutions for children, and work in this sphere must continue to ensure that children can be helped and assisted in a non-traumatising environment. It is reiterated that unaccompanied children should be separated from adults in reception centres, and that robust complaint mechanisms to report abuse must be effective.

7. Parties have indicated that a number of children go missing from reception facilities. This is of concern, and steps to identify the children that are at particular risk of going missing and to develop specific protocols to support those children to avoid their disappearance are needed to confront this. A number of Parties are implementing methods to avoid that children go missing through increased co-operation between relevant authorities to record and trace disappearances. These efforts could be further fortified by transnational development of common strategies and procedures.

8. The Committee notes that numerous challenges need to be met to ensure effective preventive measures are taken to target the specific needs of children affected by the refugee crisis. Culture and language differences can pose problems for Parties when screening children for signs of sexual exploitation and abuse, and for transmitting relevant information and advice. Appropriate arrangements should be made to ensure that children receive information on their rights, on care facilities and on procedures available to them in a language they understand, that is culturally and gender appropriate. Equally, all personnel (professional or voluntary) that come into contact with children should be adequately trained, and screened in order to give the best possible protection to children affected by the refugee crisis.

9. Specific recommendations by the Lanzarote Committee on steps to improve or reinforce the protection of children affected by the refugee crisis against sexual exploitation and sexual abuse in the areas covered by this report are found in each chapter. All chapters also highlight a number of promising practices. Co-operation between all relevant stakeholders, including civil society, is essential to ensure that effective measures against child sexual abuse are enacted.

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## INTRODUCTION

1. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“Lanzarote Convention”) provides that a specific monitoring mechanism be set up to ensure an effective implementation of its provisions by Parties (Article 1§2), namely the Committee of the Parties to the Lanzarote Convention (the “Lanzarote Committee” or “the Committee”).

2. When the Lanzarote Committee “receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention, it may request the urgent submission of a special report concerning measures taken to prevent possible serious or persistent cases of sexual exploitation and sexual abuse against children in any Party or Parties to the Convention”. This is stipulated in [Rule 28](#) of the Lanzarote Committee’s Rules of Procedure which refers to special reports and urgent situations. The current report was prepared in this context.

### The urgent situation at stake

3. In March 2016 the Council of Europe’s Secretary General called for a series of [priority actions to protect children affected by the refugee crisis](#).<sup>1</sup>

4. In this context and in light of the high number of children affected by the refugee crisis who have arrived and continue to arrive in Europe and being aware that many may be or become victims of sexual exploitation and sexual abuse, the Lanzarote Committee decided, at its [15<sup>th</sup> meeting](#) (14-17 June 2016), on the need to make urgent requests for information on the basis of the aforementioned Rule 28 (Special reports and urgent situations) of its Rules of Procedure. It requested all Parties to the Lanzarote Convention<sup>2</sup> to reply to a few focused questions (see Appendix I) to map the ways in which the risks of sexual exploitation and sexual abuse of children arising in the context of the refugee crisis are being dealt with by Parties. The Lanzarote Committee also agreed that in view of the urgency of the situation, Parties to the Lanzarote Convention were asked to submit their replies to the focused questionnaire to the Secretariat of the Lanzarote Committee no later than 15 September 2016.

5. The current report assesses the replies received, in particular in order to examine whether and to what extent Parties apply their existing overall protection framework and measures against sexual exploitation and sexual abuse to children affected by the refugee crisis. It also takes stock of the introduction of specific measures to address the situation of these children and analyses them. The report highlights both the major challenges identified as well as promising practices to tackle such challenges. Where

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<sup>1</sup> See document SG/Inf(2016)9 final of 4 March 2016.

<sup>2</sup> The following 41 States were parties to the Lanzarote Convention at the time of the launching of this urgent monitoring round: Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, The Netherlands, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovenia, Slovak Republic, Spain, Sweden, Switzerland, “The former Yugoslav Republic of Macedonia”, Turkey and Ukraine.

appropriate it puts forward recommendations as to specific steps that might be taken to warrant an effective protection of children affected by the refugee crisis from sexual exploitation and sexual abuse and suggests priority areas for targeted cooperation, bilateral and multilateral, to fully guarantee the protection of the human dignity, the safety, and the physical and psychological integrity of these children.

6. It should be highlighted that Parties were asked to answer the questions from a gender perspective, i.e. specifying, where relevant, whether and how measures take into account gender-specific requirements.

### **Preliminary remarks**

7. The Committee appreciates that all the information submitted by the Parties and other stakeholders was made public and underlines that the replies to the questionnaire were its main source of information to prepare this report.<sup>3 4</sup> In this respect the Committee highlights that information was received on the situation in Council of Europe member States which are not yet Parties to the Lanzarote Convention (sent by State authorities of Armenia, Estonia<sup>5</sup> and Norway and by other stakeholders such as UNHCR-Armenia). The Committee appreciates and welcomes these contributions which have provided it with a broader picture of the situation.

8. The Committee wishes to pay tribute to those representatives of civil society and other stakeholders which submitted replies to the questionnaire and in so doing enriched the Committee's sources of information (in particular the European Network of Ombudspersons for Children (ENOC), "Hope For Children" CRC Policy Center, ENOC-Bosnia and Herzegovina, ECPAT-France, The Defender of Rights (*Défenseurs des droits*) in France, the Dutch Police Union, and SICAR.cat Programme of Spain).

9. Finally, it should be underlined that this report also takes into consideration several other sources of information which bring a fuller picture of the situation at stake, in particular reports of the Special Representative on Migration and Refugees of the Secretary General of the Council of Europe<sup>6</sup> and reports adopted in the context of the United Nations and European Union. A full list of these contributions appears in Appendix III.

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<sup>3</sup> All replies to the questionnaires are online at [www.coe.int/lanzarote](http://www.coe.int/lanzarote) under "Monitoring" – "Urgent monitoring round: Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse" – "State replies" – "Replies from other stakeholders" and "Replies per question".

<sup>4</sup> A table with the dates of submission of the replies to the questionnaire appears in Appendix II.

<sup>5</sup> At the time the urgent monitoring round was launched, Estonia was not yet a Party to the Lanzarote Convention and, as such, was under no obligation to reply to the questionnaire.

<sup>6</sup> [Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Greece and "the former Yugoslav Republic of Macedonia", 7-11 March 2016, Information Documents SG/Inf\(2016\)18](#) and [Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May – 4 June 2016, Information Documents SG/Inf\(2016\)29](#).

## Structure of the report

10. This report has 4 main chapters:

- Children concerned by this report
- Prevention and protection
- Co-operation
- Data collection and co-ordination

11. Each chapter:

- provides a comparative overview of the situation in the 41 Parties monitored, whilst country-specific summaries of the information are appended to the report in the form of tables;<sup>7</sup>
- highlights promising practices identified by the Committee to effectively implement the Convention;
- identifies shortcomings and recommends steps that Parties should take to improve or reinforce the protection of children affected by the refugee crisis against sexual exploitation and sexual abuse, in particular common challenges shared by all Parties.

12. Finally, in its recommendations to Parties, the Lanzarote Committee uses the verbs to “urge”, “consider” and “invite” to mark different levels of urgency as follows, as in its previous report:

- “Urge”: when the Lanzarote Committee assesses that legislation or policies are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking;
- “Consider”: when the Lanzarote Committee agrees that further improvements are necessary in law or in practice to fully comply with the Convention;
- “Invite”: when the Lanzarote Committee believes Parties are on the right track but it wishes to point at one or several promising practices to reinforce the protection of children affected by the refugee crisis against sexual exploitation and sexual abuse.

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<sup>7</sup> See Appendix IV.



## I CHILDREN CONCERNED BY THIS REPORT

13. This part of the report intends to clarify the scope of the report and the meaning of the formula “children affected by the refugee crisis”.

14. The report below should be read bearing in mind that according to Article 3 of the Lanzarote Convention:

- a) “child” shall mean any person under the age of 18 years;
- b) “sexual exploitation and sexual abuse of children” shall include the behaviour as referred to in Articles 18 to 23 of the Convention;<sup>8</sup>
- c) “victim” shall mean any child subject to sexual exploitation or sexual abuse.

### I.1 Provision of protection and assistance measures for children exposed to sexual exploitation and sexual abuse pending verification of their age

15. In the specific context of the refugee crisis, it is worth highlighting that Article 11§2 of the Lanzarote Convention provides that when the age of a victim of sexual exploitation and sexual abuse is uncertain and there are reasons to believe he/she is a child, the protection and assistance measures provided for children shall be accorded to him or her pending verification of his or her age.

#### **Article 11§2 – Principles**

(...)

2 *Each Party shall take the necessary legislative or other measures to ensure that when the age of the victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance measures provided for children shall be accorded to him or her pending verification of his or her age.*

#### **Explanatory Report**

88. *The point of paragraph 2 is that, while children need special protection measures, it is sometimes difficult to determine whether someone is over or under 18. Paragraph 2 consequently requires Parties to 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, they must be given the special protection measures for children.*

16. The issue of age verification is of crucial importance in order to identify and delimit who are the recipients of the rights enshrined in the Convention, in particular in the context of protection (e.g. to ensure that children are separated from adults in asylum facilities, see [Section II.2.3](#)). Indeed, on the one hand, it is important that children should not be denied protection, and, on the other hand, it is equally important to avoid that adults claim to be children in order to benefit from the protection afforded to children, such as dedicated accommodation, with the additional risk that children housed in these facilities be sexually abused by these adults. In a large majority of cases, when a person claims to be a child, Parties accept this. In the remaining situations, Parties start the

<sup>8</sup> These are the substantive criminal law provisions in Chapter VI of the Lanzarote Convention which cover sexual abuse (Article 18), offences concerning child prostitution (Article 19), child pornography (Article 20), participation of a child in pornographic performances (Article 21), corruption of children (Article 22) and solicitation of children for sexual purposes (Article 23).

procedure of age verification.

17. The Lanzarote Convention is very clear on the fact that in case of doubt about the age of a person, Parties are asked to grant him or her the same type of protection and assistance as those provided for children pending age verification. The principle of the benefit of the doubt should therefore apply to these persons until it is proven that they are not children.

18. In **Hungary**, persons who are subject to age verification procedures are treated as adults until the end of the age verification procedure and, in particular, risk detention and would remain unprotected, with no assistance measures. Hungary, therefore, does not apply the principle of the benefit of the doubt during the age verification procedure<sup>9</sup>, which is a major concern for the Lanzarote Committee. On the contrary, once the age verification procedure is over and if doubts about the age of the person remain, Hungary applies the principle of the benefit of the doubt and the person is regarded as a minor. In addition, following legislative changes in Hungary in 2016, detainees claiming to be underage have to bear the costs of their age verification.

19. The Lanzarote Committee is not in a position to monitor age verification practices<sup>10</sup> of its Parties as this would go beyond its mandate. It nevertheless takes note of the decision taken by the Committee of Ministers of the Council of Europe on 18 May 2016 encouraging the Secretary General of the Council of Europe to propose priority actions to protect unaccompanied and other children affected by the migrant and refugee crisis, in particular concerning standards on age assessment<sup>11</sup>.

### **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- urges **Hungary** to take the necessary legislative or other measures to ensure that the principle of the benefit of the doubt is adequately applied and adequate protection and assistance measures are provided in line with the Lanzarote Convention to individuals pending verification of their age when there are reasons to believe that they are children;
- invites Parties to actively participate in the work undertaken within the Council of Europe for the development of standards on age verification and to ensure that those are built, where appropriate, taking into account the requirements of Article 11§2 of the

<sup>9</sup> The European Union Agency for Fundamental Rights (FRA), Key migration issues: one year on from initial reporting (<http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-one-year>), October 2016, p.4 and p.8.

Also UNHCR, Progress Report mid- 2016, Beyond Detention, A Global Strategy to support Governments to end the detention of asylum-seekers and refugees 2014-2019, pp. 43-46. (<http://www.unhcr.org/protection/detention/57b579e47/unhcr-global-strategy-beyond-detention-progress-report.html>).

<sup>10</sup> In this context, information may be found in the following: European Asylum Support Office (EASO), [Age assessment practice in Europe](#), December 2013, 89 pages (an update is underway).

<sup>11</sup> [Decision "Responding to the refugee crisis"](#), adopted at the 126th Session of the Committee of Ministers, Sofia, 18 May 2016, Item 2c, and [Follow up \(25 May 2016\)](#).

Lanzarote Convention and the findings of this monitoring cycle in order to protect children exposed to sexual exploitation and sexual abuse.

20. The Lanzarote Committee is aware that some children affected by the refugee crisis prefer to be identified or registered as adults for a variety of reasons. Some do not want to be treated as children, in order to be able to live on their own and not in foster care families or other forms of alternative care. Others receive misleading information on possible returns to their country of origin. They may also be convinced by smugglers that being considered as adults is the best option for them. Some children who have declared that they were adults do not want to retract this declaration and say that they are children because they fear prosecution for giving false statements. Others, who get close to the age of majority, prefer to run away from care because they are persuaded that the rules protecting them as children will soon no longer apply and that, in some cases, they might risk being sent back to their country of origin<sup>12</sup>. These situations might exacerbate the risk of children falling into the hands of traffickers or other criminals, and make it much more difficult for the authorities to protect them from falling victim to sexual exploitation and sexual abuse.

### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to inform all children, in a child friendly manner, of their rights as children, including the types of alternative care offered to them, in order to prevent children from being declared as adults and to protect them from the inherent risks of being considered as adults.

## **I. 2 Children “affected by the refugee crisis”**

21. The children “affected by the refugee crisis” in this report covers migrant and asylum seeking children (as per the 1951 Convention Relating to the Status of Refugees). This also covers children who have been granted refugee status, and those children who have had (or their parents have had) an application for international protection rejected.

