



REPUBLIKA SLOVENIJA
VLADA REPUBLIKE SLOVENIJE

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PREDSEDNIK DRŽAVNEGA ZBORA

DRŽAVNI ZBOR REPUBLIKE SLOVENIJE

EVA: 2013-1811-0092
Številka: 00724-21/2013/5
Datum: 20. 6. 2013

Prejeto:	21-06-2013		
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Povezava:			
EPA:	1702-IV	EU:	
Sign. zn.:			
Kratice:			

Vlada Republike Slovenije je na 14. redni seji dne 20. 6. 2013 določila besedilo:

- Predloga zakona o ratifikaciji Konvencije Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo,

ki vam ga pošiljam v obravnavo in sprejem na podlagi 169. člena Poslovnika državnega zbora (Uradni list RS, št. 92/07 – uradno prečiščeno besedilo in 105/10) in tretjega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list RS, št. 113/03 – uradno prečiščeno besedilo, 20/06 – ZNOMCMO, 76/08, 108/09 in 80/10 – ZUTD).

Vlada Republike Slovenije je na podlagi 45. člena Poslovnika Vlade Republike Slovenije (Uradni list RS, št. 43/01 (23/02 – popr.), 54/03, 103/03, 114/04, 26/06, 21/07, 32/10, 73/10, 95/11 in 64/12) in 235. člena Poslovnika državnega zbora določila, da bodo kot njeni predstavniki pri delu Državnega zbora in njegovih delovnih teles sodelovali:

- Karl Erjavec, minister za zunanje zadeve,
- dr. Senko Pličanič, minister za pravosodje,
- dr. Božo Cerar, državni sekretar, Ministrstvo za zunanje zadeve,
- Tina Breclj, državna sekretarka, Ministrstvo za pravosodje,
- Borut Mahnič, generalni direktor Direktorata za mednarodno pravo in zaščito interesov, Ministrstvo za zunanje zadeve,
- mag. Matija Vidmar, vršilec dolžnosti generalnega direktorja Direktorata za pravosodje, Ministrstvo za pravosodje,
- Mihael Zupančič, vodja Sektorja za mednarodno pravo, Ministrstvo za zunanje zadeve,
- Andreja Lang, sekretarka, Ministrstvo za pravosodje,
- Miha Movrin, višji svetovalec, Ministrstvo za pravosodje.

PRILOGA: 1

Tanja ŠARABON
GENERALNA SEKRETARKA



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PREDLOG
EVA 2013-1811-0092

**ZAKON O RATIFIKACIJI
KONVENCIJE SVETA EVROPE O ZAŠČITI OTROK PRED SPOLNIM IZKORIŠČANJEM IN
SPOLNO ZLORABO**

1. člen

Ratificira se Konvencija Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo, sklenjena na Lanzarotu 25. oktobra 2007.

2. člen

Besedilo konvencije se v izvirniku v angleškem jeziku ter v prevodu v slovenskem jeziku glasi:

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Preamble

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

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

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;

Observing that the sexual exploitation of children, in particular child pornography and prostitution, and all forms of sexual abuse of children, including acts which are committed abroad, are destructive to children's health and psycho-social development;

Observing that the sexual exploitation and sexual abuse of children have grown to worrying proportions at both national and international level, in particular as regards the increased use by both children and perpetrators of information and communication technologies (ICTs), and that preventing and combating such sexual exploitation and sexual abuse of children require international co-operation;

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;

Recalling the Action Plan adopted at the 3rd Summit of Heads of State and Governments of the Council of Europe (Warsaw, 16-17 May 2005), calling for the elaboration of measures to stop sexual exploitation of children;

Recalling in particular the Committee of Ministers Recommendation No. R (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 (ETS No. 185), especially Article 9 thereof, as well as the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ETS No. 5), the revised European Social Charter (1996, ETS No. 163), and the European Convention on the Exercise of Children's Rights (1996, ETS No. 160);

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 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as well as the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

Bearing in mind the Council of the European Union Framework Decision on combating the 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), and the Council of the European Union Framework Decision on combating trafficking in human beings (2002/629/JHA);

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 1st World Congress against Commercial Sexual Exploitation of Children (27-31 August 1996), the Yokohama Global Commitment adopted at the 2nd 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 2nd 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 3rd Summit and launched by the Monaco Conference (4-5 April 2006);

Determined to contribute effectively to the common goal of protecting children against sexual exploitation and sexual abuse, whoever the perpetrator may be, and of providing assistance to victims;

