1. Recommendations for the Development of an Integrated System for Protection of Child Victims of Abuse and/or Crime in Bulgaria

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Having regard to the:


- **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse**, ratified with a law adopted by the 41st National Assembly (NA) on 2 November 2011, SG No. 90 of 2011, entered into force in the Republic of Bulgaria on 1 April 2012;

- **Convention on Cybercrime**, adopted at the 109th session of the Committee of Ministers of the Council of Europe and opened for signature in Budapest on 23 November 2001; ratified with a law adopted by the 39th NA on 1 April 2005, SG No. 29 of 5 April 2005; issued by the Ministry of Justice, promulgated in SG No. 76 of 15 September 2006, entered into force in the Republic of Bulgaria on 1 August 2005;

• Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010;

• Guidance Note of the UN Secretary-General: UN Approach to Justice for Children (2008);
• Guidelines on Justice in Matters involving Child victims and witnesses of crimes (ECOSOC Res 2005/20, 2005);

• UN Committee on the Rights of the Child (CRC), General comment No. 10 (2007): Children’s Rights in Juvenile Justice

• Proposals and recommendations to Bulgaria by the Committee on the Rights of the Child, 2008;


• Bulgarian legislation;

• Agreement on Co-operation and Co-ordination of the Work of the Territorial Structures of the Protection Authorities in cases of child victims of abuse or at risk of abuse and in crisis intervention, 2010.

1.1 Introduction

1. As an organisation, having as our mission the support of implementing modern social work in Bulgaria, and having been contributing for over fifteen years to social work development and rolling out, and to the introduction in the Bulgarian judicial system of the principles of social work, human rights, the rights of the child, we consider that it is necessary to introduce an integrated professional approach of protection and safeguarding of the rights of victims of crime and especially of the those most vulnerable – children, women, people with disabilities, victims of domestic violence, victims of gender-based violence, etc., which would enable the integration of the efforts of the universal, social and rehabilitation services.

2. We contribute and we are willing to continue contributing to the actual establishment of high European-level practice when handling cases of child victims of crime, which is based on their best interests, on the right of the child to be heard in a friendly environment, the right to security and protection as well as the right to be informed of their rights in an suitable manner.

Thanks to the support of EU, OAK Foundation, UNICEF-Bulgaria programmes, we developed a practice in the past ten years, which not only meets the requirements of the Directive, but also introduces a model of integrated individual assessment and an integrated approach based on this assessment, bringing together services and activities ensuring child-friendly justice, protection and recovery from traumas.
We support the adoption of legislative amendments to the Penal Procedure Code (PPC) to ensure mandatory individual assessment of all child victims of crime.

We support the changes requiring joint work of Social Assistance Directorate (SAD)/Child Protection Department (CPD), police, medical services, providers of specialised social services for child victims of abuse and crimes.

3. We would like to express our concern about the delay in the transposition of Directive 2012/29 for which financial sanctions have already been imposed on Bulgaria; we are also concerned about the lack of support on the part of government institutions for the Directive’s transposition. We consider that the delay is due to insufficient intersectoral and inter-institutional collaboration in the best interests of the victims. We are strongly concerned that the insufficient collaboration is very often manifested as a lack of commitment and even resistance to the implementation of a directive concerning rights to justice, support, treatment of victims.

We support the adoption of legislative amendments to PPC to ensure mandatory individual assessment of all child victims of crime. We support the changes requiring joint work of Social Assistance Directorate (SAD)/Child Protection Department (CPD), police, medical services, providers of specialised social services for child victims of abuse and crimes.

It is our opinion that the amendments to the PPC should most of all ensure that the child, their parents or guardians are informed of the child’s rights, including their right to individual assessment, which reflects the child’s readiness to participate in judicial proceedings, the risk of being exposed to repeat or secondary victimisation. We consider that the assessment should determine the type and sequence of child protection activities and measures, of child-friendly procedures during the interview and procedures for recovery from the psychological trauma experienced. This can indeed enable the implementation of practices which are based on the best interests of the child.

