PC-ES

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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THE COMMITTEE OF EXPERTS
ON THE PROTECTION OF CHILDREN
AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE

(PC-ES)

CONVENTION
ON
THE PROTECTION OF CHILDREN
AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE

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Convention on the protection of children against sexual exploitation and sexual abuse

1. The member States of the Council of Europe and the other signatories hereto;

2. Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

3. Considering that every child has the right to such measures of protection as are required by his or her status as a minor, on the part of his or her family, society and the State;

4. Observing that the sexual exploitation of children, in particular in the form of child pornography, prostitution, as well as all forms of sexual abuse of children, including where the acts are committed abroad, is destructive of a child's health and psychosocial development;

5. Observing that the sexual exploitation and sexual abuse of children have taken on worrying dimensions at both national and international level, in particular as regards the increased use by both children and perpetrators of information and communication technologies, and that preventing and combating such sexual exploitation and sexual abuse of children require international co-operation;

6. Considering that the well-being and best interests of children are fundamental values shared by all member States and must be promoted without any discrimination;

7. Recalling the Action Plan adopted at the Third Summit of Heads of State and Governments of the member States of the Council of Europe (16-17 May 2005) calling for the elaboration of measures to stop sexual exploitation of children;

8. Recalling in particular the Committee of Ministers' Recommendation Rec (91) 11 concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults, Recommendation Rec (2001)16 on the protection of children against sexual exploitation, and the Convention on Cybercrime, especially Article 9 thereof, as well as the Council of Europe Convention on Action against Trafficking in Human Beings;

9. Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the European Social Charter (1961) as modified in 1996 and the European Convention on the Exercise of Children's Rights (1996);

10. Also bearing in mind the United Nations Convention on the Rights of the Child, especially Article 34 thereof, the Optional Protocol on the sale of children, child prostitution and child pornography, the Additional Protocol to the United Nations Convention against Transnational Organised Crime on the prevention, suppression and punishment of trafficking in persons, especially women and children as well as the International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

11. Bearing in mind the Council of the European Union Framework Decision on combating sexual exploitation of children and child pornography (2004/68/JHA), the Council of the European Union Framework Decision on the standing of victims in criminal proceedings (2001/220/JHA), the Council of the European Union Framework Decision on combating trafficking in human beings (2002/629/JHA) ;

12. Taking due account of other relevant international instruments and programmes in this field, in particular the Stockholm Declaration and Agenda for Action, adopted at the first World Congress against Commercial Sexual Exploitation of Children (27-31 August 1996), the Yokohama Global Commitment adopted at the second World Congress against Commercial Sexual Exploitation of Children (17-20 December 2001), the Budapest Commitment and Plan of Action, adopted at the preparatory Conference for the second World Congress against Commercial Sexual Exploitation of Children (20-21 November 2001), the United Nations General Assembly Resolution S-27/2 "A World Fit For Children" and the three year programme "Building a Europe for and with children", adopted following the Third Summit of Heads of State and Governments of the member States of the Council of Europe (Warsaw, 16-17 May 2005) and launched by the Monaco Conference (4-5 April 2006);

13. Determined to contribute effectively to the common goal of protecting children against sexual exploitation and sexual abuse committed by any perpetrator and providing assistance to victims;

14. Taking into account the need to prepare a comprehensive international instrument focusing on the preventive, protective and criminal law aspects in the fight against all forms of sexual exploitation and sexual abuse of children and setting up a specific monitoring mechanism;

Have agreed as follows:

Chapter I – Purposes, non-discrimination principle and definitions

Article 1 – Purposes

1. The purposes of this Convention are:

a. to prevent and combat sexual exploitation and sexual abuse of children;
b. to protect the rights of child victims of sexual exploitation and sexual abuse;
c. to promote national and international co-operation against sexual exploitation and sexual abuse of children.

2. In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

Article 2 – Non-discrimination principle

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, state of health, disability or other status.

Article 3 – Definitions

For the purposes of this Convention:

a. "child" shall mean any person under the age of eighteen years;
b. "sexual exploitation and sexual abuse of children" shall include the behaviour as referred to in Articles 18 to 23 of this Convention;
c. "victim" shall mean any child subject to sexual exploitation or sexual abuse.