22. The formula “children affected by the refugee crisis” does not cover those children who were already residing in the country before the refugee crisis, be they nationals or foreigners. The Lanzarote Committee acknowledges that, in some circumstances, children already in the country may be indirectly affected by the refugee crisis in a variety of ways (for example as a victim of sexual abuse by a person who came to the country because of the refugee crisis; or because of the impact on them of strengthened national immigration policies, such as facilitated repatriation to country of origin, or reduction in social aid, coming as a consequence of the refugee crisis). This report does not cover these situations, despite their importance.

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<sup>12</sup> UK House of Lords, European Union Committee, 2nd Report of Session 2016-17, [“Children in crisis: unaccompanied migrant children in the EU”](#), §193.

### I.3 Accompanied / unaccompanied children<sup>13</sup>

23. The definitions of accompanied/unaccompanied children given by the Parties are based on legislation or practice, or both, and coincide roughly with those given in international standards and by international bodies such as the United Nations High Commissioner for Refugees (UNHCR) and the European Union.

#### ***Unaccompanied children - Definitions***

“Unaccompanied children (or unaccompanied minors) are children who have been separated from both parents and relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.”

*([UNHCR Guidelines on Formal Determination of the Best Interests of the Child](#))*

“(i) ‘minor’ means a third-country national or a stateless person below the age of 18 years;

(j) ‘unaccompanied minor’ means a minor who arrives on the territory of the member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;”

*(Article 2 – Definitions – of the [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the member State responsible for examining an application for international protection lodged in one of the member States by a third-country national or a stateless person (recast), also called the “Dublin regulation”)*

24. Parties apply differing interpretations of the notion of the adult who accompanies the child. Some repeat the above-mentioned provision of the Dublin regulation without specifying how this notion is interpreted in practice (**Bulgaria, Hungary, Republic of Moldova, Portugal, Spain**). Others include only those adults who have parental care or custody/guardianship (**Belgium, Croatia, Latvia, Lithuania, Montenegro**). Others also include “other adults who can replace the parents” (**Denmark**), “any persons entitled to bring them up” (**Germany**), “persons who are closely related to the child (parents, adult brother/sister, grandparents, uncles or aunts) and who are responsible for the child” (**Liechtenstein**), “his/her parents or other adult person to whose personal care he/she may have been entrusted” (**Slovak Republic**). Some Parties, such as **Switzerland**, have a flexible operative definition based on a case-by-case approach.

<sup>13</sup> The formula “separated children” is also of use in cases when children are accompanied by other adult, but not by their primary caregiver. See The European Union Agency for Fundamental Rights (FRA), Separated, asylum-seeking children in European Union Member States (available at: <http://fra.europa.eu/en/publication/2012/separated-asylum-seeking-children-european-union-member-states>) and Separated Children in Europe Programme (at: <http://www.separated-children-europe-programme.org/>).

### **Example of a flexible definition**

Children who arrive in **Switzerland** with their parents are considered as “accompanied” children (the concept of parents includes not only the biological mother and father, but also adoptive parents). According to the practice of the Secretariat of State for Migration (SEM) (it should be noted that this practice has not been invalidated by the Federal Administrative Court), a child who arrives in Switzerland with a close adult relative must only be considered accompanied if the relative lived in the same household as the child in the country of origin and on condition that the adult took charge of and was responsible for the child. Under certain circumstances, a foreign child who joins a close relative in Switzerland, or who arrives at the same time as a close relative without, however, having lived in the same household, can be considered as accompanied. This necessitates that the close relative should accept responsibility for and supervision of the child during their stay in Switzerland, that this solution should be best suited to the interests of the child and that the relative in question has officially been appointed as legal representative by the competent authority. As a general rule, children arriving in Switzerland with other persons unrelated to them are considered as unaccompanied. (See: Asylum and Return Handbook (*Manuel Asile et retour*)<sup>14</sup>, and Directive of 1 January 2008 on the asylum procedure of the Federal Department of Justice and Police, State Secretariat for Migration (*Directive du 1 janvier 2008 relative à la procédure d’asile du Département fédéral de justice et police, Secrétariat d’Etat aux migrations*).<sup>15</sup>

25. In some Parties, authorities do not systematically take measures to verify family links<sup>16</sup> or to verify who the adult who accompanies the child is. According to the information collected by the European Union Agency for Fundamental Rights (FRA) “Identifying and protecting separated children – children who are accompanied by adults who are not their parents or primary caregivers – is a challenge in many Member States”.<sup>17</sup> It may indeed be the case that the adult who accompanies the child is, in fact, a trafficker or a smuggler posing as a family member.

### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to systematically verify family links of the children affected by the refugee crisis with the adults who accompany them, and particularly to verify who these adults are, in order to protect these children against possible sexual abuse or sexual

<sup>14</sup> Available at: <https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/c/hb-c10-f.pdf>

<sup>15</sup> Available at: [https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/asyl/asylverfahren/1\\_asylverfahren-f.pdf](https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/asyl/asylverfahren/1_asylverfahren-f.pdf), in particular ch. 1.3.1

<sup>16</sup> See The European Union Agency for Fundamental Rights (FRA), “Thematic Focus: Children” (<http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-children#children-at-risk>), March 2016.

<sup>17</sup> See The European Union Agency for Fundamental Rights (FRA), [Key migration issues: one year on from initial reporting](#), October 2016, p.4 and “Thematic Focus: Separated Children” ([http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-december-2016-monthly-migration-report-separated-childr.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-december-2016-monthly-migration-report-separated-childr.pdf)), December 2016, p. 4.

exploitation and in order to determine whether they are accompanied or not and in the latter case to provide them with the necessary protection from sexual exploitation and sexual abuse.

#### **I. 4 Number of children affected by the refugee crisis**

26. It is essential to have reliable data on the number of children affected by the refugee crisis and on the number of those children that have been sexually abused and/or exploited, at any time of their journey. Indeed, this helps Parties to develop a solid mechanism for helping and supporting the child victims, to establish appropriate preventive and reporting mechanisms, to assess the level of risk for children and to frame, adjust and evaluate policies and measures in this field.

27. Children affected by the refugee crisis may be either seeking asylum or not. Data on the former usually exists whereas data on the latter is often lacking.

##### **I. 4. 1 Number of asylum-seeking children**

28. Most Parties have been able to provide some data on the number of asylum-seeking children for the period between 1 July 2015 and 30 June 2016. This is explained by the fact that persons seeking asylum must register and that, accordingly, data is available.

29. There is no aggregated data available at Council of Europe level. Eurostat, nevertheless, provides information concerning the EU-28. In this context, there were 1,442,245 first-time non-EU asylum applicants (adults and children) in the period July 2015 to June 2016. When considering only those of the members of the European Union which are Parties to the Lanzarote Convention<sup>18</sup>, this figure decreases to 1,313,185.<sup>19</sup> According to the European Network of Ombudspersons for Children (ENOC),<sup>20</sup> in 2015, at least 337,000 children were registered as asylum seekers in the EU member States, 88,300 of which were unaccompanied. Evidence suggests that most unaccompanied children in the EU are 16-17 year-old boys.<sup>21</sup> The increased proportion of children applying for asylum who are unaccompanied is a rising concern since unaccompanied children are particularly vulnerable and exposed to a higher risk of sexual exploitation and sexual abuse compared to accompanied migrant children.

30. The range in the numbers of asylum-seeking children for the period under review (1 July 2015 to 30 June 2016) differs widely from one Party to another. For instance, **Andorra** and **Bosnia and Herzegovina** have no asylum-seeking persons (adults and children) on their territories. Some Parties have only a few asylum-seeking children on

<sup>18</sup> The 3 members of the European Union which are not Parties to the Lanzarote Convention are: Estonia, Ireland and the United Kingdom

<sup>19</sup> Eurostat, Asylum quarterly report; data extracted on 21 September 2016, (<http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>)

<sup>20</sup> European Network of Ombudspersons for Children (ENOC), Taskforce Children on the move, "[Safety and fundamental rights at stake for children on the move](#)", 2016

<sup>21</sup> Eurostat, Asylum quarterly report, data extracted on 21 September 2016, (<http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>)

their territories (10 in **Montenegro** and in **Ukraine**; 18 in the **Republic of Moldova**; 25 in **Albania**; 34 in **Liechtenstein**; 73 in Lithuania, 97 in **Latvia**; 112 in **Croatia**; 116 in **Portugal**; 118 in **Iceland**; 215 in **Romania**; 231 in the **Russian Federation** (in 2015 only); 236 in **Georgia**; 250 in **Slovenia**; 400 in the **Czech Republic**; 704 in **Cyprus**; 766 in **Luxembourg**). Other Parties welcome much larger numbers of asylum-seeking children (5,837 in **Spain**; 7,038 in **Denmark**; 7,193 in **Poland**; 11,127 in **Italy** (in 2015 only); 13,140 in **Belgium**; 15,337 in **Switzerland**; 18,330 in the **Netherlands**; 36,729 in **Hungary**; 41,910 in **Austria**; 65,350 in **Sweden**; 137,479 for the whole 2015 and 134,615 from January to June 2016 in **Germany**. **Turkey** does not specify the number of asylum-seeking children on its territory – even if it provides data on the number of Syrian children (see §34). **France** indicates that 15,454 children applied for asylum in 2015 (14,612 in 2016, provisional data). **Serbia** says that the number of asylum-seeking children is unknown to the authorities.

31. The Lanzarote Committee underlines the difficulties in trying to compare situations which are barely comparable because of the important differences in the number of asylum-seeking children on the Parties' territories. On the one hand, many of the Parties not affected by the refugee crisis seem not to have taken any specific measures; on the other hand, those heavily impacted have difficulties in coping with the situation.

#### **I. 4. 2 Number of other children affected by the refugee crisis**

32. Most Parties do not provide data (neither exact data nor estimates) on children affected by the refugee crisis who were not asylum-seeking.<sup>22</sup> The lack of data on the number of migrant children who are not seeking asylum may be explained by the fact that these children are, for the most part, not registered upon their entry to the territory, mainly because many enter irregularly. These children therefore remain outside the radar of the authorities, at least until the moment they are subject to some form of control (for example identity checks) in which case these children can be registered.

33. Studies show that a very large proportion of unaccompanied children (in some situations nearly half) are not seeking asylum<sup>23</sup>, mostly because they are still on their way to their final destination. The proportion is likely to be very different for accompanied children whose family may be more willing to accept to establish and seek asylum.

34. Parties which are entrance points to Europe are in a position to more readily identify the children (accompanied or not; seeking asylum in their country or not) who arrive on their territory. **Turkey** indicates that there were 1,213,289 Syrian children as of 4 August 2016 on their territory. In **Italy**, a total of 152,842 migrants arrived by sea in 2015, out of which 16,362 were children, including 12,272 unaccompanied children; in

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<sup>22</sup> "The former Yugoslav Republic of Macedonia" estimates that over 150,000 children transited through the country in the period from 1 July 2015 to 30 June 2016.

<sup>23</sup> The European Council on Refugees and Exiles (ECRE) noted that, in 2013, 12,770 unaccompanied migrant children entered the EU without seeking international protection, compared with 12,725 seeking asylum (cited in UK House of Lords-2nd Report - [Children in crisis: unaccompanied migrant children in the EU](#), §14)

2016, 181,436 migrants arrived by sea, 16% of which were children<sup>24</sup>. In **Greece**, there were 173,450 arrivals by sea in 2016, with 37% children (890,000 in 2015, with 34% children).<sup>25</sup> Other Parties may face difficulties in identifying children when they cross their borders, in particular those which are Parties to the Schengen Agreement on free movement of persons. Many of these children want to avoid any kind of registration while still on their way to their final destination because they fear being prevented from reaching it.

35. The inability to establish an accurate overview of the number of migrant children on their territory is of major concern to Parties. It can be recalled that, as for the UN Convention for the Rights of the Child which applies to each child within the State's jurisdiction (Article 2), the Lanzarote Convention provisions apply to all children. No discrimination in the implementation of the provisions of the Convention is acceptable (Article 2 of the Convention – Non-discrimination principle), whatever the legal status of the child concerned on the territory of the Party. In this respect, the Lanzarote Committee recalls that: "The reference to 'or other status' could refer, for example, to children of refugee or immigrant populations or 'street children' whose legal status is unclear"<sup>26</sup>. All the children affected by the refugee crisis (be they asylum-seeking children or not) who are within the Parties' jurisdictions should therefore be equally protected against sexual exploitation and sexual abuse as any other child.

#### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

In order to develop an efficient mechanism for helping and supporting the child victims of sexual exploitation and sexual abuse, invites Parties to:

- collect data on the following three categories of children: asylum-seeking children; unaccompanied children; overall estimated number of children affected by the refugee crisis in transit;
- share the practices of how to effectively collect data concerning children affected by the refugee crisis who are not seeking asylum in their country.

#### **I. 4. 3 The number of missing unaccompanied children**

36. According to evidence submitted by the European Commission,<sup>27</sup> up to 60% of unaccompanied children affected by the refugee crisis have gone missing from reception facilities in some EU countries. This phenomenon is of particular importance to the Lanzarote Committee since these children are at a higher risk to falling victims of sexual abuse and/or sexual exploitation. Estimating how many unaccompanied migrant children go missing is a particularly difficult task but the scale of the phenomenon is

<sup>24</sup> UNHCR, Refugees / Migrants Response – Mediterranean, Italy: <http://data.unhcr.org/mediterranean/country.php?id=105>

<sup>25</sup> UNHCR, Refugees / Migrants Response – Mediterranean, Greece: <http://data.unhcr.org/mediterranean/country.php?id=83>

<sup>26</sup> Explanatory report, §43.