The experience of working to amend the existing legal framework reveals the necessity of expert support for the changes, which is most of the time unavailable. There is clearly a discrepancy between the current penal theory, inherited from the soviet period of law development in Bulgaria, and the need to introduce amendments in order to ensure the best interests of the child as a leading principle, recognised by the country through the Constitution. Most of the efforts to introduce change to that effect face resistance and reluctance to change the penal doctrine. It is our opinion that this is the main reason for the delay in the transposition of Doctrine 2012/29 EU.

4. We are seriously concerned by the insufficient initiative for change in the key ministries and especially by the some manifestations of resistance to such change displayed in various ways. Resistance is justified with the lack of resources in the field of social work and social services, with the fact that change is perceived as a threat to the functioning of the judicial system and to
a great extent as a wishful thing, etc. It is greatly disturbing that the Ministry of Health show no interest at all in this matter, and that a commitment to provide psychotherapeutic support continues to be lacking.

5. Our recommendations to the responsible government institutions are based on analysis of the activities and practices of introducing child-friendly justice, on the annual analysis of the work done in the so-called “Blue Rooms”, and most of all on the analysis of the model piloted in Vidin under the Listen to the Child – Justice Befriends the Child project.

The model is based on an integrated approach to child protection, which according to us shall comprise protection, child-friendly justice and social and psychotherapeutic support for overcoming the consequences, with all those being based on individual assessment of the risk to the child, of their needs and the resources of the child, the family and the community.

6. The recommendations have been consulted with child victims who have been involved in judicial proceedings as well as with their families. The children express their anxiety about the way they have been interviewed, the fear of the things that are happening and of the unknown; usually, there is no one to explain to them what is going on, what they can expect, who the people asking them questions are, why they ask them questions, what all this will result in, etc.

1.2 Recommendations on the Development of an Integrated System

Recommendation No. 1. Undertaking of meaningful political and professional commitment on the part of the government to introduce child-friendly justice practices; persistence on the part of the key ministries and government structures - Ministry of Justice (MJ), Ministry of Interior (MoI), Ministry of Labour and Social Policy (MLSP), Ministry of Health (MH), State Agency for Child Protection (SACP) in reforming their own practices.

1.1. Pilot practices have been developing in the country over a period of nearly ten years to introduce change in the participation of children in judicial proceedings, mainly during interviews and hearings in specialised premises, by specially trained impartial psychologists and social pedagogues and social workers. The implementation of such practices expands through the initiative of local authorities, NGOs and individual professionals from the judiciary. The involvement and leadership of MJ, MoI, MLSP, MH, SACP in the process of rolling out pilot child-friendly justice practices on a national level is of great significance. We consider
that there is a need of a meaningful implementation of a targeted reform in each of these ministries, focused on the reform’s substance, through clear ideas, concept and action plan, which are to become part of the National Violence Prevention Programme.

1.2. We support the active role of the MJ and their efforts for the introduction of child-friendly justice. We think that it is necessary to engage leading professional associations of judges, prosecutors, legal counsels to support the reform and enable the professional community to take an active part in the process of change.

1.3. We think that MoJ should consider doing away with the practice of “detaining” child victims of crime in police stations even though the intention is to offer them protection, where there is a possibility to offer shelter and emotional support in social services for children at risk.

1.4. It is extremely important as soon as a report of a crime against a child is received to forward it to CPD/ SAD, and this is to be regulated by the internal police procedures.

1.5. We believe that MoJ should make a definite and clear commitment to cease carrying out actions as part of a preliminary investigation, which are in practice interviews of the victims but which do not have the legal value of an interview and which increase the risk of secondary victimisation of the victims of crime. It is our opinion that this investigation can be conducted by applying other approaches and methods, and that the victim’s interview, to be carried out in the presence of a judge, can launch the pre-trial proceedings.