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.

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

1. Each Party shall take the necessary legislative or other measures to encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law enforcement sectors and in areas relating to sport, culture and leisure activities.

2. Each Party shall take the necessary legislative or other measures to ensure that the persons referred to in paragraph 1 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 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.

Article 6 – Education for children

Each Party shall take the necessary legislative or other measures to ensure that children, during primary and secondary education, receive information on the risks of sexual exploitation and sexual abuse as well as on the means to protect themselves, adapted to their evolving capacity. This information, provided, where appropriate, in collaboration with parents, shall be given within a more general context of information on sexuality and shall pay special attention to situations of risk, especially those involving the use of new information and communication technologies.

Article 7 - Preventive intervention programmes or measures

Each Party shall ensure that persons who fear that they might commit any of the offences established in accordance with this Convention may have access, where appropriate, to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed.

Article 8 – Measures for the general public

1. Each Party shall promote or conduct awareness raising campaigns addressed to the general public providing information on the phenomenon of sexual exploitation and sexual abuse of children and on the preventive measures which can be taken.

2. Each Party shall take the necessary legislative or other measures to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention.

Article 9 – Participation of children, the private sector, the media and civil society

1. Each Party shall encourage the participation of children, according to their evolving capacity, in the development and the implementation of State policies, programmes or others concerning the fight against sexual exploitation and sexual abuse of children.

2. Each Party shall encourage the private sector, in particular the information and communication technology sector, the tourism and travel industry and the banking and finance sectors, as well as civil society, to participate in the elaboration and implementation of policies to prevent sexual exploitation and sexual abuse of children and to implement internal norms through self-regulation or co-regulation.

3. Each Party shall encourage the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children, with due respect for the independence of the media and the freedom of the press.

4. Each Party shall encourage the financing, including, where appropriate, by the creation of funds, of the projects and programmes carried out by civil society aiming at preventing and protecting children from sexual exploitation and sexual abuse.

Chapter III – Specialised authorities and co-ordinating bodies

Article 10 – National measures of co-ordination and collaboration

1. Each Party shall take the necessary measures to ensure the coordination 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, the law enforcement and the judicial authorities.

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

a. independent competent national or local institutions for the promotion and protection of the rights of the child, ensuring that they are provided with specific resources and responsibilities;
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.

3. Each Party shall encourage co-operation between the competent State authorities, civil society and the private sector, in order to better prevent and combat sexual exploitation and sexual abuse of children.

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.

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.

Article 12 – Reporting suspicion of sexual exploitation or sexual abuse

1. Each Party shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals called upon to work in contact with children do not constitute an obstacle to the possibility, for those professionals, of their 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.

2. Each Party shall take the necessary legislative or other measures to encourage any person who knows about or suspects, in good faith, sexual exploitation or sexual abuse of children to report these facts to the competent services.

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.

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 the assistance to victims.

3. When the parents or persons who have care of the child are involved in his or her sexual exploitation or sexual abuse, the intervention procedures taken in application of Article 11 paragraph 1 shall include:

- the possibility of removing the alleged perpetrator;

- the possibility of removing the victim from his or her family environment. The conditions and duration of such removal shall be determined in accordance with the best interests of the child.

4. Each Party shall take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care.

Chapter V – Intervention programmes or measures

Article 15 – General principles

1. Each Party shall ensure or promote, in accordance with its internal law, effective intervention programmes or measures for the persons referred to in Article 16 paragraphs 1 and 2, with a view to preventing and minimising the risks of repeated offences of a sexual nature against children. Such programmes or measures shall be accessible at any time during the proceedings, inside and outside prison, according to the conditions laid down in internal law.

2. Each Party shall ensure or promote, in accordance with its internal law, the development of partnerships or other forms of co-operation between the competent authorities, in particular healthcare services and the social services, and the judicial authorities and other bodies responsible for the follow up of the persons referred to in Article 16 paragraphs 1 and 2.

3. Each Party shall provide, in accordance with its internal law, for an assessment of the dangerousness and possible risks of repeat offending by the persons referred to in Article 16 paragraphs 1 and 2, with the aim of identifying appropriate programmes or measures.

4. Each Party shall, in accordance with its internal law, provide for assessing the effectiveness of the programmes and measures implemented.