<sup>27</sup> UK House of Lords, European Union Committee, Sub-committee on Home Affairs, "[Unaccompanied minors in the EU – Evidence Volume](#)", evidence given by the European Commission, p. 183.



alarming: 25% in **Sweden**; 80% in **Slovenia**<sup>28</sup>, 90 to 95% after spending 1 to 3 days in reception institutions in **Hungary** (data for February 2016)<sup>29</sup>, 5,222 missing children in the first 6 months of 2016 in **Italy** (out of 13,705 unaccompanied children)<sup>30</sup>. In **Germany**, the Federal Criminal Police (BKA) indicated that in July 2016, there were a total of 8,991 children who have gone missing after their initial registration (867 of them were under 13).<sup>31</sup> Having reliable data at European level is however a very difficult task, all the more so since many of the missing children may be counted twice or more as they may cross more than one border while continuing their route to their final destination.

37. The most important reason for disappearances reported by Parties is the fact that the final destination of these unaccompanied children is another country where they intend to meet parents, extended family members or friends. Other reasons include the fear of negative asylum application outcomes and thus the fear of return as well as the lack of willingness to go through age verification procedures with a view to determining their age.

38. The phenomenon of missing unaccompanied children is not sufficiently documented in the Parties. It is crucial for them to identify the children that are at particular risk of going missing and to develop specific protocols to support those children to avoid their disappearance. Concrete measures to prevent disappearances or facilitate tracing such as fingerprinting or the taking of photographs are proved to be efficient.

#### ***Promising practice***

Since 2015 it is possible to centrally evaluate all reports of missing children in **Austria** if the missing child is registered in the search facility EKIS. A registration in the EKIS is categorically done in every case of disappearance of a child. In addition, institutions in charge of children (such as the “*Drehscheibe Wien*” - an institution run by the municipal department No 11 of Vienna – and facilities that host refugee children in the various regions of Austria) have to report every child that disappears to the police.

<sup>28</sup> The European Union Agency for Fundamental Rights (FRA), “Thematic Focus: Children” (<http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-children#children-at-risk>), March 2016.

<sup>29</sup> The European Union Agency for Fundamental Rights (FRA), Monthly overviews for migration situation, March 2016 highlights, available at <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/february-2016>, quoted by Missing Children Europe, Facts and Figure (<http://missingchildreneurope.eu/facts&figures>)

<sup>30</sup> OXFAM-Italy Media Briefing, 8 September 2016: [http://www.oxfamitalia.org/wp-content/uploads/2016/09/MSNA-Sicilia\\_mediabrief\\_8-set-2016\\_FINAL\\_DEF.pdf](http://www.oxfamitalia.org/wp-content/uploads/2016/09/MSNA-Sicilia_mediabrief_8-set-2016_FINAL_DEF.pdf)

<sup>31</sup> Quartz, Nearly 9,000 unaccompanied refugee children have gone missing in Germany: <https://qz.com/768972/nearly-9000-unaccompanied-refugee-children-have-gone-missing-in-germany/> and The Telegraph, Fears many of 9,000 refugee children missing in Germany may have been co-opted in crime: <http://www.telegraph.co.uk/news/2016/08/29/fears-many-of-9000-refugee-children-missing-in-germany-may-have/>

**The European Union Agency for Fundamental Rights (FRA), Background note on ways to prevent unaccompanied migrant children from going missing, 2016**

What we can do to prevent disappearances?

1. First, ensure that all actors involved, including asylum and migration authorities, law enforcement, judicial and child protection authorities, work together.
2. Second, ensure that all such authorities fully respect the principle of the best interests of the child in all their actions. This means creating a safe environment for unaccompanied children, offering them care, and living conditions that meet their needs and vulnerabilities, and offer effective protection.
3. Third, redouble efforts to fight criminal networks smugglers and traffickers.

Four measures can significantly help reduce the number of missing unaccompanied children:

1. Provide quality reception and accommodation in foster care and small units in line with existing child protection standards such as the UN Alternative Care Guidelines.
2. Ensure prompt appointment of trained and qualified guardians for all unaccompanied children.
3. Build-up trust.
4. Consider measures to ensure prompt family reunification procedures and early identification and implementation of durable solutions.<sup>32</sup>

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to address the phenomenon of missing children affected by the refugee crisis in order to gain a better understanding of the situation which in turn would enable Parties to better tackle this issue and thus reduce the risks faced by these children of becoming victims of sexual exploitation and sexual abuse.

## **I. 5 Victim identification**

39. Identification of children affected by the refugee crisis who are (or have been) victims or presumed victims of sexual exploitation or sexual abuse is an essential step for authorities to be able to protect them and help them in the recovery process.

40. Several Parties refer to their practices in identifying child victims of sexual abuse and/or exploitation. In **Austria, Croatia** and **Finland**, for instance, special attention is dedicated during the first interviews with the asylum-seeking children to understand whether they could be victims of sexual exploitation and/or sexual abuse. Staff in refugee reception centres in **Lithuania** are trained to analyse children behaviour looking

<sup>32</sup> European Union Agency for Fundamental Rights (FRA), *Background note on ways to prevent unaccompanied migrant children from going missing*, April 2016, p.2, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-libe\\_missing\\_children\\_21\\_april\\_2016\\_background\\_note.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-libe_missing_children_21_april_2016_background_note.pdf)

at signs which could indicate that the child has been (or still is) sexually exploited or abused. In the private shelter for unaccompanied children run by “Hope for Children” CRC Policy Center in **Cyprus**, unaccompanied children pass through a two-stage comprehensive interview, first to gather, in particular, the traumatic experiences they may have lived, and, second, to assess whether the child is displaying any symptoms of any type of abuse, including sexual abuse, and post-traumatic stress. **Malta** indicates that holding regular one-to-one interviews with children to identify victims of sexual abuse and exploitation is also seen as an effective measure. **Bulgaria** uses the technique of a questionnaire for early identification of people with traumatic experiences seeking protection (PROTECT).

41. **Belgium** has developed indicators to identify victims of trafficking in human beings (sexual exploitation). These indicators are embedded in a ministerial guideline. A contact social worker (“*travailleur social référent*”) is in charge of assessing the individual needs of the asylum seekers. In **Spain**, a similar role is exercised by the figure of the “social partner” within the context of the fight against trafficking in human beings to promote cooperation and exchange of information. Similarly, in the units for children in **Finland**, each child is assigned a personal key worker, which may promote the creation of a trustful relationship to disclose difficult experiences.

42. In **Denmark**, public service providers such as asylum reception centre staff and professionals associated with asylum centre operators (e.g. teachers, health care professionals, social workers, etc.) are subject to strict obligations to notify the municipal authorities if they become aware of circumstances that give rise to the presumption that a child may need special support or may have been exposed to abuse. In **Germany**, the assessment of needs is compulsory for all unaccompanied children which have to undergo a “clearing procedure” conducted by the responsible youth welfare offices. The results of this procedure are recorded in an aid and assistance plan (“*Hilfeplan*”).

43. The asylum law of **Portugal** requires the establishment of a mechanism to identify the special needs and vulnerabilities of those asking for international protection. When such needs are identified, the request for international protection made by the child concerned is to be treated as a matter of urgent priority. The national health service, which is accessible to all children residing in Portugal, including those affected by the refugee crisis, provides the frame to deal with any kind of mistreatment of children, in particular sexual exploitation and sexual abuse.

44. However, despite these efforts, most Parties either indicate that no children affected by the refugee crisis are victims/presumed victims of sexual exploitation and sexual abuse, or that they have no data to substantiate this. Several Parties highlight their particular difficulties in identifying such victims which explains the low figures. For instance, **Turkey** refers to 49 Syrian children victims of sexual exploitation or sexual abuse in the period 1 July 2015 to 30 June 2016, when there are 1,213,289 Syrian children on its territory. Regarding unaccompanied children, **Belgium** acknowledges that only 4 of them have been identified as victims of sexual exploitation in the period 2015-2016 when there were some 6,850 unaccompanied children entering the Belgian territory. **Greece** indicates that there are no official aggregated data on the victimisation

of refugee and migrant children, while acknowledging that there are cases of children being victims of sexual exploitation or sexual abuse. Meanwhile, the Special Representative on Migration and Refugees of the Secretary General of the Council of Europe notes in the report of his fact-finding mission to **Greece** that “*There have been several reports of refugee and migrant children engaging in criminal activities, such as drug-trafficking and prostitution, in order to earn money. Reference was also made during my mission to Greece to cases of sexual exploitation of refugee and migrant children. However, it is difficult to assess whether these were isolated instances or whether they were part of a pattern.*”<sup>33</sup> He also indicates, in the report of his fact-finding mission to **Turkey** that “*there are also reports of sexual abuse of children in the camps. Camp representatives informed me that, when such cases are reported, law enforcement officials take appropriate action. However, it appears that families sometimes decline to press charges.*”<sup>34</sup> In **Italy**, social workers have reported that many of the girls who arrive from countries in Western Africa are not asked to pay upfront costs to smugglers for their travel into Libya and across the Mediterranean. Girls are typically told they will repay the money later through domestic work, but often end up forced into prostitution in Libya, Europe, or both.<sup>35</sup> Doctors, in Italy, have also noted that medical checks have shown that many children are carrying sexually transmitted diseases and that this is taken as evidence that they have been sexually exploited in transit.<sup>36</sup> Finally, UNICEF highlighted the risks faced by refugee and migrant children as they make the journey from sub-Saharan Africa into Libya and across the sea to Italy, underlining the sexual violence they suffer along the route.<sup>37</sup>

45. It is estimated that one child in five in Europe is a victim of some form of sexual violence<sup>38</sup>. There are therefore very good reasons to believe that the figures indicated above do not reflect the reality of a particularly vulnerable group of children. This may, on the contrary, indicate a lack of capacity or appropriate identification and referral mechanisms in place in Parties with regards to these children, as well as a lack of systematic and dedicated data collection.

46. It should be recalled that the lack of data on children sexually abused or exploited is a major problem in Europe, as was underlined by the Lanzarote Committee in its first report. Indeed, the Lanzarote Committee urged “Parties to take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of

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<sup>33</sup> [Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Greece and “the former Yugoslav Republic of Macedonia”, 7-11 March 2016, Information Documents SG/Inf\(2016\)18, pp. 13-14.](#)

<sup>34</sup> [Report of the fact-finding mission to Turkey by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, 30 May – 4 June 2016, Information Documents SG/Inf\(2016\)29, p.23.](#)

<sup>35</sup> UNICEF, *Uprooted: the growing crisis for refugee and migrant children*, p.92.

<sup>36</sup> UK House of Lords, European Union Committee, 2nd Report of Session 2016-17, “[Children in crisis: unaccompanied migrant children in the EU](#)”, §24.

<sup>37</sup> UNICEF, [A deadly Journey for Children – The Central Mediterranean Migration Route](#), February 2017, 20 pages.

<sup>38</sup> See Council of Europe ONE in FIVE Campaign: [http://www.coe.int/t/dg3/children/1in5/default\\_en.asp](http://www.coe.int/t/dg3/children/1in5/default_en.asp)

the sexual exploitation and sexual abuse of children in general”<sup>39</sup>.

47. Most Parties do not give explanations on the reasons why such data is lacking but they acknowledge that they are aware that there are more cases of sexual abuse and sexual exploitation than official numbers. One of the reasons for the lack of data, when such reasons are provided, is that the services in charge of the children affected by the refugee crisis may not be authorised to do so, either because all asylum matters are secret by law (**Finland**), because the law prohibits to collect data on children who are victims or presumed victims of sexual abuse or exploitation (**Norway**)<sup>40</sup> or that data on children who are victims of sexual abuse or exploitation cannot be disaggregated in regard to the migration and refugee status of the child or the nationality (**Cyprus, Denmark**). The latter difficulty was also of concern in **Germany** until the residence status of the victim had begun to be recorded in 2016.

48. Other reasons for the lack of data comes from difficulties in identifying victims due to limited human resources, insufficient training of staff, limited access by NGO partners to reception and detention centres, backlogs in registration as well as time constraints during registration, particularly in countries of first arrival and transit countries, as is reported by the European Union Agency for Fundamental Rights (FRA) in the context of trafficking.<sup>41</sup> Greece, **Hungary, Italy** and **Turkey** underline how the increase in the number of children affected by the refugee crisis puts pressure on already overloaded facilities, thereby exacerbating the difficulties faced by these facilities to provide adequate protection for these children. “**The former Yugoslav Republic of Macedonia**” highlights the difficulty to handle large influx of children affected by the refugee crisis and their insistence to continue towards their desired destinations as soon as possible (in most cases, migrants stay less than a day on the territory).

49. Indeed, the lack of data also results from the fact that many child victims of sexual abuse or exploitation do not report the violence. For example, they talk only when their situation is secured and not at an early point of their journey. They also do not report because they fear that they would have to stay in the country where they have disclosed the abuse or exploitation when their objective is to reach their final destination. Some children fear that the persons who accompany them would abandon them if they talk, even if these persons are not the abusers. One commonly shared challenge is also that communication between children affected by the refugee crisis and those in charge of their care is difficult because of linguistic diversity and difficulties in finding interpreters.

50. **Hungary** underlines that since detecting sexual exploitation and abuse requires time, and since children do not stay long enough in reception facilities, some cases may remain undiscovered. Hungary therefore suggests that competent authorities should try to offer help and support at the earliest possible stage.

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<sup>39</sup> Lanzarote Committee, 1st implementation report “Protection of Children against Sexual Abuse in the Circle of Trust - The Framework”, adopted on 4 December 2015, Recommendation R13): <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168058cdfd>

<sup>40</sup> It should be underlined that Norway is not yet a Party to the Lanzarote Convention.

<sup>41</sup> European Union Agency for Fundamental Rights (FRA), Thematic Focus: Trafficking: <http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-trafficking>.