1.6. It is also necessary that MoJ requires from its structures to cease the practice of engaging inspectors from Children Pedagogical Room in child interviews as psychologists and pedagogues in accordance with Art. 140 of PPC; even though they are specialised in working with children, they do not guarantee independently at this stage the use of child-friendly approach.

1.7. We also consider that MLSP and the Social Assistance Agency (SAA) have to engage in the overall process of safeguarding the rights of child victims of crimes and of ensuring their protection. Children and their families are not advised of their rights to child-friendly justice, protection and support or if they are, this is done formally and partially. Children and their families get informed of their rights in a child-friendly manner only occasionally by NGOs.

1.8. We consider that it is namely MLSP and SAA that have to initiate and act as advocates of the introduction of integrated services for child victims of crimes or abuse and for their families. According to us, this would mean reconsidering generally the policy of dividing competencies based on the children and replacing it with a policy of differentiating the powers based on competencies.
1.9. We consider that it is necessary for the Ministry of Health and health structures to make a clear commitment of ensuring psychotherapeutic support to victims of crime. It is possible to use other countries’ best practices where access to psychotherapeutic support for victims of crimes is guaranteed on the basis of an arrangement similar to our clinical pathways.

**Recommendation No. 2. Undertaking a clear professional commitment and a leading role on the part of the Supreme Prosecutor’s Office of Cassation (SPC), the Supreme Judicial Council (SJC) and magistrates’ professional associations to seeking adequate legal solutions with relation to the required reforms.**

2.1. We consider that it is necessary for prosecutors to exercise regular and direct control over the actions of the police with relation to reports and cases involving child victims of crime or abuse.

2.2. We believe that such leadership is necessary in order to ensure a significantly shorter timeframe for the conduct of the first interview during the pre-trial proceedings stage since very often it takes months before the first interview is carried out, which benefits neither the victim of crime nor justice. The experience gained in working with child victims of sexual abuse, exploitation and trafficking shows that delayed proceedings increase the risk of repeat victimisation, intimidation and pressure on the victim and discourages them from co-operating with the judicial system.

2.3. Introducing the individual assessment of victims of crime depends to a great extent on the commitment of the prosecutors to require and use this assessment for actual implementation of protection measures at the earliest possible stage of judicial proceedings.

2.4. We consider it important that judges engage as professionals with the child victims of crimes by contributing to the implementation of judicial procedures in the interest of the child, complying with the principles of avoidance of the risk of repeat and secondary victimisation as well as of intimidation and retaliation; to that effect judges to ensure protection of children’s psychological state by conducting hearings and interviews of children in specialised premises, adapted to children’s needs.

2.5. We consider that it is important for judges to engage actively in the meetings of the teams for territorial collaboration on cases of child abuse, paying special attention to the cases of domestic violence in order to safeguard the best interest of the children participating in judicial proceedings.
3.1. The Coordination Mechanism is a good basis for co-ordination and collaboration in each case involving child victim of abuse or crime. It sets the framework of local institutions’ powers to determine the specific mechanisms and steps of interaction. There is a need to add some important provisions to the text of the current Agreement for territorial co-operation so that it includes not only the protection measures under the Domestic Violence Act but also the protection measures stipulated in Chapter 4 of Directive 2012/29 EU concerning victims of crime.

3.2. It is necessary to move on from having a general agreement on joint actions to adopting additional working rules (protocols), comprising clear commitments, steps and procedures to be followed by each party engaged. Without adopting such a co-operation protocol on cases of crimes committed against children, it is not possible to ensure efficient interaction and integrated approach. We suggest that existing good practices for signing of additional co-operation rules (protocols) in accordance with Art. 11 of the Agreement on Co-operation and Co-ordination of the Work of the Territorial Structures in force since 2010 are multiplied at national level.

3.3. Ensuring interaction and case management throughout the whole period - from the moment a crime or abuse is reported till the completion of all judicial procedures and the child’s recovery.

3.4. Providing training and continued support to the local teams for interaction in the cases of abuse or crimes against children.