Article 16 – Recipients of intervention programmes and measures

1. Each Party shall ensure, in accordance with its internal law, that persons subject to criminal proceedings for any of the offences established in accordance with this Convention may have access to the programmes or measures mentioned in Article 15 paragraph 1 under conditions which are neither detrimental nor contrary to the rights of the defence and to the requirements of a fair and impartial trial, and particularly with due respect for the rules governing the principle of the presumption of innocence.

2. Each Party shall ensure, in accordance with its internal law, that persons convicted of any of the offences established in accordance with this Convention may have access to the programmes or measures mentioned in Article 15 paragraph 1.

3. Each Party shall ensure, in accordance with its internal law, that intervention programmes or measures are developed or adapted to meet the developmental needs of children who sexually offend, including those who are below the age of criminal responsibility, with the aim of addressing their sexual behavioural problems.

Article 17 – Information and consent

1. Each Party shall ensure, in accordance with its internal law, that the persons referred to in Article 16 to whom intervention programmes or measures have been proposed are fully informed of the reasons for the proposal and consent to the programme or measure with full knowledge of the facts.

2. Each Party shall ensure, in accordance with its internal law, that persons to whom intervention programmes or measures have been proposed may refuse them and, in the case of convicted persons, that they are made aware of the possible consequences a refusal might have.

Chapter VI – Substantive criminal law

Article 18 – Sexual abuse

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a. engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;

b. engaging in sexual activities with a child where:

- use is made of coercion, force or threats; or
- abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or
- abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

2. For the purpose of paragraph 1 above, each Party shall decide the age below which it is prohibited to engage in sexual activities with a child.

3. The provisions of Article 18 paragraph 1 a. do not intend to govern consensual sexual activities between minors.

Article 19 – Offences concerning child prostitution

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a. recruiting a child into prostitution or causing a child to participate in prostitution;
b. coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
c. having recourse to child prostitution.

2. For the purpose of the present article, the term "child prostitution" shall mean the fact of using a child for sexual activities where money or any other form of remuneration or consideration is given or promised as payment, regardless if this payment, promise or consideration is made to the child or to a third person.

Article 20 – Offences concerning child pornography

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:

a. producing child pornography;
b. offering or making available child pornography;
c. distributing or transmitting child pornography;
d. procuring child pornography for oneself or for another person;
e. possessing child pornography;
f. knowingly obtaining access, through information and communication technologies, to child pornography.

2. For the purpose of the present article, the term "child pornography" shall mean any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes.

3. Each Party may reserve the right not to apply, in whole or in part, paragraph 1 a. and e. to the production and possession of pornographic material:

- consisting exclusively of simulated representations or realistic images of a non-existent child;
- involving children who have reached the age set in application of Article 18 paragraph 2, where these images are produced and possessed by them with their consent and solely for their own private use.

4. Each Party may reserve the right not to apply, in whole or in part, paragraph 1 f.

Article 21 – Offences concerning the participation of a child in pornographic performances

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a. recruiting a child into participating in pornographic performances or causing a child to participate in such performances;
b. coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes;
c. knowingly attending pornographic performances involving the participation of children.

2. Each Party may reserve the right not to apply, in whole or in part, paragraph 1 c.

Article 22 – Corruption of children

Each Party shall take the necessary legislative or other measures to criminalise the intentional causing, for sexual purposes, of a child who has not reached the age set in application of Article 18 paragraph 2, to witness sexual abuse or sexual activities, even without having to participate.

Article 23 – Solicitation of children for sexual purposes

Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18 paragraph 2, for the purpose of committing any of the offences established in accordance with Articles 18 paragraph 1 a. or 20 paragraph 1 a. against him or her, where this proposal has been followed by material acts leading to such a meeting.

Article 24 – Aiding or abetting and attempt

1. Each Party shall take the necessary legislative or other measures to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with this Convention.

2. Each Party shall take the necessary legislative or other measures to establish as criminal offences, when committed intentionally, an attempt to commit the offences established in accordance with this Convention.

3. Each Party may reserve the right not to apply, in whole or in part, paragraph 2 to offences established in accordance with Article 20, paragraph 1 b., d., e. and f., Article 21 paragraph 1 c., Article 22 and Article 23.