Taking into account the need to prepare a comprehensive international instrument focusing on the preventive, protective and criminal law aspects of 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 to:

- a prevent and combat sexual exploitation and sexual abuse of children;
- b protect the rights of child victims of sexual exploitation and sexual abuse;
- c 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 the 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 18 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 to 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 in collaboration with parents, where appropriate, 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 initiatives 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 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 co-ordination 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 and the law-enforcement and 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 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 health-care services and the social services, and the judicial authorities and other bodies responsible for following 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 repetition of the offences established in accordance with this Convention, 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 provide, in accordance with its internal law, for an assessment of 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 in 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 paragraph 1.a are not intended 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 to limit the application of paragraph 1.c to cases where children have been recruited or coerced in conformity with paragraph 1.a or b.

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 Article 18, paragraph 1.a, or Article 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, attempts 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 subordinated to the condition that the acts are criminalised at the place where they were performed.

5 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 to limit the application of paragraph 4 of this article, with regard to offences established in accordance with Article 18, paragraph 1.b, second and third indents, to cases where its national has his or her habitual residence in its territory.

6 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 subordinated 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.

7 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 on its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality.

8 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.

9 Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its 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 judicial winding-up order.

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

- a provide for the seizure and confiscation of:
 - goods, documents and other instrumentalities used to commit the offences, established in accordance with this Convention or to facilitate their commission;
 - proceeds derived from such offences or property the value of which corresponds to such proceeds;
- 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 to provide 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 sanctions.

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 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, for the possibility of 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 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 investigation or proceedings, and their role therein as well as the outcome of their cases;

- b ensuring, at least in cases where the victims and their families might be in danger, that they may be informed, if 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 choose the means of having 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 the victim.

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 provided 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 and which is commensurate with the gravity of the crime in question.

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 is as limited as possible and in so far as strictly 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 to the rules 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 name and address 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), as well as other relevant Council of Europe intergovernmental committees, 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, experience 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 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 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.
- 5 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Chapter XI – Relationship with other international instruments

Article 42 – Relationship with 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 – Relationship with other international instruments

1 This Convention shall not affect the rights and obligations arising from the provisions of 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 European Committee on Crime Problems (CDPC), 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 CDPC and, following consultation with the non-member States Parties to this Convention, 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 as well as 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 expressly established. Any reservation may be withdrawn at any time.

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

1 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 reservation made under Article 48;
- f any denunciation made in pursuance of the provisions of Article 49;
- g any other act, notification or communication relating to this Convention.

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

Done at Lanzarote, this 25th day of October 2007, 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.

Konvencija Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo

Uvod

Države članice Sveta Evrope in druge podpisnice te konvencije so se

ob upoštevanju, da je cilj Sveta Evrope doseči večjo enotnost med njegovimi članicami,

ob upoštevanju, da ima vsak otrok pravico do ukrepov za zaščito, ki se zahtevajo v skladu z njegovim statusom mladoletne osebe, v okviru svoje družine, družbe in države,

ob opažanju, da spolno izkoriščanje otrok, predvsem otroška pornografija in prostitucija, ter vse oblike spolne zlorabe otrok, vključno z dejanji, storjenimi v tujini, uničujoče vplivajo na zdravje in psihosocialni razvoj otrok,

ob opažanju, da sta spolno izkoriščanje in spolna zloraba otrok dosegla skrb vzbujajoč obseg na državni in mednarodni ravni predvsem zato, ker otroci in storilci vse bolj uporabljajo informacijsko-komunikacijske tehnologije (IKT), in da je za preprečevanje tega spolnega izkoriščanja in spolne zlorabe otrok ter boj proti njima potrebno mednarodno sodelovanje,

ob upoštevanju, da so dobro počutje in otrokove koristi temeljne vrednote, ki so skupne vsem državam članicam in jih je treba spodbujati brez kakršne koli diskriminacije,

ob sklicevanju na akcijski načrt, ki je bil sprejet na tretjem vrhu voditeljev držav in vlad članic Sveta Evrope (Varšava, 16. in 17. maj 2005) ter poziva k pripravi ukrepov za ustavitev spolnega izkoriščanja otrok,

ob sklicevanju predvsem na Priporočilo Odbora ministrov št. R(91) 11 o spolnem izkoriščanju, pornografiji in prostituciji otrok in mladih odraslih in o trgovini z njimi, Priporočilo št. Rec(2001)16 o zaščiti otrok pred spolnim izkoriščanjem in Konvencijo o kibernetiki kriminaliteti (ETS št. 185), predvsem njen 9. člen, ter Konvencijo Sveta Evrope o ukrepanju proti trgovini z ljudmi (ETS št. 197),

