

The development of child-sensitive counseling, complaint and reporting mechanisms

Notes for the speech delivered by Ms Maud de Boer-Buquicchio,
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1. Document distributed to facilitate the discussion in the room

Introduction

Last month, once again one of the major international news' headlines revealed the atrocious scandal of sexual abuse allegations of around 30 former pupils by 2 teachers at an elite school in Berlin from 1975 to 1983. The more than 100 estimated victims have kept their secret for 30 years and carried the burden of pain, fear, guilt and shame on their own. They remained in the dark probably because they did not know what to do and to whom to turn. Like most victims of sexual abuse, they were terrified by the possible consequences of their allegations for themselves and their families, by the idea of not being believed and the threat of retaliation from the abusers.

Other scandals in residential institutions and in schools in Portugal, Ireland or Canada involving priests show that sexual violence can happen anywhere and that anyone can be an abuser.

I would therefore like to draw your attention to our obligations towards children to take all necessary steps to ensure that children have access to child sensitive services and mechanisms guaranteeing their protection, effective preventive measures and adequate responses to sexual violence, wherever it takes place.

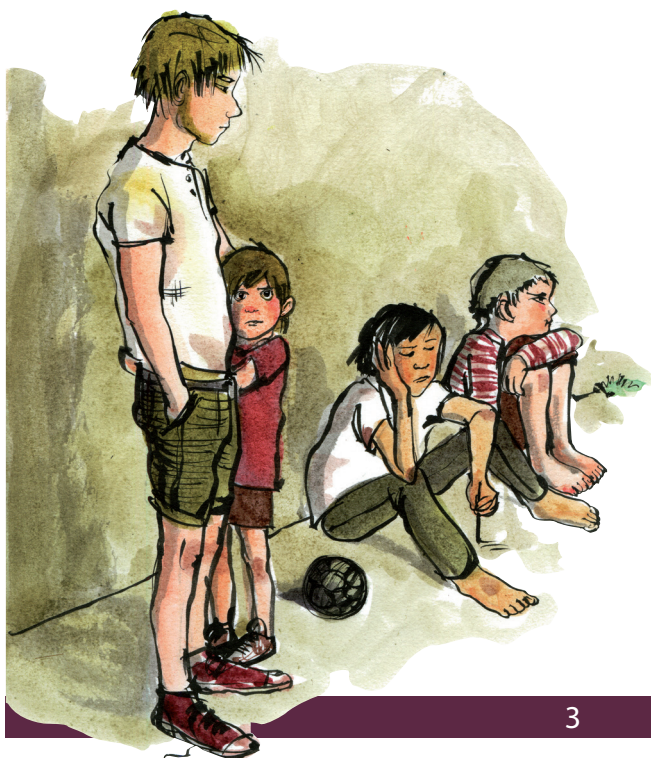
The Council of Europe has focused much attention on the rights of children and the protection of children from various forms of violence. The elimination of sexual violence is one of the mandates of the Programme "Building a Europe for and with children". In response to this mandate, the Council of Europe has approached the issue of sexual violence from four angles:

First, we have elaborated a convention covering all forms of sexual violence (the Lanzarote Convention);

Second, we are providing guidance to countries to set their own national integrated strategies for the protection of children from violence;

Third, we are mainstreaming children's rights in a series of areas of particular relevance for the prevention of and the protection from sexual violence: we are notably working on child friendly justice, child friendly social services, child friendly health care and child participation;

Fourth, we are preparing for the launching this year of a pan-European campaign to combat sexual violence against children.



I. A new international treaty covering all forms of sexual violence

As a standard-setting organisation, the Council of Europe has contributed to the global effort to combat sexual violence by establishing an effective legal framework and promoting international cooperation through **an international legally binding instrument**.

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention) was adopted in 2007. In this "ground-breaking" treaty also open to ratification by non-European countries, the Council of Europe calls on States to establish specific legislation and measures in various fields which will, notably, further facilitate children's access to counselling as well as to reporting and complaint mechanisms. The following provisions deserve being highlighted:

FIRST, the Convention recognises the need to adopt a **multidisciplinary and coordinated** approach on a national or local level between the different relevant agencies, including in the education and health sectors as well as the law-enforcement and judicial authorities. Furthermore, specialised authorities and co-ordinating bodies should be set up to allow victims or adults in contact with the latter to report suspicions of sexual abuse and exploitation.

