

Opinion 263 (2007)¹

Draft convention on the protection of children against sexual exploitation and sexual abuse

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the speedy preparation of the draft convention on the protection of children against sexual exploitation and sexual abuse. It considers this draft to be a major step forward in the protection of children against this particularly repugnant kind of abuse. It also takes the view that the name of the Council of Europe should appear in the title of the convention.

2. The future convention fits in perfectly with a long-established priority of the Assembly and of the Council of Europe as a whole: building a Europe for and with children. It constitutes a necessary, albeit insufficient, contribution to the fight to eradicate all forms of violence, exploitation and abuse suffered by children. Indeed, in [Recommendation 1778 \(2007\)](#) on the subject, the Assembly urged the Committee of Ministers, “working closely with the Parliamentary Assembly, to instruct its competent governmental committees ... to produce a draft convention aimed at affording children comprehensive, effective protection against all forms of violence, exploitation or abuse ...”. As the sexual exploitation and abuse of children are among the most despicable forms of child exploitation and abuse, this draft convention constitutes a major step along the path leading to the full protection of children for which the Assembly calls.

3. The Assembly welcomes the provision made by the draft convention for a monitoring mechanism, for which it invites the Committee of Ministers to make appropriate resources available, taking account of the scope and importance of the remit of the Committee of the Parties under Article 41 of the draft convention.

4. Regarding Articles 20, 21, 24 and 25 of the draft convention, allowing reservations which might well, in certain cases, weaken the criminal protection of children at risk of sexual exploitation and abuse, the Assembly regrets that it was necessary, in order to attain sufficiently broad agreement among government representatives, to include such “escape clauses” in the draft. It recommends that the Committee of Ministers strike out these clauses. Failing that, it recommends that all member states accede to this convention without making any reservations, and calls on national parliaments to be vigilant in this respect.

5. The Assembly also advocates certain textual amendments, particularly regarding better recognition of the important role of victims’ parents and families, and therefore recommends that the Committee of Ministers amend the draft convention as follows:

1. in the title of the convention, add the name “Council of Europe” before the word “Convention”;
2. in Article 7, after the words “who fear that they might”, insert the words “or who are likely to”;
3. in Article 9, at the end of paragraph 2, either delete the words “or co-regulation”, or make its meaning more explicit;
4. in Article 12, paragraph 1, replace the words “the possibility, for those professionals, of their reporting” with the words “the obligation for them to report”;
5. in Article 13, after the words “to provide advice to callers”, insert the words “or allow them to denounce abuses”;

1. Assembly debate on 20 April 2007 (18th Sitting) (see [Doc. 11256](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Gardetto; and [Doc. 11262](#), opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Vermot-Mangold). Text adopted by the Assembly on 20 April 2007 (18th Sitting).



6. in Article 14, reword the second sentence in paragraph 1 as follows: “Measures taken pursuant to this paragraph shall take due account of the views, needs and concerns of the child and of his or her parents, except when the parents have themselves been involved in the practice of sexual abuse or sexual exploitation.”;
7. in Article 14, add the following sentence at the end of paragraph 3: “Each Party shall ensure that, in all cases in which the measures to which this article refers have been taken, the allegations made against a parent or other person who has care of the child shall be determined as soon as possible.”;
8. in Article 15, paragraph 2, after the words “judicial authorities”, insert “while respecting their independence”;
9. in Article 15, paragraph 3 (concerns only the French version);
10. in Article 16, add at the end of paragraph 3 the words “and protecting their potential victims”;
11. in Article 20, paragraph 1, after the words “when committed without right” add the words “(outside of legitimate activities aimed at prevention or repression of such criminal acts)”;
12. in Article 20, delete paragraph 4;
13. in Article 21, delete paragraph 2;
14. at the end of Article 22, insert the words “except in the cases covered by Article 18, paragraph 3”;
15. in Article 24, delete paragraph 3;
16. in Article 25, delete paragraph 3;
17. in Article 25, at the end of paragraph 6, delete the words “and it does not extradite him or her to another Party, solely on the basis of his or her nationality”;
18. in Article 26, paragraph 2, replace the terms “lack of supervision or control” by “lack or insufficiency of supervision or control”;
19. in Article 27, paragraph 2.a, after the words “public benefits or aid” insert the words “or from public calls for tenders”;
20. in Article 27, paragraph 2.b, after the word “commercial”, insert the words “or other”;
21. in Article 30, at the end of paragraph 3, add the words “particularly in cases in which one of the measures provided for by Article 14, paragraph 3 (removal of the alleged perpetrator and removal of the victim from his or her family environment), has been taken”;
22. at the end of Article 33, insert the words “and which is commensurate with the gravity of the crime in question.”;
23. in Article 36, paragraph 2.b, delete the word “communication”;
24. in Article 41, after paragraph 2, insert the following new paragraph: “The Committee of the Parties shall prepare at regular intervals a report on the implementation and the effects of the convention, which it shall transmit to the Committee of Ministers and to the Parliamentary Assembly.”;
25. in Article 41, paragraph 3.a, after the words “any problems and”, add the word “interpret”;
26. in Article 43, delete paragraph 3 (“disconnection clause”); failing this, insert into the explanatory report on the convention a passage equivalent to the one on this subject included in the explanatory report on the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);
27. add a provision inviting member states to sign and ratify the Convention on Cybercrime (ETS No. 185).