ob upoštevanju Konvencije o varstvu človekovih pravic in temeljnih svoboščin (1950, ETS št. 5), Evropske socialne listine (spremenjene) (1996, ETS št. 163) in Evropske konvencije o uresničevanju otrokovih pravic (1996, ETS št. 160),

tudi ob upoštevanju Konvencije Združenih narodov o otrokovih pravicah, predvsem njenega 34. člena, Izbirnega protokola h Konvenciji o otrokovih pravicah glede prodaje otrok, otroške prostitucije in otroške pornografije, Protokola za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, ki dopolnjuje Konvencijo Združenih narodov proti mednarodnemu organiziranemu kriminalu, ter Konvencije Mednarodne organizacije dela o prepovedi najhujših oblik dela otrok in takojšnjem ukrepanju za njihovo odpravo,

ob upoštevanju Okvirnega sklepa Sveta Evropske unije o boju proti spolnemu izkoriščanju otrok in otroški pornografiji (2004/68/PNZ), Okvirnega sklepa Sveta Evropske unije o položaju žrtev v kazenskem postopku (2001/220/PNZ) in Okvirnega sklepa Sveta Evropske unije o boju proti trgovanju z ljudmi (2002/629/PNZ),

ob upoštevanju drugih mednarodnih dokumentov in programov na tem področju, predvsem stockholmske deklaracije in agende za ukrepanje, sprejetih na 1. svetovnem kongresu proti komercialnemu spolnemu izkoriščanju otrok (od 27. do 31. avgusta 1996), globalne zaveze iz Jokohame, sprejete na 2. svetovnem kongresu proti komercialnemu spolnemu izkoriščanju otrok (od 17. do 20. decembra 2001), zaveze in načrta za ukrepanje iz Budimpešte, sprejetih na pripravljalni konferenci za 2. svetovni kongres proti komercialnemu spolnemu izkoriščanju otrok (20. in 21. november 2001), Resolucije Generalne skupščine Združenih narodov S-27/2 Svet po meri otrok in triletnega programa Gradimo Evropo za otroke in z njimi, sprejetega po tretjem vrhu in predstavljenega na konferenci v Monaku (4. in 5. april 2006),

odločene, da učinkovito prispevajo k skupnemu cilju zaščititi otroke pred spolnim izkoriščanjem in spolno zlorabo ne glede na storilce ter zagotavljati pomoč žrtvam,

ob upoštevanju nujnosti priprave celovitega mednarodnega instrumenta, ki bo osredotočen na preprečevanje, zaščito in kazenskopravni vidik boja proti vsem oblikam spolnega izkoriščanja in spolne zlorabe otrok ter bo vzpostavil poseben nadzorni mehanizem,

dogovorile:

I. poglavje – Namen, načelo nediskriminacije in pomen izrazov

1. člen – Namen

1. Namen te konvencije je:

- a) preprečevanje spolnega izkoriščanja in spolne zlorabe otrok ter boj proti njima;
- b) varstvo pravic otrok, ki so žrtve spolnega izkoriščanja in spolne zlorabe;
- c) spodbujanje državnega in mednarodnega sodelovanja pri boju proti spolnemu izkoriščanju in spolni zlorabi otrok.

2. Ta konvencija vzpostavlja poseben nadzorni mehanizem, da bi jo pogodbenice učinkovito izvajale.

2. člen – Načelo nediskriminacije

To konvencijo, predvsem ukrepe za zaščito pravic žrtev, pogodbenice izvajajo tako, da se ne povzroča diskriminacija na podlagi spola, rase, barve kože, jezika, vere, političnega ali drugega prepričanja, narodnosti ali družbenega izvora, pripadnosti narodnim manjšinam, premoženja, rojstva, spolne usmerjenosti, zdravstvenega stanja, invalidnosti ali drugih okoliščin.

3. člen – Pomen izrazov

Izrazi v tej konvenciji pomenijo:

- a) »otrok« je oseba, mlajša od 18 let;
- b) »spolno izkoriščanje in spolna zloraba otrok« vključujeta ravnanje iz 18. do 23. člena te konvencije;
- c) »žrtev« je otrok, izpostavljen spolnemu izkoriščanju ali spolni zlorabi.

II. poglavje – Preprečevalni ukrepi

4. člen – Načela

Vsaka pogodbenica sprejme zakonodajne ali druge ukrepe, ki so potrebni za preprečevanje vseh oblik spolnega izkoriščanja in spolne zlorabe otrok ter zaščito otrok.