51. Many Parties have highlighted that gaining a foreign child's trust is a difficult task. Disclosing sexual exploitation or sexual abuse becomes particularly hard for these children, as this is a taboo in most of the victims' countries of origin. There is a need to invest in building children affected by the refugee crisis' trust in representatives of the authorities, in particular law enforcement since many of the children have had a bad experience with uniformed forces in their home countries and during their journey (**Austria**). Creating a relationship of trust with the unaccompanied children affected by the refugee crisis is seen as a major challenge for the Defender of Rights (*Défenseur des droits*) in **France**. He also underlines that, according to NGOs, most trafficked children do not see themselves as victims. He concludes that, as a consequence, the first step to be taken is to help them understand that they have been victims of a crime, and to offer them an alternative system of references and values. **Romania** indicates that the involvement of the refugee community is essential for prevention measures to be effective.

52. The identification of actual and potential victims is therefore an important challenge to be addressed by Parties.

#### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties should put in place effective mechanisms for data collection with a specific focus on children affected by the refugee crisis who are victims or presumed victims of sexual exploitation and sexual abuse and review the possible removal of obstacles to the collection of such data, in particular, where they exist, legal restrictions to do so, with due respect for the requirements of personal data protection;
- invites Parties to make sure that safe and child sensitive reporting and counselling mechanisms are available to and known by children affected by the refugee crisis in order to enable those of them who are victims of sexual exploitation or sexual abuse to break the pre-conceived perceptions they may have on the consequences of their disclosure and to report;
- invites Parties to ensure that the persons in contact with children affected by the refugee crisis are properly screened before working in contact with these children;
- invites Parties to train and raise awareness of those in contact with children affected by the refugee crisis on the detection, reporting and referral of signs of sexual abuse and sexual exploitation of children. Such training should include modules addressing the contextual specificities of these children's experiences

## **I. 6 Distinction made between victims prior to the entry on territory and after entry**

53. For detection and protection purposes, most Parties make no distinction between those children who became victims of sexual exploitation or sexual abuse prior to the entry on their territory and those who became victims after the entry. They are therefore not in a position to provide data. Whether a child falls victim before arriving in a certain country or after arrival is irrelevant, as, in both cases, it is equally important to detect the sexual exploitation or sexual abuse and to provide the adequate protection.

54. This distinction is however important for prosecution purposes. When the crime occurred abroad, before the child's arrival on the territory, the recipient Party has an obligation to seek legal co-operation with the Party where the crime occurred. If the aggression took place after the arrival, the recipient Party has an obligation to prosecute the offender.

### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties, while providing adequate protection to child victims irrespective of where the exploitation/abuse occurred, should do their utmost to be able to distinguish between sexual exploitation and sexual abuse occurring prior to the entry of the child victim on their territories and after the entry;
- considers that Parties should fulfil obligations to prosecute the offenders and to provide international co-operation between the Parties in instances where the offence occurred prior to arrival on the territory for the purpose of investigation and prosecution.

## II. PREVENTION AND PROTECTION

### II. 1 General remarks on Parties' approach to protecting children affected by the refugee crisis from sexual exploitation and sexual abuse

55. Parties generally state that their child protection system is conceived for any child who may be/become a victim of sexual exploitation and/or sexual abuse. Their legislation, measures, procedures and facilities aimed at protecting children against sexual violence are thus also applicable to children affected by the refugee crisis.

56. While acknowledging the above, the Lanzarote Committee highlights that children affected by the refugee crisis are particularly exposed to the risk of becoming victims of sexual violence. It is thus necessary to also envisage targeted actions to ensure that these children are effectively protected against sexual exploitation and abuse.

57. As per the Ombudspersons, Mediators, and Children's Rights Defenders' Paris Statement of 28 June 2016, the Lanzarote Committee holds that *"migrant children are above all vulnerable children and it is the responsibility of the States, and the moral and legal responsibility of each of us to protect them from the numerous dangers they are exposed to during their migratory journey, in particular the risks they incur from the smugglers, the risks of separation from their family, kidnapping, violence, sexual abuse and human trafficking"*.<sup>42</sup>

58. In this regard, the Committee notes that nearly half of its Parties (**Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece Italy, Latvia, Luxembourg, Malta, Monaco, Montenegro, the Netherlands Portugal, Slovenia, Slovak Republic, Spain, Sweden, Switzerland, Turkey**) point out that even if not specifically delineated, the situation of sexual exploitation of children affected by the refugee crisis may be tackled within the context of existing action plans (or similar frameworks) to combat trafficking in human beings. It thus takes note that the following specific measures/tools were prepared in such context:

- the project AGIRE (Acting for stronger private-public partnerships in the field of identification and support of child victims and those at risk of trafficking in Europe), involving **Austria, Greece, Italy and Romania**, which identified indicators and profiles of children most at risk and the corresponding methodologies to apply when confronted with situations where such indicators are present.
- the project RAVOT, involving **the Netherlands, Hungary** and the **Belgian** NGO Payoke, which produced a manual describing the different possible kinds of support for victims of human trafficking in the three countries. Additionally, a website was

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<sup>42</sup> European Network of Ombudspersons for Children, Le Défenseur des Droits, [Paris Statement 28 June 2016](http://enoc.eu/wp-content/uploads/2016/06/28th-June-statement-English-version.pdf), available at: <http://enoc.eu/wp-content/uploads/2016/06/28th-June-statement-English-version.pdf>



set up with the different national referral mechanisms of the three countries shown in a flowchart.<sup>43</sup>

59. Some Parties additionally specify that measures were taken to link migration issues with child protection concerns in view of the multiple questions raised by the recent crisis. In this regard:

- **Albania, Bulgaria, Italy and Turkey** refer to collaboration with UNICEF and UNHCR to monitor the effective implementation of children’s rights standards in the context of reception, accommodation and integration of children affected by the refugee crisis.
- **Bulgaria** refers to institutionalised co-operation between the State Agency for Child Protection and the State Agency for Refugees, pointing out that the latter, together with government institutions and NGOs, is involved in updating the National Mechanism for Referral and Support of Trafficked Persons and Standard Operating Procedures for Prevention of and Response to Gender-Based Violence.
- **Iceland** points out that the new Act on Foreigners that came into force on 1 January 2017 stipulates that the Government Agency for Child Protection should assume responsibility for the safety as well as the appropriate services and support for unaccompanied children (such as accommodation, training of staff, and screening of professionals).

60. The NGO “Hope for Children” CRC Policy Center points out that the refugee crisis has also prompted measures that allow derogations from human rights obligations. For example, **Hungary proclaimed** a “state of crisis caused by mass migration” on 15 September 2015 and adopted legislation within this context specifying that the violent crossing of the fenced border is a criminal offence and that children aged between 14 and 18 can be prosecuted as adult offenders. However, Hungary is revising the procedural provisions in question based on a report of the Hungarian Commissioner for Fundamental Rights that highlighted the importance of the requirement of equal treatment, the protection of fundamental rights of children and consideration of the specific situation of migrant children<sup>44</sup>, A draft of the new criminal procedure code was therefore submitted to the National Assembly on 14 February 2017. The Lanzarote Committee would appreciate being fully informed of the content and follow-up given to this proposal. The Lanzarote Committee reiterates that all children (until the age of 18) should not be deprived of their right to specific child protection from sexual exploitation and sexual abuse.

61. Finally, it should be highlighted that some Parties (**Albania, Bosnia and Herzegovina, Latvia, Liechtenstein, Poland, Portugal, San Marino**) clearly indicate that they have not tested the implementation of their child protection approaches and/or action plans against trafficking in human beings on children affected by the refugee crisis as they have not yet been confronted with cases of sexual abuse or sexual exploitation of these children in particular.

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<sup>43</sup> See: <http://www.ravot-eur.eu/nl/>

<sup>44</sup> See report No. AJB-1235/2016 of the Hungarian Commissioner for Fundamental Rights

## **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties should encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that preventive measures in regards to protection from sexual exploitation and sexual abuse are in place and protective measures are taken as speedily as possible;
- invites Parties to ensure that the different agencies involved in the coordination and collaboration concerning the protection of children affected by the refugee crisis who are victims of sexual abuse or sexual exploitation be allowed to share personal information as appropriate in accordance with national law.

## **II. 2 Prevention**

### ***Lanzarote Convention, Chapter II – Preventive measures***

#### ***Article 4 - Principles***

*Each Party shall take the necessary legislative or other measures to prevent all forms of sexual exploitation and sexual abuse of children and to protect children.*

#### ***Explanatory Report***

##### ***Chapter II – Preventive measures***

*52. This chapter contains measures to be implemented at the national level. Policies or strategies to prevent the sexual exploitation and sexual abuse of children should include knowledge of the possible signals which could be given by children, as well as the provision of, and easy access to, information about sexual exploitation and sexual abuse, their effects, their consequences and how best to combat them.*

#### ***Article 4 – Principles***

*53. The main aim of the Convention – to prevent sexual exploitation and sexual abuse of children from taking place – is reflected in this article.*

62. The main aim of the Lanzarote Convention is to prevent sexual exploitation and sexual abuse of children. This also applies to children affected by the refugee crisis. Children having been forced to flee their homes are not automatically safe once they reach the Lanzarote Convention Parties' jurisdictions. As mentioned above, several factors contribute to them being at risk of sexual exploitation and sexual abuse. Parties' first obligation in their respect under the Lanzarote Convention thus consists in taking all the necessary legislative or other measures to prevent them from falling victims of sexual exploitation and sexual abuse.

63. From the analysis of the replies to the focused questionnaire, it emerges that a series of challenges need to be met to ensure that effective preventive measures are taken to target the specific needs of children affected by the refugee crisis.

## **II. 2. 1 Responding to multicultural challenges to ensure effective awareness raising of children affected by the refugee crisis**

### ***Language***

64. One commonly shared challenge is that of existing language barriers. This makes the communication between children affected by the refugee crisis and those responsible for their care very complex.

65. Parties generally indicate that the immediate need is for interpreters, which should be provided at reception centres/first arrival spots as well as during proceedings when children affected by the refugee crisis are identified as victims of trafficking/sexual exploitation or sexual abuse. Some Parties however, acknowledge that where children arrive in high numbers, the lack of interpreters (particularly of less spoken languages) is a real challenge.

66. Most Parties indicate that compulsory school attendance applies to all children, including those affected by the refugee crisis. They also offer language courses to children affected by the refugee crisis with a view to facilitate their integration in their education systems.

### ***Culture, social norms and legal systems***

67. Talking about sexual abuse and exploitation is a taboo in most of the victims' countries of origin. The fact that an interpreter has to be present makes it even more difficult to establish a relationship of trust and therefore does not automatically encourage children to disclose. Non-verbal information material) is thus crucial to build trust (**Austria**).<sup>45</sup>

68. Differences in cultures, social norms and legal regulations between the countries of origin of the children affected by the refugee crisis and the host countries create difficulties in the prevention of sexual offences against children. The NGO "Hope for Children" CRC Policy Center underlines that cultural or religious beliefs regarding sexuality and interpersonal conducts often create feelings of shame and guilt thus constituting further obstacles to the children's disclosure. These feelings might even hold them back from getting involved in awareness raising activities or individual discussions on sexual violence and related themes.

69. To face the above challenges, the following actions were referred to:

- children affected by the refugee crisis are involved in workshops, lectures, games and art activities aimed at processing cultural specificities and adjusting to European society ("Hope for Children" CRC Policy Center, **Cyprus**)
- children affected by the refugee crisis are expeditiously informed about the host country's culture, social norms and legal system (**Turkey**).
- newly arrived girls and boys are provided with an introduction to the host society, including sexual and relationship education (**Sweden**).

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<sup>45</sup> See, for example, [http://www.zartbitter.de/gegen\\_sexuellen\\_missbrauch/Aktuell/100\\_index.php](http://www.zartbitter.de/gegen_sexuellen_missbrauch/Aktuell/100_index.php)

- asylum-seeking children are informed of the functions and allocation of tasks in **Germany** between the government and the authorities implementing governmental policy (e.g. the police and youth welfare office). The children must learn about existing opportunities they have to obtain help and support in the event of attacks and abuse, and how they can avail themselves of such opportunities.

### ***Distribution of printed material***

70. The distribution of printed material upon arrival is also a helpful preventive measure. As underlined above, Parties should consider developing also non-verbal information material.

71. The following material was brought to the Lanzarote Committee’s attention:

- a poster created in **Germany** to be hung throughout all refugee accommodation. It provides pointers on how to react to an emergency, using pictograms and recommendations in German, English, French and Arabic. The German Independent Commissioner for Matters of Sexual Abuse of Children additionally published a [checklist of minimum standards](#) serving to protect children against sexual violence in refugee accommodation which is distributed to the operators of refugee accommodation or other actors assisting refugees;<sup>46</sup>
- a booklet on “[Orientations for professionals and officials working with and for children on the move](#)” gives practical advice on how to behave with such children. It is based on real life experiences shared by children and youth who participated in narrative sessions in **France, Greece, Italy and Portugal** within the context of the international [Resiland](#) Project (Participation and resilience of children on the move against trafficking and exploitation);<sup>47</sup>
- an information leaflet for children about their right to support and rehabilitation was prepared in numerous languages by **Sweden**. Additionally, the National Board of Health and Welfare is to produce an information brochure for social services about investigating children’s need for support and protection in transnational cases where children are victims of human trafficking and/or sexual abuse;
- a guide for unaccompanied foreign children in the form of a leaflet was produced in **Italy** by the Ministry of the Interior, Save the Children and UNHCR with the contribution of the European Union. It aims at explaining unaccompanied foreign children’s rights in relation to legal guardianship and international protection, including the possibility of asking for asylum in another EU country;
- a leaflet on “Women, girls and asylum in **Belgium**” (with a specific section on human trafficking). This is distributed to asylum seekers, including children. The professionals working with them are also provided with a brochure explaining what to do if confronted with victims of trafficking in human beings;
- **Germany** and **Latvia** mention collaboration with EASO (European Asylum Support Office), highlighting the preparation of a handbook on how to deal with refugees,

<sup>46</sup> Unabhängigen Beauftragten für Fragen des sexuellen Kindesmissbrauchs, *Checkliste Mindeststandards zum Schutz von Kindern in Flüchtlingsunterkünften*, available at: <https://beauftragter-missbrauch.de/presse-service/meldungen/detail/news/checkliste-mindeststandards-zum-schutz-von-kindern-in-fluechtlingsunterkuenften/>

<sup>47</sup> Resiland, *Orientations for professionals and officials working with and for children on the move*, October 2015, available at: [http://www.resiland.org/files/small\\_booklet\\_res.pdf](http://www.resiland.org/files/small_booklet_res.pdf)

and more specifically, with vulnerable categories requiring special protection such as children.

