



Recommendation 1934 (2010)¹

Final version

Child abuse in institutions: ensuring full protection of the victims

Parliamentary Assembly

1. The Parliamentary Assembly is greatly concerned by the extent to which children and adolescents in Council of Europe member states have suffered from sexual, physical and emotional abuse in past decades. Problems of abuse continue to exist in various institutions, including public and private educational facilities, childcare residences, correctional facilities for young offenders, leisure associations and others. The Assembly is further concerned by the lack of committed action that has sometimes been observed when it comes to dealing with offences against minors, who are amongst the most vulnerable members of society.

2. The Assembly is convinced that all authorities and institutions need to critically review past action and take more far-reaching measures in the future when it comes to according full justice to victims of past offences, to supporting children affected by recent abuse and ongoing legal procedures and to protecting children from future abuse. No authority or institution should be exempt from critical review, as all institutions without exception are subject to the same national legislation, in particular in the field of criminal law. Governments need to take more committed action at national level in the future when it comes to reinforcing legislation on child abuse and applying it to various institutional contexts.

3. Article 19 of the United Nations Convention on the Rights of the Child obliges all contracting parties to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” and requires that such measures should “include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child”. At the level of the Council of Europe, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, Lanzarote Convention), which entered into force on 1 July 2010, contains clear and complete provisions concerning sexual abuse of children. The convention clearly states that, when “abuse is made of a recognised position of trust, authority or influence over the child”, each party shall take the necessary legislative or other measures to ensure that engaging in intentional conduct relating to sexual activities with a child is criminalised. The Assembly further reminds member states of Recommendation Rec(2005)5 of the Committee of Ministers on the rights of children living in residential institutions which recognises the right “to respect for the child’s human dignity and physical integrity; in particular, the right to conditions of human and non-degrading treatment and a non-violent upbringing, including the protection against corporal punishment and all forms of abuse”. The Assembly emphasises the importance of further promoting, signing, ratifying and implementing these instruments so as to enhance their impact on the situation of children.

1. *Assembly debate* on 5 October 2010 (31st Sitting) (see [Doc. 12358](#), report of the Social, Health and Family Affairs Committee, rapporteur: Mrs Rupprecht). *Text adopted by the Assembly* on 5 October 2010 (31st Sitting).



4. With regard to the cases of child abuse which have recently been uncovered and continue to be uncovered, and the existing standards referring to sexual, physical and emotional abuse of children, the Assembly recommends that the Committee of Ministers ask member states to:

- 4.1. ensure legislative protection, notably by:
 - 4.1.1. adopting legislation to explicitly prohibit all forms of violence against children: physical and mental violence, injury or abuse (including sexual abuse), neglect or negligent treatment, maltreatment or exploitation, including in childcare institutions, public and private educational institutions, correctional facilities and leisure associations, and thus criminalising any intentional abuse of a child made by a person in a recognised position of trust, authority or influence over the child;
 - 4.1.2. providing for *ex officio* prosecution in cases of child abuse in any context;
 - 4.1.3. introducing a system of “graded prosecution” of child abuse according to the gravity of the offence;
 - 4.1.4. ensuring that prescription periods for child abuse offences under civil and criminal law are coherent and appropriate in view of the gravity of the offences and, in any case, do not begin before the victim reaches the age of majority;
 - 4.1.5. defining or revising the rights and responsibilities of educational staff;
 - 4.1.6. defining or revising the minimum requirements for the certification of childcare institutions (such as residential care homes, public and private educational facilities, day-care institutions, etc.) and conditions to be fulfilled by their management;
 - 4.1.7. making police clearance certificates for professional and voluntary staff working closely with children (which should also include minor offences) compulsory;
 - 4.1.8. defining as illegal and excluding certain practices with regard to the punishment of minors in institutions which are contrary to their dignity and rights;
- 4.2. identify possible structural shortcomings in all types of institutions and adapt existing administrative systems wherever necessary, by:
 - 4.2.1. examining the factors that facilitate child abuse in the various institutions and taking specific action to respond to them;
 - 4.2.2. based on this acquired knowledge, developing and monitoring internal guidelines for the prevention of child abuse, which are to be applied by and to all institutions without exception;
 - 4.2.3. reinforcing rules and modalities for the external supervision of various institutions, notably ensuring that institutions are never run and supervised by the same authority and giving clear and understandable structures and mandates to bodies in charge of control;
 - 4.2.4. developing specific training and continuous education programmes for all professionals and volunteers working with children and adolescents, to enable them both to identify potential abuse and to react to it in an appropriate manner; such training and education programmes should also be relevant for police, prosecutors and judges responsible for following up on child abuse;
 - 4.2.5. ensuring that staff and children know about the internal guidelines of their institutions (and their respective rights);
 - 4.2.6. setting up neutral, independent and child-sensitive bodies that children can safely access and consult in all confidentiality whenever they feel threatened, suffer abuse or witness it in their institutions;
- 4.3. apply a broad spectrum of political measures to support and accompany legislative and administrative measures, including:
 - 4.3.1. launching national processes and enquiries dealing with past offences, including their extensive evaluation and documentation, so as to accord full justice to victims, including some form of compensation to be defined, as well as easy and unbureaucratic access to therapeutic help;