Article 25 – Jurisdiction

1. Each Party shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

a. in its territory; or
b. on board a ship flying the flag of that Party; or
c. on board an aircraft registered under the laws of that Party; or
d. by one of its nationals; or
e. by a person who has his or her habitual residence in its territory.

2. Each Party shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of its nationals or a person who has his or her habitual residence in its territory.

3. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraph 1 e. of this article.

4. For the prosecution of the offences established in accordance with Articles 18, 19, 20 paragraph 1 a. and 21 paragraph 1 a. and b. of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraph 1 d. is not subordinate to the condition that the acts are criminalised at the place where they were performed.

5. For the prosecution of the offences established in accordance with Articles 18, 19, 20 paragraph 1 a. and 21 of this Convention, each Party shall take the necessary legislative or other measures to ensure that its jurisdiction as regards paragraphs 1 d. and e. is not subordinate to the condition that the prosecution can only be initiated following a report from the victim or a denunciation from the State of the place where the offence was committed.

6. Each Party shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality.

7. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

8. Without prejudice to the general norms of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

Article 26 – Corporate liability

1. Each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable for an offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

a. power of representation of the legal person;
b. an authority to take decisions on behalf of the legal person;
c. an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of an offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

3. Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

Article 27 – Sanctions and measures

1. Each Party shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include penalties involving deprivation of liberty which can give rise to extradition.

2. Each Party shall take the necessary legislative or other measures to ensure that legal persons held liable in accordance with Article 26 shall be subject to effective, proportionate and dissuasive sanctions which shall include monetary criminal or non-criminal fines and may include other measures, in particular:

a. exclusion from entitlement to public benefits or aid;
b. temporary or permanent disqualification from the practice of commercial activities;
c. placing under judicial supervision;
d. a judicial winding-up order.

3. Each Party shall take the necessary legislative or other measures to:

a. provide seizure and confiscation of:

- goods, documents and other instrumentalities used to commit the offences, or to facilitate their commission, established in accordance with this Convention;
- the proceeds derived from such offences or their value;

b. enable the temporary or permanent closure of any establishment used to carry out any of the offences established in accordance with this Convention, without prejudice to the rights of bona fide third parties, or to deny the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed.

4. Each Party may adopt other measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons.

5. Each Party may establish that the proceeds of crime or property confiscated in accordance with this Article can be allocated to a special fund in order to finance prevention and assistance programmes for victims of any of the offences established in accordance with this Convention.

Article 28 – Aggravating circumstances

Each Party shall take the necessary legislative or other measures to ensure that the following circumstances, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention:

a. the offence seriously damaged the physical or mental health of the victim;
b. the offence was preceded or accompanied by acts of torture or serious violence;
c. the offence was committed against a particularly vulnerable victim;
d. the offence was committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority;
e. the offence was committed by several people acting together;
f. the offence was committed within the framework of a criminal organisation;
g. the perpetrator has previously been convicted of offences of the same nature.

Article 29 – Previous convictions

Each Party shall take the necessary legislative or other measures providing for the possibility to take into account final sentences passed by another Party in relation to the offences established in accordance with this Convention when determining the penalty.

Chapter VII – Investigation, prosecution and procedural law

Article 30 – Principles

1. Each Party shall take the necessary legislative or other measures to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child.

2. Each Party shall adopt a protective approach towards victims, ensuring that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate.

3. Each Party shall ensure that the investigations and criminal proceedings are treated as priority and carried out without any unjustified delay.

4. Each Party shall ensure that the measures applicable under the current Chapter are not prejudicial to the rights of the defence and the requirements of a fair and impartial trial, in conformity with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

5. Each Party shall take the necessary legislative or other measures, in conformity with the fundamental principles of its internal law:

- to ensure an effective investigation and prosecution of offences established in accordance with this Convention, allowing, where appropriate, the possibility for covert operations;

- to enable units or investigative services to identify the victims of the offences established in accordance with Article 20, in particular by analysing child pornography material, such as photographs and audiovisual recordings transmitted or made available through the use of information and communication technologies.