### **Child friendly materials**

Child-friendly information tools for child victims of trafficking were developed in collaboration with youth groups to inform children of their rights as children, and as child victims of trafficking within the context of the ECPAT International **ReACT Project** (Reinforcing Assistance to Child Victims of Trafficking) involving ECPAT national partners in **Belgium, France, Germany, the Netherlands and the United Kingdom**.

The tools<sup>48</sup> include a leaflet for each of the 5 countries involved in the project as well as a video. The materials exist in the following languages: Arabic, Bulgarian, Chinese, Croatian, Dari and Farsi, Dutch, English, French, German, Pashto, Pidgin English (for Nigerian), Romanian, Serbian, Tigrinya, Vietnamese.

72. Finally, the awareness raising material, developed by the Council of Europe ONE in FIVE Campaign to Stop Sexual Exploitation and Sexual Abuse against Children, could also be used as a tool to assist child protection services and other professionals to speak to children about sexual exploitation and sexual abuse. The children's book "Kiko and the Hand" can be particularly instrumental as it has been translated into over 21 languages, including Arabic.<sup>49</sup>

### **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture (reiteration of 1<sup>st</sup> implementation report, Recommendation R23);
- invites Parties to share one another's awareness raising material on the situation of children affected by the refugee crisis, with a view to adapting this material to their own specific situation.

### ***Awareness-raising activities for children***

73. The distribution of material, such as those described above, in a language that children affected by the refugee crisis understand should be accompanied by awareness raising activities specifically targeting children. Such activities contribute to breaking the silence and the taboo around sexuality, sexual exploitation and sexual abuse.

<sup>48</sup> The report of the ReACT project can be downloaded here: [http://ecpat.be/wp-content/uploads/2017/01/ecpat\\_react\\_final.pdf](http://ecpat.be/wp-content/uploads/2017/01/ecpat_react_final.pdf) and the video is here:

Video: <https://www.youtube.com/channel/UC2FdnTMrLO1Tt3oiFUop3Fg>

<sup>49</sup> [http://www.underwearrule.org/Default\\_en.asp](http://www.underwearrule.org/Default_en.asp); [http://www.underwearrule.org/Default\\_fr.asp](http://www.underwearrule.org/Default_fr.asp)

74. The following were brought to the Lanzarote Committee's attention:

- socio-pedagogical support, including sex education, prevention of violence, gender-conscious pedagogy is provided alongside a “preventive dialogue with aliens” conducted by the **Austrian** crime prevention officers in the facilities hosting refugees. The dialogue is aimed at establishing trust while also conveying notions of Austrian laws (including on the protection of children, the prohibition of violence and sexual offences against them);
- all newly arrived asylum seeking children between 12 and 17 years of age are offered a course on sexual relations at their accommodation centre (**Denmark**);
- two projects, implemented in 2014-2015, on the prevention of secondary victimisation of unaccompanied children (including training on human trafficking) and integration into **Hungarian** society;
- the "Social Cohesion Program", conducted within the "No Lost Generation" initiative (financed by the EU MADAD Fund in **Turkey**) aimed at enabling mutual dialogue and the exchange of information between Turkish and Syrian children. It is conducted in Turkish and Arabic through peer education techniques by Turkish and Syrian children on a range of topics including: concepts of safety, violence-exploitation and discrimination. Around 7,120 children have been reached so far within the scope of the training held in various locations in the country. Additional training sessions are scheduled;
- a project called “PATS” (recognition, help and protection of victims of trafficking in human beings, sexual violence and gender violence) conducted in connection with admittance of applicants for international protection (in the Asylum Centres of **Slovenia**). The purpose of the project was to disseminate information on trafficking in human beings and to facilitate identification of vulnerable groups, in need of specialised treatment. Specific programs, activities and actions aimed at empowering vulnerable groups are also provided to prevent further exploitation.

75. Many Parties provide information on awareness raising activities of a general nature (i.e. on refugees or on child sexual violence in general). These obviously apply to children affected by the refugee crisis as well. Targeted measures are however better equipped to respond more effectively to specific needs.

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties should exchange information on awareness raising activities which specifically focus on the risks faced by children affected by the refugee crisis with respect to sexual exploitation and sexual abuse.

**II. 2. 2 Ensuring that persons in contact with children affected by the refugee crisis have been screened and are adequately trained to effectively help them**

76. Article 5 of the Lanzarote Convention is of particular relevance in the context of the refugee crisis. All persons in contact with these children should be screened and adequately trained, from the front-line persons they encounter upon arrival, to the

guardians, foster families or other caregivers they may be assigned to. This also includes all the persons children are in contact with to process family reunification or asylum requests, be they professionals or volunteer workers.

**Article 5 –Recruitment, training and awareness raising of persons working in contact with children**

(...)

2 Each Party shall take the necessary legislative or other measures to ensure that the persons referred to in paragraph 1 [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] have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility mentioned in Article 12, paragraph 1.

3 Each Party shall take the necessary legislative or other measures, in conformity with its internal law, to ensure that the conditions to accede to those professions whose exercise implies regular contacts with children ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children.

**Explanatory Report**

56. Paragraph 2 also requires persons having regular contacts with children to have adequate knowledge and awareness to recognise cases of sexual exploitation and sexual abuse and of the possibility of reporting to the services responsible for child protection any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse, as provided in Article 12 paragraph 1. It should be noted that 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 sexual exploitation or sexual abuse can be identified as early as possible, but it is left to Parties to decide how to achieve this.

57. Paragraph 3 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 sexual exploitation or sexual abuse of children. In certain member States, this obligation can be applied also to voluntary activities. The addition of “in conformity with its internal law” permits States to implement the provision in a way which is compatible with internal rules, in particular the provisions on rehabilitation and reintegration of offenders. Moreover, 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.

**Screening of persons in contact with children affected by the refugee crisis**

77. Not many of the replies to the focused questionnaire indicate that persons carrying out any task with children affected by the refugee crisis are screened to verify whether they have been convicted of acts of child sexual exploitation and/or sexual abuse.

78. The European Union Agency for Fundamental Rights (FRA) points out that vetting procedures (i.e. procedures through which child protection authorities ensure that those seeking to work regularly with children have not been convicted of criminal acts that could endanger a child’s wellbeing and safety) often only apply to a limited group of professionals (e.g. social workers or teachers) and do not cover all of those in direct and regular contact with children (e.g. administrative staff and assistants).<sup>50</sup>

<sup>50</sup> See European Union Agency for Fundamental Rights, Mapping child protection in the EU, February 2015, available at: <http://fra.europa.eu/en/publication/2015/mapping-child-protection-systems-eu/vetting-foster-families>.

79. **Denmark** specifies that according to contracts between the Danish Immigration Service and partners operating accommodation centres for asylum seekers, the partners must ensure that management staff as well as employees that will have contact with children under the age of 15, have not been convicted of committing any offences against children under the age of 15. This screening is done by requesting a specific criminal record. Furthermore, the Danish Immigration Service urges its partners in the contracts to obtain criminal records when hiring any staff, if the partners find it sensible and necessary.

80. **Germany** points out that all voluntary refugee helpers shall provide police clearance certificates ("*erweitertes polizeiliches Führungszeugnis*") to protect migrant and refugee children from sexual violence. The police clearance is free of charge: without it they are not allowed to carry out the volunteer work with children.

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who by their professions have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law;
- invites Parties to also effectively screen volunteers working in regular contact with children affected by the refugee crisis and to have vetting practices in place.

***Training of professionals and volunteers working with children affected by the refugee crisis***

81. Professionals and voluntary workers in contact with children affected by the refugee crisis require special training with a view to increasing their awareness of the specific needs of children in this particularly vulnerable situation. Such persons also include the interpreters. Most Parties acknowledge that specific training tailored to all relevant stakeholders (including voluntary workers) is essential. Persons in contact with children affected by the refugee crisis need guidance to process stories of traumatised young people.

82. Parties' replies to the focused questionnaire highlight existing training for the police and/or migration forces (**Albania, Belgium, Bulgaria, Croatia, Cyprus, Finland, Greece, Latvia, Lithuania, Luxembourg, Malta, Portugal, Republic of Moldova, Slovak Republic, Slovenia, Spain, Switzerland**), the judiciary (**Belgium, Germany, Portugal, Slovak Republic**), personnel in care facilities or aid workers (**Austria, Bulgaria, Germany, Greece, Lithuania, Malta, Netherlands, Poland, Portugal, Russian Federation, Serbia, Slovenia, Slovak Republic, Spain, Switzerland**), guardians (**Belgium, Greece, Lithuania**), foster families (**Cyprus, Iceland, Serbia, "the former Yugoslav Republic of Macedonia"**) or any person who encounter or are likely to encounter children affected by the refugee crisis (**Greece, Lithuania, Turkey**).



83. Some Parties provide some information on the content of the training as follows:
- In **Austria**, the employees of the Municipality of Vienna, District MA 11, undergo special training for the care of refugee children (with special focus on issues such as dealing with traumas, intercultural problems, recognising exploitation or sexual abuse and similar issues) and the use of trauma-pedagogical tools for the care of refugee children.<sup>51</sup>  
The Municipality of Vienna also operates socio-pedagogical institutions for the care of heavily traumatised refugee children and a specialised Crisis Centre (“*Drehscheibe*”) for unaccompanied minors and those affected by forms of human trafficking. The Centre collaborates with different associations and organisations specialised in these areas (such as the NGO for victims of trafficking in human beings (LEFÖ Association) and the International Organisation for Migration).
  - In **Belgium**, the staff of the Federal Agency for the Reception of Asylum Seekers (*Fedasil*) is trained to identify victims of sexual and gender based violence.
  - In **Denmark**, asylum caseworkers are trained in the cognitive interview method, which involves psychological training in handling traumatized persons.
  - In **Lithuania** seminars are organised on a yearly basis for employees of state, municipal and non-governmental organisations, other institutions and agencies working in the field of social integration of foreigners granted asylum; these include various cultural events to encourage the knowledge of other cultures.
  - In **Poland**, the Border Guard, in co-operation with the “Give children strength” Foundation implemented a special project “Children in camps for migrants”. This project aims at ensuring appropriate protection for children against violence and sexual exploitation, to improve camp staff qualifications in this area and also to improve parents’ educational skills. It has also been created to educate children about how to avoid dangers and how to find help and support when needed.
  - **Andorra** is developing a Protocol to inform all stakeholders in contact with asylum seekers/migrants about what should be done to ensure that rights and safety are guaranteed to all in need.

84. Notwithstanding the above-mentioned practices, the French Defender of Rights (*Défenseur des droits*), ECPAT-France as well as the Belgian *Délégué général aux droits de l’enfant* highlight that in some instances training and tools are insufficient. It is, for example pointed out that guidance for case officers when determining the migration status of children should include lines of action to prevent the return of children and families to persecution, dangerous or life-threatening situations.<sup>52</sup>

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<sup>51</sup> See, for example, *Traumapädagogische Videos in Deutsch, Arabisch und Farsi für Jugendliche ab 12 Jahren*: [https://www.youtube.com/channel/UCf4ArRYBA2ecLVrOo8Z6\\_Ug](https://www.youtube.com/channel/UCf4ArRYBA2ecLVrOo8Z6_Ug)

<sup>52</sup> UNICEF, *Uprooted: the growing crisis for refugee and migrant children* (September 2016), p. 4.

## Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- invites Parties to ensure that all persons dealing with children affected by the refugee crisis have undertaken suitable qualifying continued training enabling them to interview children and help detect when a child has been a victim of sexual exploitation and sexual abuse;
- invites Parties to exchange their practices on existing training tools with a view to elaborating further such tools;
- invites Parties to share information on existing protocols, special projects and action plans set up to face the situation of children affected by the refugee crisis, with a view to further elaborating such tools.

### II. 2. 3 Ensuring safe reception facilities and longer term placement

85. The increase in the number of children affected by the refugee crisis puts pressure on reception/accommodation facilities, exacerbating difficulties in providing adequate protection for these children. UNICEF highlights that as children wait for their asylum applications to be processed – which can take months – children are often housed in sports halls, former military barracks or other temporary shelters.<sup>53</sup> **Save the Children-Finland** also warns that reasons such as the length of asylum procedures increase the risk of children being sexually exploited or abused. Insufficient lighting, sanitary and sleeping facilities that have to be shared by men, women and children are all factors that expose persons seeking asylum to risks of sexual or gender-based violence.<sup>54</sup> **Greece** similarly points out that the large number of arrivals of children who are not placed in adequate reception facilities makes it more difficult to implement prevention measures with regard to sexual exploitation and abuse. Unaccompanied children are particularly exposed to sexual crimes and harassment in such conditions.

86. To avoid the circumstances described above and meet the challenge of ensuring safe reception facilities, Parties point at various initiatives such:

- the separation of unaccompanied children from adults;
- **Austria** highlights that it has developed minimum standards for the primary care of asylum seekers:
  - Single women and their children must not be accommodated in the same room with men to whom they are not related;
  - Every room must be lockable.
  - Regional and general emergency numbers must be displayed in the facility in a language the residents understand;

<sup>53</sup> UNICEF, *Danger every step of the way: A harrowing journey to Europe for refugee and migrant children*, (June 2016), p. 5.