4.3.2. developing, in the context of legal procedures and relevant follow-up by social services, child-friendly mechanisms and structures for victims of sexual abuse which will avoid their secondary victimisation;

4.3.3. undertaking further research on the issue so as to fully understand the scope, nature and causes of the problems encountered and to learn lessons from the past in order to determine future action required;

4.3.4. developing, implementing and monitoring comprehensive strategies aimed at the prevention of child abuse of all kinds, involving all stakeholders concerned, namely public authorities, private and religious organisations who run institutions, non-governmental organisations, families and not least children and adolescents themselves, and including the following measures:

4.3.4.1. developing practical tools such as national action plans, guidelines and codes of conduct for institutions and professionals working with and for children;

4.3.4.2. raising awareness of the importance of strengthening children through loving, trustful and supportive family or family-type environments, which allow them to recognise violence or unwanted sexual or physical acts as something wrong;

4.3.4.3. developing comprehensive services for children, including counselling, complaint and reporting mechanisms, and support services to help to protect them, and to help victims to recover, to reintegrate and to obtain compensation;

4.3.4.4. developing strategies for child and youth participation, so as to consult them on their needs;

4.3.4.5. ensuring that prevention can also tackle possible offenders before they abuse children, notably by training relevant professionals (medical, psychological and educational staff) to recognise them and take appropriate action;

4.3.5. generally raising awareness about child abuse in the institutional context, including through public information campaigns.

5. The Assembly further recommends that the Committee of Ministers:

5.1. invite member states to sign and ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), if they have not yet done so, and implement it through committed national follow-up action;

5.2. invite national governments and parliaments and any other public or private organisation concerned, to join, support and contribute to the Council of Europe Campaign to Stop Sexual Violence against Children, to be launched on 29 and 30 November 2010 in Rome;

5.3. instruct the relevant intergovernmental bodies of the Council of Europe, notably those related to the Programme Building a Europe for and with Children and its strategy 2009-2011, to incorporate the aims of the campaign in their activities, particularly with regard to promoting the fight against child abuse in institutions by following the broad approach set out under paragraph 4 above;

5.4. invite all international organisations, including the European Union, agencies of the United Nations and the Inter-Parliamentary Union, to support the Council of Europe Campaign to Stop Sexual Violence against Children.

6. The Assembly invites all stakeholders concerned by child abuse in institutions in some way to co-operate and to contribute to the rapid revision of current legislative, structural and political situations, and to take further committed action against child abuse in institutions, as well as against all other categories of child abuse.

7. The Assembly resolves to develop the parliamentary dimension of the Council of Europe Campaign to Stop Sexual Violence against Children with a view to associating national parliaments with the campaign and promoting the signature, ratification and implementation of the Lanzarote Convention.

8. Finally, the Assembly invites the Committee of Ministers, after having consulted with the government of every member state, to report back to the Assembly by January 2013 on the measures implemented and results achieved so far during the campaign in each country in relation to each point of this recommendation. The Assembly also invites all observer states to report back in a similar fashion.