Recommendation No. 4. It is necessary to improve the practices of informing the child and their family of the child’s rights so that they include:

4.1. Providing information about the right to assessment, right to special protection measures, right to participate and to be heard by the judicial system as well as of the rights to protection and support.
4.2. Providing information about the reasons to participate and the purpose of each procedure engaging the child.

4.3. Providing information about the rights of the child at all stages of justice being administered and of the management of the child’s case.

4.4. Providing information in such a way so that the child and their family can understand it. It is necessary to develop information materials suitable for children of various ages, to be distributed and accessible to all participants in legal procedures.

**Recommendation No. 5. It is our opinion that it is necessary to make serious efforts to introduce/use the individual assessment of child victim of crime and/or abuse in the criminal proceedings of each member state.**

5.1. The assessment is one of the tools ensuring the right of the child to be heard. Its purpose is to show how to adapt judicial procedures to the child’s needs so that the child can be heard.

5.2. The assessment has to be conducted prior to the undertaking of any intervention on the part of the institutions, with the exception of the urgent medical intervention. The initial assessment, identifying the needs of protection and protection measures during participation in legal procedures, has to be carried out as early as possible on the basis of information shared by the social services, police, a health worker.

5.3. It is necessary to adopt at national and local level a knowledge-based methodology for individual assessment of a child victim of crime and/or of abuse. A particular recognisable knowledge is required to conduct the assessment.

**Recommendation No. 6. Participation of children in every decision that affects them. During the initial contact with the child, it is necessary to advise them of the situation, of the possible actions, of their rights; to seek and respect their opinion.**

6.1. Children’s participation and their right to express opinion on each important issue related to their life, is a principle which is to be adhered to and safeguarded also in the cases of child victims of crime.

6.2. As an important part of the quality monitoring and assurance system, of the safeguarding of the rights, support and protection of child victims of crime,
options should be considered for the participation of the children who have already been through the system. This could be done by introducing various assessment approaches and by obtaining feedback from the child victims and their parents.

**Recommendation No. 7.** The preparation and the interviewing of a child victim or witness of a crime is to be conducted in accordance with an accredited knowledge-based methodology, adopted by the competent authorities on national and local level.

**7.1.** There should be a methodology/ies for preparation and interviewing of a child victim of a crime and/or abuse, adopted at national level by the protection and judicial systems.

**7.2.** Control on the implementation of the adopted methodology for preparation and interviewing of child victim of crime and/or abuse should be in place at local level.

**Recommendation No. 8.** Necessity of introducing modern approaches to the specialisation of staff working with children – need of new standards.

**8.1.** There is a need of standards for professionals facilitating the interviewing/hearing. The requirement of the PPC for a psychologist or pedagogue should be changed since not every psychologist or pedagogue is capable of facilitating the interview or the hearing in a professional manner. What is more, in Bulgaria every qualified teacher in geography, chemistry, sports, etc. is a pedagogue, which does not mean that they know about early childhood development, specifics of communicating with children, specifics of expression, manifestation of the effects of trauma, etc. It should also be taken into consideration that in the recent years the key profession for working with children at risk is that of the social worker, whose professional qualification obtained at universities is a good basis for continued training in interviewing or hearing of children.

**8.2.** There is a need of new practices in the selection and accreditation of training programmes for inter-institutional interaction of professionals facilitating the interview as well as of magistrates and police officers; introduction of market-based principles in their implementation.

**8.3.** It is necessary to introduce a common minimum competency standard for all professionals working with child victims of abuse and/or crime: social workers, paediatricians, specialised and investigating police officers, prosecutors, judges,
expert witnesses. The standard should include knowledge about child development, types of abuse and the consequences of it; knowledge about communication with children, the rights of the child, the ethical principles ensuing from the rights of the child, from their best interest.

**8.4.** It is necessary to ensure regular and continued training and support of the teams working at local level in the fields of intersectoral interaction, conduct of assessment, implementation of protection measures.