<sup>54</sup> European Union Agency for Fundamental Rights, *Fundamental Rights Report* (2016), p. 20.

- There is a telephone number for residents to call for round-the-clock emergencies;
  - If there are 50 or more residents in a facility, an employee from the organisation that runs the facility must be on the premises at all times.
- **Belgium** specifies that it has facilities with places reserved for single women with children, young pregnant women and unaccompanied children. It also has two specialised centres, one of which hosts extremely vulnerable children (below the age of 12 or victims of trafficking in human beings) and children at high risk of going missing.
  - **Greece** points out that safe zones are developed within camps and hotspots for unaccompanied children to reside separately.
  - **Italy** specifies that the protection system for asylum seekers and refugees is open to all unaccompanied children, even those who are not requesting asylum, in order to protect them.
  - **Lithuania**, indicates that mother and child should be accommodated in the same room and that special facilities are available for pregnant women.

#### Standards of reception conditions

The [EU Reception Conditions Directive](#)<sup>55</sup> aims at ensuring better as well as more harmonized standards of reception conditions throughout the European Union. Member States must, *inter alia*, conduct an individual assessment in order to identify the special reception needs of vulnerable persons and to ensure that vulnerable asylum seekers can access medical and psychological support. It also includes rules regarding detention of asylum seekers, ensuring that their fundamental rights are fully respected.

87. Once first basic needs are met in safe conditions, the Lanzarote Committee considers that Parties should as quickly as possible seek long term placement of children affected by the refugee crisis in order to avoid exposing them to possible sexual exploitation and sexual abuse. In this context international standards<sup>56</sup> on the rights of the child advice to apply the following prioritisation: (i) family reunification, (ii) foster care, independent/supported accommodation for older children or other forms of non-institutional care; (iii) placement in small scale units in institution.

88. In this context, the following solutions as regards unaccompanied children are pointed out in particular:

- In **Cyprus**, an NGO (“Hope for Children”) has been subsidised by the government for specialisation in the area of unaccompanied children. It operates two private homes for unaccompanied children providing care services and other support services in close cooperation with the Social Welfare Services;
- **Finland** accommodates unaccompanied children in dedicated units for children, where they receive more comprehensive health and social services than adults at reception centres. The units for children are responsible for providing age-

<sup>55</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, see : [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/reception-conditions\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/reception-conditions_en)

<sup>56</sup> See Article 22§2 UNCRC as well as Council of Europe Rec(2005)5 on Residential institution requirements.

- appropriate attention, care, education and support;
- In **Germany**, unaccompanied children are generally accommodated in institutions of the child and youth welfare system;
  - **Georgia** highlights that immediate measures are taken by the competent authorities to place unaccompanied children in family-type care (e.g. foster care, small group home, etc.) and indicates that its State Fund Shelters are an available temporary resource for accommodation of unaccompanied children;
  - **Hungary** underlines that since August 2015, it has shortened administrative deadlines to accommodate unaccompanied children in children’s homes;
  - **Iceland** points out it has started a campaign to recruit foster families as this type of alternative care offers the best durable solution in terms of protection against sexual abuse and it facilitates disclosure of possible sexual exploitation and sexual abuse by victims;
  - **Lithuania** refers to the appointment of a guardian for unaccompanied children;
  - **Malta** indicates that unaccompanied children are placed in homes with curfews where staff are required to observe their behaviour;
  - In **Portugal**, there are homes for unaccompanied children run by a specialised team of professionals;
  - **Ukraine** highlights the Cabinet of Ministers Resolution of 16.11.2016 № 832 concerning “Special social protection of children separated from families who are not citizens of Ukraine” which includes clarifications on the role of guardianship related to the protection of children's rights.

89. The FRA<sup>57</sup> points out that the number of specialised facilities across the European Union is still insufficient. As a result, children remain in crowded first reception centres, hot spots and transit facilities where child protection standards are not met for lengthy periods of stay.

90. As regards children with members of their families:

- Lower Saxony (**Germany**) prepared a “Concept on protecting children and on protecting women against violence in the reception centres for asylum seekers and refugees of the Land”. This concept is implemented by the Land reception authority (*Landesaufnahmebehörde*) and includes the following non-exhaustive list of features:
  - In all accommodations showers and WC arrangements are strictly separated according to gender;
  - All shower spaces are monitored by the security service;
  - Female contact persons are available in nearly all accommodation who work in the field of security, social services, and also as interpreters; other accommodation will have one female contact person competent in at least one of these fields;
  - An emergency telephone number for the police is prominently displayed in the accommodation;
  - The telephone hotline for women affected by violence is also prominently displayed in the accommodation;
  - The facility is in contact with the police;

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<sup>57</sup> European Union Agency for Fundamental Rights, *Key migration issues: one year on from initial reporting* (October 2016), p. 6.

- Information is available indicating access to assistance services (counselling centres for people affected by violence, women’s shelters, pregnancy counselling services).
- **Hungary** informs that legal conditions under which the competent authority may take an asylum-seeker into custody in the course of a refugee status determination procedure are defined in Section 31/A of Act LXXX of 2007 on Asylum, where it is stated that detention shall not be longer than 30 days in case of families with a child under the age of 18 years.

91. The Lanzarote Committee recalls that the United Nations Committee on the Rights of the Child has found that *“Children should not be criminalised or subject to punitive measures because of their or their parents’ migration status. The detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child”*.<sup>58</sup> The case law of the European Court of Human Rights is also uncontroversial in this regard<sup>59</sup> and the Council of Europe’s Commissioner for Human Rights has thus repeatedly stated that *“there are no circumstances in which detention of a child for immigration purposes, whether unaccompanied or with family, could be in the child’s best interest. (...) Alternatives [to detention] are not only an essential tool in safeguarding the human rights of migrants. They are also helpful for states. If properly implemented, they can build trust (...) between the migrant and the state (...)”*.<sup>60</sup> Building the child’s trust (see [section II.3.1](#)) is particularly relevant under the Lanzarote Convention to help children affected by the refugee crisis to feel safe and create the conditions to enable their possible disclosure. As advocated by the Council of Europe’s [Parliamentary Assembly Campaign to End Immigration Detention of Children](#), alternatives to detention that respect a child’s right to liberty and family should be sought.

#### **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to overcome challenges in ensuring safe reception facilities and longer term placement solutions by implementing a coherent set of quality standards on the basis of good practices to prevent sexual exploitation and abuse. These standards should be of the same quality for children affected by the refugee crisis as for any other child deprived of parental care as the former may be more vulnerable to sexual exploitation and sexual abuse;

<sup>58</sup> UN Committee on the Rights of the Child, *Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration*, 28 September 2012, para 78, available at: [http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC\\_DGD-Childrens\\_Rights\\_InternationalMigration.pdf](http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC_DGD-Childrens_Rights_InternationalMigration.pdf)

<sup>59</sup> See the European Court of Human Rights judgments of 12 July 2016: [A.B. and Others v France \(no.11593/12\)](#), [A.M. and Others v France \(no.24587/12\)](#), [R.C. and V.C. v France \(no.76491/14\)](#), [R.K. v France \(no.68264/14\)](#), [R.M. and Others v France \(no. 33201/11\)](#).

<sup>60</sup> Commissioner for Human Rights, Human Rights Comment, *High time for states to invest in alternatives to detention*, 31 January 2017, available at: <http://www.coe.int/en/web/commissioner/-/high-time-for-states-to-invest-in-alternatives-to-migrant-detention>

- In this context, invites Parties to apply the following prioritisation, where appropriate: (i) family reunification, (ii) foster care, supervised independent accommodation for older children or other forms of non-institutional care; (iii) institution placement in small scale units, in order to provide a safe placement for minimising the danger of victimisation of sexual abuse.

## II. 3 Protection

### **Chapter IV – Protective measures and assistance to victims**

#### **Article 11 – Principles**

1 *Each Party shall establish effective social programmes and set up multidisciplinary structures to provide the necessary support for victims, their close relatives and for any person who is responsible for their care.*

#### **Explanatory Report**

86. *While the ultimate aim in the fight against sexual abuse and sexual exploitation should be to prevent these actions from taking place, it is also essential to ensure that children who have already been victims of such offences receive the best possible support, protection and assistance, which is the aim of the articles in this chapter.*

87. *In paragraph 1, the negotiators wished to highlight the necessity for a multidisciplinary approach to assisting and protecting children victims of sexual offences as well as their close relatives, families or anyone in whose care they are placed. These protection and assistance measures are not meant to benefit all parents and family members in the broad sense but those who, because of their close relationship with the minor, may be directly affected.*

### **II. 3. 1 Building the child’s trust to enable disclosure**

92. The difficult task of gaining a foreign child’s trust and thus their readiness to disclose sexual exploitation or sexual abuse is a true challenge to offer adequate protective measures. Children affected by the refugee crisis need to re-learn to build trust with representatives of the authorities, in particular police forces, since many of those seeking international protection have had very bad experiences with uniformed forces in their home countries and during their journey.

93. In this regard, the following solutions have been highlighted:

- In **Belgium** a contact social worker is appointed (“*travailleur social référent*”) and is in charge of assessing the individual needs of the asylum seekers;
- Similarly, in the units for children in **Finland**, each child and young person is assigned a personal reference worker, which may promote the creation of a trustful relationship to disclose difficult experiences;
- In **Spain**, a similar role is exercised to the Finish model, within the context of the fight against trafficking in human beings, by a “social partner” who is in charge of promoting co-operation and the exchange of information.

## ***Guardians and legal representatives***

94. Greece underlines that the appointment of trained guardians is crucial not only for safeguarding children's best interests and catering for their needs but also for informing them of the dangers that they may encounter while acquainting other people.

### ***Guardianship for children deprived of parental care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking***

The EU Agency for Fundamental Rights (FRA) developed this [handbook](#) to address the situation of children deprived of parental care, including unaccompanied and separated children as they are particularly vulnerable to abuse and exploitation. They are therefore entitled to special protection. The handbook, jointly published with the European Commission, aims at strengthening the protection of children by assisting national authorities and other stakeholders to further develop existing guardianship systems. It promotes a shared understanding of the main principles and features of a guardianship system. By presenting a set of core common principles and key standards it aims to improve conditions for children under guardianship, and promote respect for their fundamental rights.

The Lanzarote Committee shares the following understanding of “guardian” and “legal representative” for the purposes of this report as set out in this Handbook:

- “The guardian is an independent person who safeguards the child's best interests and general well-being, and to this effect complements the limited legal capacity of the child, when necessary, in the same way that parents do.” (p.14)
- “In EU law, the term ‘representative’ or ‘legal representative’ is defined as “a person or organisation appointed by the competent bodies in order to assist and represent a child, when parents are not able, not willing or have been precluded from doing so, in civil, administrative or judicial procedures with a view to ensuring the best interests of the child and exercising legal capacity for the child where necessary” (Article 2 (j), Reception Conditions Directive (2013/33/EU)).” (p.38)

95. The Lanzarote Committee notes that, in their Paris statement, Ombudspersons, Mediators, and children's rights defenders urge *“all States to designate a qualified and independent guardian or a legal representative to defend effectively the interests of unaccompanied or separated children from their registration, accompanying, advising and representing them to authorities and in procedures involving them until they reunify with their family or until they are granted appropriate protection.”*<sup>61</sup>

96. The Lanzarote Committee welcomes the decision taken by the Committee of Ministers of the Council of Europe to ensure that special measures and safeguards are in place to protect unaccompanied and other children affected by the refugee crisis, in particular concerning standards on legal guardianship.<sup>62</sup> In this regard, it invites Parties

<sup>61</sup> European Network of Ombudspersons for Children, Le Défenseur des Droits, [Paris Statement](#) 28 June 2016.

<sup>62</sup> [Decisions of the 126<sup>th</sup> Session of the Committee of Ministers, Item 2c](#) and [Follow up \(25 May 2016\)](#).

to pay attention to the work undertaken in the context by the Council of Europe's Ad hoc Committee for the Rights of the Child with a view to ensuring that the standards it will elaborate build, as appropriate, on the findings of this report.<sup>63</sup>

97. Indeed, the Lanzarote Committee considers that guardians/legal representatives designated to accompany the unaccompanied child affected by the refugee crisis in everyday life and/or in administrative and judicial matters play a crucial role in building the child's trust and enabling their disclosure of possible sexual exploitation and sexual abuse. To this effect, the guardian system in place should be well-functioning. This is not always the case, in particular due to the high number of children arriving unaccompanied. Ineffective guardianship systems for unaccompanied and separated children hinder processes for determining the best interest of each child, including resettlement, relocation and durable solutions.<sup>64</sup>

98. The absence of any conflict of interest between the potential guardian and the child is a key criterion in the selection of individual persons or institutions as guardians. The guardians' independence from migration and asylum authorities is also vital for unaccompanied children who are subject to migration law or seek international protection.<sup>65</sup>

#### ***Promising practices***

In **Belgium**, the legal guardians fall under the authority of the justice department, and not the immigration department, which makes them independent of immigration policies. If there is a suspicion of exploitation, a guardian is appointed within 24 hours. In these cases the legal guardian is an expert in child trafficking (sexual exploitation). This means that the legal guardian knows how to deal with the case and can bring the child in contact with the specialised reception centres in trafficking in human beings.