SECOND, awareness-raising and education measures addressed to children themselves on the topic of sexual violence should be taken, notably in primary and secondary schools, in collaboration with parents. Children should be given the appropriate information related to sexual violence to ensure that they are able to recognise themselves as victims and that they possess the information allowing them to seek advice and report the abuse. The Convention also promotes the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or others initiatives concerning the fight against sexual exploitation and sexual abuse of children.

- An example of good practice: in Portugal, the Integrated Project on the Prevention of Sexual abused "PIPAS" was designed to produce and disseminate material to raise children's awareness on the issue of sexual violence notably in the context of residential institutions.

THIRD, children must be provided with information on their rights and on how they can exercise them. Helplines and child-friendly versions of relevant laws, conventions and information on services available to children should be easily accessible.

FOURTH, the Convention clearly underlines that the public at large and professionals have a **duty to report** suspicions of sexual exploitation or sexual abuse to child protection services, or to any other competent authority to protect the child and prevent further harm. Professionals working with children cannot remain silent on the ground of rules of professional secrecy. Reporting and complaint mechanisms should take into account the risks of pressure and threats faced by children when disclosing sexual assaults. Investigations or prosecution of offences should not depend upon the report or accusation made by the victim; the proceedings may continue even if the victim has withdrawn his or her statement.

FIFTH: Once sexual violence is reported, it is essential to **minimize the child's exposure to the justice system** to avoid secondary victimisation associated to the court proceedings.

- An example of good practice: the children's' houses in Iceland and Sweden are an excellent example of good practice in this area. Children are interviewed by trained professionals within a safe child-friendly environment where they can receive all the protection, psychological and medical care that they may need, under one roof. This avoids having to repeat several times what has happened to them before different people, in different institutions, and in different locations over a long period of time. It is important for the police, social services and courts to work together in raising awareness and ensuring that children do not have to go through a second trauma that can be worse than what they have already experienced.

AND FINALLY, the Convention stresses the importance of **international cooperation in criminal matters**. Where the offence was committed in the territory of a Party other than the one where they reside, victims will have access to complaint and reporting mechanisms in their State of residence.

II. An integrated response to violence against children

In 2006, the **UN Study on Violence against Children** called for the development by each country of a national strategy to prevent and combat all forms of violence against children, including sexual violence. At the end of 2009, the Council of Europe adopted its **Policy Guidelines on integrated national strategies for the protection of children from violence**. The Guidelines promote the development and implementation of a holistic national framework to safeguard children's rights and to protect children from all forms of violence, however mild, at all times and all settings. They are anchored in a sound human rights foundation represented by the UN Convention on the Rights of the Child and a wide arsenal of Council of Europe legal texts.

The Guidelines **key components** are the design of adequate legal, policy and institutional frameworks, the building a culture of respect of the rights of the child, the development of child-friendly services and mechanisms, the promotion of research and data collection and the reinforcement of international cooperation.

The setting up of effective and **child-friendly violence reporting and referral mechanisms** is one of the main objectives pursued by the Guidelines. Such mechanisms should respect the rights of the child and offer children (and where appropriate, their families) the necessary protection, including the protection of their privacy, without undue delay. Furthermore, the reporting of violence should be mandatory for all professionals working in contact with children.

Where this is warranted by the child's safety or well-being, children should have access to confidential medical counseling and advice without parental consent, irrespective of the child's age. This is in particular true for situations where children experience violence or abuse within the home, or in case of conflicts between parents and the child over access to health services.

The services responsible for the recovery, rehabilitation and social reintegration of child victims and witnesses should follow a multidisciplinary and multi-agency approach, seeing the child in the wider context of the family, community and his/her cultural background.

Child-sensitive counseling that is also gender-sensitive and disability-sensitive requires listening to the individual child with an attentive and trained ear. The professionals working in the field need to be experts with extensive knowledge on theories and practices, but they also need to reflect to what they hear, to interpret the child's silences, draw conclusions and be able to act accordingly.