Article 31 – General measures of protection

1. Each Party shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of the investigations and criminal proceedings, in particular by:

a. informing them of their rights and the services at their disposal and, unless they do not wish to receive such information, the follow-up given to their complaint, the charges, the general progress of the investigations or proceedings, and their role as well as the outcome of their cases;
b. ensuring that, at least in cases where there might exist danger to the victims and their families, they may be informed, if this is necessary, when the person prosecuted or convicted is released temporarily or definitively;
c. enabling them, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and to chose the means to have their views, needs and concerns presented, directly or through an intermediary, and considered;

d. providing them with appropriate support services so that their rights and interests are duly presented and taken into account;
e. protecting their privacy, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification;
f. providing for their safety, as well as that of their families and witnesses on their behalf, from intimidation, retaliation and repeat victimisation;
g. ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.

2. Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings.

3. Each Party shall ensure that victims have access, provided free of charge where warranted, to legal aid when it is possible for them to have the status of parties to criminal proceedings.

4. Each Party shall provide for the possibility for the judicial authorities to appoint a special representative for the victim when, by internal law, he or she may have the status of a party to the criminal proceedings and where the holders of parental responsibility are precluded from representing the child in such proceedings as a result of a conflict of interest between them and him or her.

5. Each Party shall provide, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, the possibility for groups, foundations, associations or governmental or non-governmental organisations, to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention.

6. Each Party shall ensure that the information given to victims in conformity with the provisions of this article is done so in a manner adapted to their age and maturity and in a language that they can understand.

Article 32 – Initiation of proceedings

Each Party shall take the necessary legislative or other measures to ensure that investigations or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, and that the proceedings may continue even if the victim has withdrawn his or her statements.

Article 33 – Statute of limitation

Each Party shall take the necessary legislative or other measures to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with Articles 18, 19 paragraph 1 a. and b., and 21 paragraph 1 a. and b. shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority.

Article 34 – Investigations

1. Each Party shall adopt such measures as may be necessary to ensure that persons, units or services in charge of investigations are specialised in the field of combating sexual exploitation and sexual abuse of children or that persons are trained for this purpose. Such units or services shall have adequate financial resources.

2. Each Party shall take the necessary legislative or other measures to ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations.

Article 35 – Interviews with the child

1. Each Party shall take the necessary legislative or other measures to ensure that:

a. interviews with the child take place without unjustified delay after the facts have been reported to the competent authorities;
b. interviews with the child take place, where necessary, in premises designed or adapted for this purpose;
c. interviews with the child are carried out by professionals trained for this purpose;
d. the same persons, if possible and where appropriate, conduct all interviews with the child;
e. the number of interviews are as limited as possible and in so far as necessary for the purpose of criminal proceedings;
f. the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

2. Each Party shall take the necessary legislative or other measures to ensure that all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and that these videotaped interviews may be accepted as evidence during the court proceedings, according to the rules provided by its internal law.

3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, the measures established in paragraphs 1 and 2 shall be applied pending verification of his or her age.

Article 36 – Criminal court proceedings

1. Each Party shall take the necessary legislative or other measures, with due respect for the rules governing the autonomy of legal professions, to ensure that training on children's rights and sexual exploitation and sexual abuse of children is available for the benefit of all persons involved in the proceedings, in particular judges, prosecutors and lawyers.

2. Each Party shall take the necessary legislative or other measures to ensure, according the conditions provided by its internal law, that :

a. the judge may order the hearing to take place without the presence of the public;
b. the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies.

Chapter VIII – Recording and storing of data

Article 37 - Recording and storing of national data on convicted sexual offenders

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

2. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of a single national authority in charge for the purposes of paragraph 1.

3. Each Party shall take the necessary legislative or other measures to ensure that the information referred to in paragraph 1 can be transmitted to the competent authority of another Party, in conformity with the conditions established in its internal law and the relevant international instruments.

Chapter IX – International co-operation

Article 38 – General principles and measures for international co-operation

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.

2. Each Party shall take the necessary legislative or other measures to ensure that victims of an offence established in accordance with this Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence.

3. If a Party that makes mutual legal assistance in criminal matters or extradition conditional on the existence of a treaty receives a request for legal assistance or extradition from a Party with which it has not concluded such a treaty, it may consider this Convention the legal basis for mutual legal assistance in criminal matters or extradition in respect of the offences established in accordance with this Convention.