In **Germany** it is obligatory for the youth welfare office to act in a way that is tailored to the situation of these minors under the law on custody: "A guardian or curator has to be appointed without delay in cases falling under subs. 1 sentence 1 No. 3.", section 42 subs. 3 sentence 4 of Book VIII of the Social Code. Designating a guardian is therefore

<sup>63</sup> Note is also taken of the event devoted to Guardianship for children organised by the European Commission in November 2016 and the 10<sup>th</sup> EU forum on the rights of the child focusing on children in migration. FORUM conclusions can be downloaded here: [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=34456](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=34456)

<sup>64</sup> UNICEF, *Uprooted: the growing crisis for refugee and migrant children* (September 2016), p. 96

<sup>65</sup> European Union Agency for Fundamental Rights (FRA), *Key migration issues: one year on from initial reporting* (October 2016), p. 5. See also FRA Comparative report on national guardianship systems in EU, 2015 [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2015-guardianship-systems-in-the-eu\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-guardianship-systems-in-the-eu_en.pdf), in particular chapter 2.4. on Independence of guardianship and legal representation systems, pages 27- 29.

FRA, Report on Guardianship systems for children deprived of parental care in the European Union - With a particular focus on their role in responding to child trafficking, 2015 available at: <http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care>

FRA/COM, Guardianship systems for children deprived of parental care– A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking, 2014, available at: <http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship>



obligatory and systematic in Germany.

In **Austria**, in order to build confidence and to protect children, and in agreement with the Youth Welfare Authorities, unaccompanied children may be provided with a caregiver (who does not necessarily need to be the official guardian) who accompanies the child in addition to a social worker. The caregiver has, in particular, to speak the same language as the child concerned and understand his/her culture. If possible, the caregiver should also speak German or English, understand the values of Western Europe and be a role model for the child. Caregivers have to be screened as any other person working in contact with children affected by the refugee crisis (see [section II.2.2](#)).

99. It should be underlined that a guardian should be provided to all unaccompanied children, regardless of their age. In this regard, the Lanzarote Committee is concerned by the fact that in **Luxembourg** the Minister may refrain from having an *ad hoc* administrator appointed for the unaccompanied child, when such a child will in all likelihood reach the age of eighteen years before a decision is taken by the Minister (Article 20§3 of the Law on International Protection and Temporary Protection of 18 December 2015).

### **Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties who do not yet foresee so, to ensure that unaccompanied children affected by the refugee crisis, regardless of their age, are provided with a guardian in order to build trust and enable disclosure of possible sexual exploitation and sexual abuse.

### ***Family reunification***

100. In line with the UN Convention on the Rights of the Child, the Lanzarote Committee thus holds that such children should first and foremost be assisted in tracing their parents or other members of the family in order to obtain information necessary for reunification with his or her family (UN CRC article 22). The Lanzarote Committee considers as a measure of prevention of and protection against sexual exploitation and sexual abuse that procedures for family reunification for unaccompanied children who have been granted international protection should be carried out without undue delays.<sup>66</sup> In so doing, Parties should pay particular attention to the findings of its 1st implementation report (Protection of children against sexual abuse in the circle of trust – The Framework), as family members may in fact also facilitate their children's sexual exploitation. Thus, family reunification should be pursued after a careful examination of the situation, assessing the child's best interest and identifying any risk for the child being abused or exploited in case of family reunification.

<sup>66</sup> This is also the position of the Council of the Baltic Sea States (CBSS) and the Central European Initiative as reflected in its December [2016 Stockholm Conclusions](#).

101. **Denmark** highlights that the best interest of the child is at the core of family reunification cases. An opinion from local authorities assessing the child's best interests is taken into consideration. Furthermore, the application form requires the resident in **Denmark** applying for family reunification to sign under criminal responsibility that he or she is not convicted of any offences against children if the applicant/spouse have children from previous relationships.

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to seek family reunification of unaccompanied children affected by the refugee crisis paying particular attention in the routine procedures to potential risks of sexual exploitation and sexual exploitation,
- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification;
- invites Parties to reinforce cross-border cooperation to achieve the above aims in a timely manner.

### **II. 3. 2 Being equipped to assist victims of multiple trauma**

#### ***Psychosocial assistance***

**Article 14 – Assistance to victims**

*1 Each Party shall take the necessary legislative or other measures to assist victims, in the short and long term, in their physical and psycho-social recovery. Measures taken pursuant to this paragraph shall take due account of the child's views, needs and concerns.*

*2 Each Party shall take measures, under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.*

**Explanatory report**

*93. Article 14 sets out the assistance measures which Parties must provide for victims of sexual exploitation and abuse. The aim of the assistance provided for in paragraph 1 is to "assist victims, in the short and long term, in their physical and psycho-social recovery". The authorities must therefore make arrangements for those assistance measures while bearing in mind the specific nature of that aim.*

*94. The paragraph states that victims should receive assistance "in the short and long term". Any harm caused by the sexual exploitation or abuse of a child is significant and must be addressed. The nature of the harm done by sexual exploitation or abuse means that this aid should continue for as long as is necessary for the child's complete physical and psychosocial recovery. Though this Convention relates primarily to children, the consequences of sexual exploitation or abuse of children may well last into adulthood. For this reason, it is important to establish measures which also provide those adults who were sexually exploited or sexually abused as children the opportunities to reveal these facts and to receive appropriate support and assistance if such assistance is still needed.*

95. Assistance to victims in their “physical recovery” involves emergency or other medical treatment. The negotiators wished to draw particular attention to the fact that, given the nature of the offences established in this Convention, the obligation could include all forms of medical screening with special attention to sexually transmissible diseases and HIV infection and their subsequent treatment.

96. “Psycho-social” assistance is needed to help victims overcome the trauma they have been through and return to a normal life in society.

97. The provision stresses that the child’s views, needs and concerns must be taken into account when taking the measures pursuant to this paragraph.

98. NGOs often have a crucial role to play in victim assistance. For that reason 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 many states, NGOs work with the authorities on the basis of partnerships and agreements designed to regulate their cooperation.

102. Several Parties refer to specific psychosocial assistance foreseen within the context of the refugee crisis:

- in **Croatia**, the rehabilitation Centre for Stress and Trauma and the Society for Psychological Aid are active at the Reception Centre for Applicants for Asylum;
- in **Austria**, asylum seekers are informed that psychological support is available in order to help them with their specific needs as victims;
- **Albania** also underlines that the National Reception Centre for Asylum Seekers employs a psychologist and a doctor, who have adequate capacity to identify and treat cases of sexually abused children. Their work includes psychological counselling, psychotherapy and psychiatric help services;
- in **Denmark**, the Danish Red Cross, under contract with the Danish Immigration Service, provides psychological screening of all newly arrived asylum seeking children in order to assess the well-being of the individual child as well as to identify children with special needs and initiate further support when needed;
- in **Malta**, social workers engage with victims throughout their placement in order to break the cycle of falling again into sexual exploitation, including by being given psychological support.

103. NGOs in **Finland** consider that in practice, support and care for asylum-seeking children who are victims of sexual exploitation/abuse are provided within the framework of the reception system, but the level of measures taken to cater for the needs of victims of sexual exploitation or abuse and the support provided to them varies in different locations and units as there exists no national system for victims of sexual abuse. **Serbia** warns about the risk of focusing more on activities to occupy children, rather than to heal their wounds. **Greece** explains that services to children affected by the refugee crisis who are victims of sexual exploitation and sexual abuse are offered by NGOs. Such services include specialist mental health services. The measures taken to address the situation thus depend on the NGO running a given shelter/supporting the victims therein. It is highlighted that this may have negative consequences such as shelter personnel being reluctant to report cases of rape of children not to attract media attention on the shelter’s conditions. A mechanism to avoid this should therefore be in place.

104. Finally some Parties also point at situations where psychosocial aid is provided regardless of the refugee crisis context:

- In **Germany**, during the first 15 months of residence, psychological treatment of mental disorders and trauma focused treatment can be granted in individual cases under the Asylum Seekers' Benefits Act (*AsylbLG*) if they are necessary to safeguard the means of existence or the state of health or to meet special needs of children. After 15 months of residence in **Germany**, beneficiaries of the *AsylbLG*, *as a rule*, are entitled to regular health care benefits as national recipients of social assistance;
- **Iceland** points out that children in need receive psychological therapy and trauma-focused treatment;
- **Latvia** underlines that if a child has experienced violence or there is a suspicion of the existence of violence (regardless of the type of violence), he/she has a right to rehabilitation services;
- **Luxembourg** highlights that the "*Office luxembourgeois de l'accueil et de l'Intégration*" (OLAIF), organises assistance of victims, in close cooperation with the Ombudsman's office, the NGO "*Maison de la porte ouverte*", specialises in the work with children and adolescents with needs for psychological help, and the network of public children's homes, "*Staatlech Kannerheemer*", offers specialised institutions for children needing psychological help;

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care.

***Assisting child* victims of sexual exploitation and sexual abuse *in seeking redress***

105. The Lanzarote Committee recalls that Chapter 3 of its [1<sup>st</sup> implementation report](#) is entirely dedicated to the best interest of the child and child-friendly criminal proceedings. It thus refers to the promising practices and recommendations made in that context which are equally valid with regard to the protection of children affected by the refugee crisis who should be assisted in accessing their rights, including within the context of any proceedings.

106. In line with the above-mentioned report's findings, Parties reiterate the important role of child-friendly spaces/settings where children are treated in a child appropriate manner and taking into account their views.

107. Multi-agency structures such as the "Children's House"/child friendly spaces (**Denmark, Iceland, Lithuania, Russian Federation** – planned in **Albania, Cyprus**), where a co-ordinated effort between social services, police, therapeutic services and health services are offered with the purpose of providing the abused child with co-ordinated and professional help in a child friendly environment are particularly relevant. Access to

these services should be offered to children affected by the refugee crisis as well. This would ensure links with the relevant stakeholders involved in the migration/asylum process.

108. In **Austria**, during the asylum-seeking process children are represented by an authorised agency up to the end of the procedure or to the age of majority. In addition, if the child is unaccompanied, he/she is specifically protected by procedural provisions. Once the asylum application is admitted, the locally responsible youth welfare service becomes the legal representative. During all procedures, unaccompanied alleged children receive a needs-based shelter, adequate care and practical provisions (e.g. training).

109. **Poland** and **Croatia** underline that the person interviewing a child victim of exploitation must be of the same sex as the victim and must carry out the interview in a child-friendly room.

110. In **Turkey**, Child Follow-up Centres have been established within hospitals/institutions that are subordinate to the Ministry of Health for the purposes of minimising secondary traumatisation of sexually exploited/abused children and ensuring that the judicial and medical procedures are carried out at one sitting and in a centre composed of the persons educated in these fields. The Child Follow-up Centres receive the sexually exploited/abused children who have come via the prosecutor's offices or those children who are suspected of having been sexually exploited or abused.

111. **Bulgaria** points at successful partnership with NGOs to provide support to victims of trafficking and their involvement as witnesses in criminal proceedings in the country and/or abroad against traffickers. **Greece** underlines that victims of sexual exploitation and abuse may also seek moral damages even when the perpetrator is unknown. In such case, redress may be applied for to the Hellenic Authority on Compensation of Victims of Criminal Acts.

#### **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse;
- considers that Parties should ensure that its specific recommendations on the child-friendly handling of proceedings involving children victims of sexual abuse be implemented also in the context of proceedings involving children affected by the refugee crisis.

## Helplines

### Article 13 – Helplines

*Each Party shall take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity.*

#### **Explanatory report**

92. *This article is particularly intended to apply to persons who may be confronted with a situation of sexual exploitation or sexual abuse. It could happen that persons to whom the child is entrusted do not know how to react. Moreover, child victims may also seek to obtain support or advice without knowing who to turn to. This emphasises the importance of the development of means whereby persons can safely reveal that they know about or have been victims of sexual abuse or sexual exploitation, or simply talk to a person outside their usual environment. Therefore Parties must encourage and support the setting up of such information services as telephone or Internet helplines to provide advice to callers. The Convention leaves to Parties any follow up to be given to calls received. These assistance services should be as widely available as possible. In some States, for example, such services are available 24 hours a day, 7 days a week.*

112. At some early stage when raising their awareness on their rights/procedures they may wish to use, children affected by the refugee crisis should be informed of the existence of helplines which they may turn to. In line with the challenges connected to communication raised above, Parties are encouraged to adapt their tools to effectively offer help to children affected by the refugee as outlined below:

- A Communication Center for Foreigners (YİMER) was established in **Turkey** to receive emergency calls of human trafficking victims and provide support to them. This line can be reached at all times from all over Turkey and abroad with language options including Turkish, English, Arabic, Russian, Persian and German;
- In September 2015, a specific website and email address ([refugiados@acm.gov.pt](mailto:refugiados@acm.gov.pt)) were created in **Portugal** to collect contributions from institutions and private individuals indicating their availability to support the hosting and integration of the 4,574 refugees that Portugal committed to receive;<sup>67</sup>
- **Sweden** set up a National Board of Health and Welfare with a call function to respond to questions and to provide support to municipal social services;
- **Spain** informs that in 2013 the Police launched a free helpline to report suspected cases of sex trafficking. The launch of this helpline was combined with participation by the Police in awareness-raising campaigns through television (e.g. in the “Stand up for trafficking victims” campaign), radio and newspapers to bring trafficking issues closer to society. Following these campaigns, helpline calls increased, which in turn contributed to the identification and release of a certain number of trafficked children;
- Similarly, **Portugal** also points out that its *Guarda Nacional Republicana* contributed to the production of a booklet for professionals and staff working with refugee children. Reference is also made to a brochure on refugee rights available in many languages.

<sup>67</sup> See: [www.refugiados.acm.gov.pt](http://www.refugiados.acm.gov.pt)

- **116 000**, the European missing children hotline number,<sup>68</sup> active in 29 European countries, may also be used to in the context of the refugee crisis.

**Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties that have not yet done so should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help them to provide advice in a language which is understandable to them.

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<sup>68</sup> See: <http://missingchildreneurope.eu/hotline>

### III. CO-OPERATION

#### **Article 38 – General principles and measures for international cooperation**

1. *The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:*

- a. preventing and combating sexual exploitation and sexual abuse of children;*
- b. protecting and providing assistance to victims;*
- c. investigations or proceedings concerning the offences established in accordance with this Convention.*

(...)