- An example of good practice: in Norway, the Support Centre against Incest is a low-threshold provision for people who have been subjected to sexual abuse and their families. There are currently 18 support centres, out of which several provide facilities for children and young people. The purpose of the centres is to provide guidance and support to victims based on the principle of self-help. Many of them also carry out preventive work in the forms of information and guidance to other agencies that work in this field.

The guidelines also advocate for the establishment of independent institutions such as Ombudspersons for children. Access to them becomes particularly important for children living in residential institutions or in other situations in which the abuse takes place in a facility run by a public administration.

The **lack of cooperation** between professionals working in child protection, health and legal services remains one of the biggest hindrances to developing effective counseling and reporting mechanisms for child victims. If the administrative structures don't support a cooperative approach between professionals, it is very difficult, almost impossible, to create a complete network of care for a child who has been abused or maltreated and who needs support from everybody around him/her.

- An example of good practice: the fragmented public administration has been tackled by the Finnish Ministry for Social Welfare and Health, which in early 2000 launched a **programme on early intervention and support** targeting all children from 0 to 18 years of age. The ministry has successfully involved all relevant ministries, including the Ministry of Defense, as well as major NGO's and the Church, in the programme that has aimed at cooperation between different administrative sectors and municipal boundaries and development of new working methods to tackle any problem a child is facing at the earliest possible stage.

III. The development of child friendly services

We often call for child friendly services. The problem is that we do not have a clear idea of the meaning of these words and their concrete implications for some key policy areas. The Council of Europe has taken up this challenge and is currently working with its 47 member states and international partners on the definition of child friendly justice, child friendly social services and child friendly health care. Our work on child participation can complete this effort in other policy areas (such as education, good governance or the information society).

As the Committee on the Rights of the Child points out, "For rights to have meaning, effective remedies must be available to redress violations... Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives".

And yet, our justice systems constantly fail to take children's rights, interests and specific needs into account. Essential notions such as "effective remedy", "fair trial", "legal capacity", "legal responsibility", "consent" need to be checked against the background of the child's vulnerability, dependent status, age and evolving capacity. It is particularly important to remind ourselves that babies are rights holders too. Just as some adult rights holders (such as elderly confused or severely disabled adults) lack capacity, the fact that babies may lack legal capacity must not result in denial of effective remedies for breaches of their rights. Failing to address all these issues means weakening the very pillars of our justice system and may result in blunt violations of children's rights.

The current draft of the guidelines defines child-friendly justice as referring to systems which guarantee the effective implementation of all children's rights in the best possible manner, bearing in mind the principles of participation, best interests of the child, dignity, protection from discrimination and the rule of law. Such systems give due consideration to the child's level of maturity and understanding of the case. It is, in particular, justice which is accessible, age appropriate, efficient, adapted to and focused on children's needs, which respects their rights, including the rights to due process, to participation and to understanding the proceedings, to privacy and to integrity and dignity.



The development of child-sensitive counseling, complaint and reporting mechanisms

The development of child-sensitive counseling, complaint and reporting mechanisms is a pre-condition for effective access of children to justice both at national and international level. This is why the Council of Europe is also committed to improve children's access to international justice. The European Convention on Human Rights provides for an individual complaints mechanism which, unfortunately, is still lacking in the UN Convention on the Rights of the Child. I am however hopeful that the Human Rights Council will agree on the drafting of a new Optional Protocol to the Convention on the Rights of the Child providing for a communications procedure. In the meantime, the Strasbourg Court's more and more frequent references to the UN Convention are a very positive evolution.

In 2009, we celebrated the 20th anniversary of the UN Convention on the Rights of the Child, the 50th anniversary of the European Court of Human Rights and the 60th anniversary of the Council of Europe. The universality and eternity of the values they stand for is the most powerful proof of humankind's determination to overcome the limits of space and time. By giving a real meaning to these celebrations, we are embracing the whole universe, here and now.





BUILDING A EUROPE FOR AND WITH CHILDREN



About the Council of Europe

The Council of Europe is an international organisation founded in 1949 which now has 47 member states. Its role is to promote human rights, democracy and the rule of law. It establishes common democratic principles based on the European Convention on Human Rights and other conventions and recommendations on the protection of persons, which of course includes Europe's 150 million children.

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