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.

Chapter X – Monitoring mechanism

Article 39 - Committee of the Parties

1. The Committee of the Parties shall be composed of representatives of the Parties to the Convention.

2. The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention for the tenth signatory having ratified it. It shall subsequently meet whenever at least one-third of the Parties or the Secretary General so requests.

3. The Committee of the Parties shall adopt its own rules of procedure.

Article 40 – Other representatives

1. The Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH), the European Committee on Legal Cooperation (CDCJ), the Governmental Committee of the European Social Charter, the Advisory Council on Youth (CCJ), the Expert Committee on Children and Families and the European Committee for Social Cohesion (CDCS) shall each appoint a representative to the Committee of the Parties.

2. The Committee of Ministers may invite other Council of Europe bodies to appoint a representative to the Committee of the Parties after consulting the latter.

3. Representatives of civil society, and in particular non-governmental organisations, may be admitted as observers to the Committee of the Parties following the procedure established by the relevant rules of the Council of Europe.

4. Representatives appointed under paragraphs 1 to 3 above shall participate in meetings of the Committee of the Parties without the right to vote.

Article 41 - Functions of the Committee of the Parties

1. The Committee of the Parties shall monitor the implementation of this Convention. The rules of procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention.

2. The Committee of the Parties shall facilitate the collection, analysis and exchange of information, experiences and good practice between States to improve their capacity to prevent and combat sexual exploitation and sexual abuse of children.

3. The Committee of the Parties shall also, where appropriate:

a. facilitate or improve the effective use and implementation of this Convention, including the identification of any problems and the effects of any declaration or reservation made under this Convention;
b. make proposals for the amendment of this Convention in accordance with Article 44 paragraph 1;
c. formulate its opinion on any proposal for the amendment of this Convention which is referred to it in accordance with Article 44, paragraph 2;
d. express an opinion on any question concerning the application of this Convention and facilitate the exchange of information on significant legal, policy or technological developments.

4. The Committee of the Parties shall be assisted by the Secretariat of the Council of Europe in carrying out its functions pursuant to this article.

Chapter XI – Relationship with other international instruments

Article 42 – Relation to the United Nations Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography

This Convention shall not affect the rights and obligations arising from the provisions of the United Nations Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, and is intended to enhance the protection afforded by them and develop and complement the standards contained therein.

Article 43 – Relation to other international instruments

1. This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for child victims of sexual exploitation or sexual abuse.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

[3. Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.]

Chapter XII – Amendments to the Convention

Article 44 – Amendments

1. Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, [the European Community], any State invited to sign this Convention in accordance with the provisions of Article 45 paragraph 1 and any State invited to accede to this Convention in accordance with the provisions of Article 46 paragraph 1.

2. Any amendment proposed by a Party shall be communicated to the Committee of the Parties, which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the Committee of the Parties and, following consultation of the Parties to this Convention and after obtaining their unanimous consent, may adopt the amendment.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Chapter XIII – Final clauses

Article 45 – Signature and entry into force

1. This Convention shall be open for signature by the member States of the Council of Europe, the non member States which have participated in its elaboration [and the European Community].

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 5 signatories, including at least 3 member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

4. In respect of any State referred to in paragraph 1 [or the European Community], which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 46 – Accession to the Convention

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20 d. of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 47 – Territorial application

1. Any State [or the European Community] may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 48 – Reservations

No reservation may be made in respect of any provision of this Convention, with the exception of the reservations expressively established.

Article 49 – Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 50 – Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State signatory, any State Party, [the European Community], any State invited to sign this Convention in accordance with the provisions of Article 45 and any State invited to accede to this Convention in accordance with the provisions of Article 46 of:

a. any signature;
b. the deposit of any instrument of ratification, acceptance, approval or accession;
c. any date of entry into force of this Convention in accordance with Articles 45 and 46;
d. any amendment adopted in accordance with Article 44 and the date on which such an amendment enters into force;
e. any denunciation made in pursuance of the provisions of Article 49;
f. any other act, notification or communication relating to this Convention;
g. any reservation made under Article 48.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at XX, this [date], in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, [to the European Community] and to any State invited to accede to this Convention.