#### **Explanatory Report**

255. *Article 38 sets out the general principles that should govern international co-operation.*

256. *First of all, it obliges the Parties to co-operate widely with one another and in particular to reduce, as far as possible, the obstacles to the rapid circulation of information and evidence. The monitoring mechanism provided for in the Convention (Chapter X) may, inter alia, cover the implementation of this principle and the way in which existing co-operation instruments are applied to the protection of children against sexual exploitation and sexual abuse.*

257. *Article 38 then makes it clear that the obligation to co-operate is general in scope: it covers preventing and combating sexual exploitation and sexual abuse of children (first indent), protecting and providing assistance to victims (second indent) and investigations or procedures concerning criminal offences established in accordance with the Convention (third indent).*

#### **III. 1 Trends**

113. This question was generally replied to briefly and only partially (without replying necessarily to all three sub-questions). The following Parties moreover did not reply at all to the question: **France, Greece, Republic of Moldova, Romania, Russian Federation, Slovenia, “The former Yugoslav Republic of Macedonia”**.

114. A considerable number of Parties (**Albania, Andorra, Austria, Croatia, Czech Republic, Hungary, Iceland, Liechtenstein, Montenegro, Portugal, Russian Federation Serbia, Slovak Republic, Switzerland**) point out that in the absence of cases of abuse or sexual exploitation of children affected by the refugee crisis during the reference period (1 July 2015 – 30 June 2016), there was no concrete need or opportunity to co-operate with other Parties.

115. Some Parties (**Denmark, Latvia, Poland, Spain, Switzerland**), focus on successful police cooperation within the context of Interpol and Europol (quoting in particular the Raven and EMPACT Priority B and C projects). **Switzerland** additionally highlights an INTERPOL meeting in Lugano in October 2016 focusing specifically on the exploitation of refugees, including of children.

116. Finally, one Party (**Cyprus**) refers to the specific sharing of information and experience between members of the Lanzarote Committee leading to the decision to



establish a Children's House (see above reference to the Lanzarote Committee's 1<sup>st</sup> implementation report, [para 106](#)). It is understood that this facility will be accessible by any child regardless of status.

### III. 2 Challenges

117. As only few children affected by the refugee crisis have been provided with a durable solution<sup>69</sup> and are awaiting resettlement or relocation, with particularly low numbers of children being relocated from Greece or Italy following the EU decision of September 2015,<sup>70</sup> and very few people being resettled from Turkey to EU Member States following the EU-Turkey Statement of 18 March 2016.<sup>71</sup> Co-operation between Parties to such avoid delays should be increased as a preventive measure (even in the absence of known cases of sexual exploitation or sexual abuse). As mentioned above, the more children remain in overcrowded temporary reception facilities, the higher the risk that they will become victims of sexual violence.

118. Similarly, a specific focus on children that arrive unaccompanied or that are separated once they arrive at their destination appears particularly important from a viewpoint of preventing sexual exploitation and sexual abuse. In this regard, Parties would benefit from identifying together the challenges and priorities that are common to all those confronted by increased numbers of unaccompanied children arriving in Europe.

119. As mentioned above, a number of Parties and other sources<sup>72</sup> are alarmed by the high number of children affected by the refugee crisis that go missing and become easy targets for sexual exploitation and sexual abuse. Parties should share information, where available, and identify common strategies or specific procedures to effectively deal with the phenomenon of cross-border missing children.

#### **Recommendations on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- urges Parties to make use within the context of the refugee crisis of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse;

<sup>69</sup> UNICEF, *Uprooted: the growing crisis for refugee and migrant children* (September 2016), p. 96.

<sup>70</sup> European Union, Council Decisions (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601>

<sup>71</sup> European Union, EU-Turkey Statement, 18 March 2016, available at:

<http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

<sup>72</sup> European Union Agency for Fundamental Rights, *Key migration issues: one year on from initial reporting* (October 2016), available at <http://fra.europa.eu/en/publication/2016/key-migration-issues-one-year-initial-reporting>, p. 7 and UNICEF, *Danger every step of the way: A harrowing journey to Europe for refugee and migrant children* (June 2016), p. 3.

- invites all Parties particularly affected by the refugee crisis should join efforts to elaborate specific toolkits in the form of checklists with standards to be respected and procedural steps to be taken to ensure that all persons working with the assessment of refugee and migrant children take into account the same elements and do not overlook certain questions that may be of relevance to prevent and protect them from sexual abuse and sexual exploitation;
- considers Parties should agree on common strategies/procedures to effectively deal with the phenomenon of cross-border missing children.

### III. 3 Other issues

120. This section gathers together challenges and suggested practical actions that would particularly benefit from co-operation between Parties as well as with the countries of origin of the children affected by the refugee crisis.

121. In this regard, Article 38§4 of the Lanzarote Convention is particularly relevant as it requires Parties to integrate, where appropriate, prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states.

#### **Article 38 – General principles and measures for international cooperation**

(...)

4. *Each Party shall endeavour to integrate, where appropriate, prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states.*

#### **Explanatory Report**

261. *Lastly, under paragraph 4, the Parties must endeavour to include preventing and combating the sexual exploitation and sexual abuse of children in development assistance programmes benefiting third States. Many Council of Europe member States carry out such programmes, which cover such varied areas as the restoration or consolidation of the rule of law, the development of judicial institutions, combating crime, and technical assistance with the implementation of international conventions. Some of these programmes may be carried out in countries faced with substantial sexual exploitation and sexual abuse of children. It seems appropriate, in this context, that action programmes should take account of and duly incorporate issues relating to the prevention and punishment of this form of crime.*

122. To ensure the success of any awareness-raising and training initiatives involving different countries, the first point to establish is to understand whether there are any differences in the legal systems concerned which need to be clarified as they risk impacting on the duty to protect every child's human dignity and physical and psychological integrity.

123. In this respect, **Norway**<sup>73</sup> highlights child and forced marriages, which the Norwegian Government is committed to combatting and preventing in the context of a new National Action Plan Against Forced Marriage and Female Genital Mutilation (expected early 2017).

124. In this regard, **Germany** also points out that an interdisciplinary working group (with members of the Federal Ministry of the Interior, the Federal Ministry of Foreign Affairs, the Federal Ministry of Justice and Consumer Protection, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal Ministry of Health, the Federal Ministry of Economic Cooperation and Development, the Federal Government Commissioner for Migration, Refugees and Integration, the *Bundesländer*, the German Medical Board and a delegation of NGOs) has been tasked with following current developments, sharing best practices and developing a joint strategy to tackle the problem of female genital mutilation (FGM). Currently the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth finances research on the unreported cases and statistical methods to attain more reliable data on women and girls suffering from FGM and women and girls in danger of FGM living in Germany. At the same time, the project aims at finding out the needs of women and girls within their communities in order to eliminate the practice of FGM.

125. As per the UN 1951 Convention Relating to the Status of Refugees, Article 33§1, no person should be returned or expelled to a country where they may face persecution or serious human rights violations. It is worth mentioning in this regard that UNICEF<sup>74</sup> has highlighted that this principle of *non-refoulement* means that children should not be returned to a territory if they face risks including torture, detention, forced recruitment, forced marriage, female genital mutilation, trafficking or exploitation.

126. Concrete problems may also arise when girls affected by the refugee crisis arrive accompanied by adult boyfriends/husbands. When girls are below the age for engaging in sexual activities, **Austria** points out that according to its legislation, the Asylum Centres have to notify the public prosecution service. Generally, the family members of the girl do not understand why they are referred to a victim protection organisation. They in fact do not necessarily qualify the boyfriend/husband's sexual relationship with the girl as a criminal offence.

127. With regard to the above and connected issues, the Lanzarote Committee welcomes the fact that the Council of Europe's Steering Committee on Human Rights (CDDH) is preparing a "Guide to good and promising practices aimed at combating and preventing female genital mutilation and forced marriage".

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<sup>73</sup> As pointed out above, Norway is not yet a Party to the Lanzarote Convention but it has responded positively to the Lanzarote Committee's invitation to reply to its focused questionnaire.

<sup>74</sup> UNICEF, *Danger every step of the way: A harrowing journey to Europe for refugee and migrant children*, p. 6.

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- invites Parties to pay particular attention to the work of the Council of Europe in relation to the identification of good and promising practices aimed at combating and preventing female genital mutilation and child and forced marriage.

## IV. DATA COLLECTION AND COORDINATION

### **Article 10§2(b) - National measures of co-ordination and collaboration**

1 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.

2 Each Party shall take the necessary legislative or other measures to set up or designate:  
(...)

b 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.

### **Explanatory Report**

76. The first paragraph is concerned to promote a multidisciplinary co-ordination approach by requiring that Parties take measures to ensure the co-ordination on a national or local level between the various agencies responsible for preventing and combating sexual exploitation and abuse of children, in particular the education and health sectors, social services, law enforcement and judicial authorities. The list is not exhaustive. 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.

77. There is no doubt that the development of a multi-agency and multi-disciplinary approach to dealing with sexual exploitation and abuse of children is important, premised upon the fact that no single agency would be able to address a problem of such complexity.

78. The reference to "local" level means any level below the national level and is particularly relevant to federal States.

(...)

83. Paragraph 2 (b) requires Parties to set up or designate mechanisms for data collection or focal points at the national or local levels, in collaboration with civil society, for observing and evaluating the phenomenon of sexual exploitation and abuse of children. Although there can be no doubt that the sexual exploitation and abuse of children is a serious and increasing problem, there is a lack of accurate and reliable statistics on the nature of the phenomenon and on the numbers of children involved. 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.

84. The data referred to are not intended to cover personal data on individuals, but only statistical data on victims and offenders. Nevertheless, the negotiators wished to highlight the importance of respecting data protection rules in the collection of any data, by including the phrase "with due respect for the requirements of personal data protection".

129. It is essential to have reliable data on the number of children affected by the refugee crisis and of those sexually abused and/or exploited in order to frame, adjust and evaluate policies and measures in this field and assess the level of risk for children. The statistics provide information, on the one hand, to those involved in planning and conceiving law enforcement policy and criminal law policy and, on the other hand, to those drafting legislation in the fields of criminal law and the laws governing criminal procedure. In addition, the collected information could be relevant for the activities of NGOs and other civil society activists for issues related to the sexual abuse of children to

initiate co-ordinated preventive measures and/or develop targeted services as part of efforts to help victims. While the data will be of limited direct use for the law enforcement authorities when fighting sexual abuse in specific individual case, they are nevertheless pertinent for identifying any additional approaches to pursue, and for adjusting measures already taken.

#### **IV. 1 Institution(s) responsible for the collection of data**

130. It appears that a robust system is not in place in the Parties for collecting data on sexual exploitation and sexual abuse of children affected by the refugee crisis. Most Parties do not have a centralised institution responsible for the collection of such data which is, as such, not contradictory with the requirements of the Lanzarote Convention. Such data is usually collected by many different bodies within the same country without necessarily mechanisms set up to enhance comparability of the data collected or to aggregate it. The Committee recalls what it had already observed in its 1<sup>st</sup> implementation report: “(...) that one of the most important factors, crucial for the availability of data on child sexual abuse committed in the circle of trust, is undoubtedly the appointment of an agency tasked with producing a periodic report on aggregated data or recording case-based information on child abuse and neglect. In those Parties where such is the case, the information made available to the public (generally aggregated data) and authorised groups of users (generally case-based information) is, on the whole, much more reliable and complete.”<sup>75</sup> The same is true in the context of data on sexual exploitation and sexual abuse of children affected by the refugee crisis.

#### **IV. 2 Coordinated response between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children**

131. In some Parties, the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children act in a co-ordinated manner thanks to the data collected. **Austria**, for instance, underlines that data is important for the planning of the necessary measures of the different agencies involved. It cites the fact that the number of unaccompanied children is important for the child and youth welfare authorities to plan the necessary measures and the personnel, the data on the home-countries of the children is important for the provision of interpreters, information flyers, etc. **Bulgaria**, indicates that collected information shall be used for preparing statistical and/or situational analyses and reports to offer a co-ordinated response from the various institutions responsible for protection and prevention of the fight against sexual exploitation and sexual abuse of children. This is seen as a means for exchange of experience and knowledge between different institutions and NGOs and helps to optimise collaboration and co-operation in the fight against sexual exploitation and sexual abuse of children.

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<sup>75</sup> 1st implementation report of the Lanzarote Committee, “Protection of children against sexual abuse in the circle of trust – The Framework”, adopted on 4 December 2015, §75.

132. **Sweden** acknowledges that stronger co-ordination is required to enable the actors dealing with the refugee situation to work effectively together. The Government has therefore tasked the Swedish Civil Contingencies Agency with co-ordinating the management of the current refugee situation at national level. The Agency is to produce national situation reports, with information on areas in need of measures that have not yet been adequately taken. The Agency is also to identify and report on other circumstances that the Government should know about in order to assess the Government's need to take action. Within the Government, a State secretary at the Ministry of Health and Social Affairs was appointed as the co-ordinator on the issue of unaccompanied children who have applied for asylum.

133. In **Denmark**, the same rules and regulations and hence the same possibilities to provide assistance apply to asylum seeking and migrant children as to other children residing in Denmark. Therefore, with regard to children who have been subject of sexual abuse or exploitation or where suspicion of such abuse exists, this means that examination of the child must be carried out in a special Children's House. In the Children's Houses, a co-ordinated effort between social services, police, therapeutic services and health services are offered with the purpose of providing the abused child with co-ordinated and professional help in a child friendly environment.

**Recommendation on the steps to be taken to improve the effective implementation of the Lanzarote Convention**

The Lanzarote Committee:

- considers that Parties should reinforce or put in place a coordinated approach between the different agencies in charge in order to facilitate the prevention and protection of children affected by the refugee crisis from sexual exploitation and sexual abuse.

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