5. člen – Zaposlovanje, usposabljanje in ozaveščanje oseb, ki delajo z otroki

1. Vsaka pogodbenica sprejme zakonodajne ali druge ukrepe za spodbujanje ozaveščenosti o zaščiti in pravicah otrok pri osebah, ki imajo redne stike z otroki na področju izobraževanja, zdravstva, socialnega varstva, sodstva, odkrivanja in pregona ter športa, kulture in dejavnosti v prostem času.
2. Vsaka pogodbenica sprejme zakonodajne ali druge ukrepe, s katerimi zagotovi, da imajo osebe iz prvega odstavka ustrezno znanje o spolnem izkoriščanju in spolni zlorabi otrok, načinih njunega prepoznavanja in možnosti iz prvega odstavka 12. člena.
3. Vsaka pogodbenica v skladu s svojim notranjim pravom sprejme zakonodajne ali druge ukrepe, s katerimi se za opravljanje poklicev, pri katerih prihaja do rednih stikov z otroki, določijo pogoji, ki zagotavljajo, da kandidati za te poklice niso bili obsojeni za kazniva dejanja spolnega izkoriščanja ali spolne zlorabe otrok.

6. člen – Izobraževanje za otroke

Vsaka pogodbenica sprejme zakonodajne ali druge ukrepe, s katerimi zagotovi, da otroci med osnovnošolskim in srednješolskim izobraževanjem pridobijo informacije o tveganjih spolnega izkoriščanja in spolne zlorabe ter načinih lastne zaščite, ki so prilagojene njihovi razvojni stopnji. Te informacije se v sodelovanju s starši, kadar je to primerno, zagotavljajo pri splošnem seznanjanju s spolnostjo, pri čemer je posebna pozornost namenjena okoliščinam tveganja, predvsem tistim, ki vključujejo uporabo novih informacijsko-komunikacijskih tehnologij.

7. člen – Preprečevalni intervencijski programi ali ukrepi

Vsaka pogodbenica zagotovi, da imajo lahko osebe, ki se bojijo, da bi lahko storile katero koli od kaznivih dejanj, določenih v skladu s to konvencijo, kadar je to primerno, dostop do učinkovitih intervencijskih programov ali ukrepov, oblikovanih za ocenjevanje in preprečevanje tveganja za storitev kaznivih dejanj.

8. člen – Ukrepi, namenjeni splošni javnosti

1. Vsaka pogodbenica spodbuja ali izvaja kampanje za povečevanje ozaveščenosti splošne javnosti, katerih namen je zagotavljanje informacij o pojavu spolnega izkoriščanja in spolne zlorabe otrok ter o mogočih preprečevalnih ukrepih.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe za preprečevanje ali prepoved širjenja gradiva, ki oglašuje kazniva dejanja, opredeljena v skladu s to konvencijo.

9. člen – Sodelovanje otrok, zasebni sektor, mediji in civilna družba

1. Vsaka pogodbenica ob upoštevanju razvojnih zmožnosti otrok spodbuja njihovo sodelovanje pri oblikovanju in izvajanju državnih politik, programov ali drugih pobud, ki se nanašajo na boj proti spolnemu izkoriščanju in spolni zlorabi otrok.
2. Vsaka pogodbenica spodbuja zasebni sektor, predvsem sektor informacijskih in komunikacijskih tehnologij, turizem in potovalno industrijo ter bančni in finančni sektor, pa tudi civilno družbo k sodelovanju pri pripravi in izvajanju politik za preprečevanje spolnega izkoriščanja in spolne zlorabe otrok ter k izvajanju notranjih pravil s pomočjo samourejanja in sourejanja.

3. Vsaka pogodbenica ob upoštevanju neodvisnosti medijev in svobode tiska spodbuja medije, da zagotavljajo ustrezne informacije o vseh vidikih spolnega izkoriščanja in spolne zlorabe otrok.
4. Vsaka pogodbenica med drugim z ustanavljanjem skladov, kadar je to primerno, spodbuja financiranje projektov in programov, ki jih izvaja civilna družba in so namenjeni preprečevanju spolnega izkoriščanja in spolne zlorabe otrok ter njihovi zaščiti pred tem.

III. poglavje – Specializirani organi in usklajevalna telesa

10. člen – Državni ukrepi za usklajevanje in sodelovanje

1. Vsaka pogodbenica sprejme potrebne ukrepe za zagotovitev usklajevanja na državni ali lokalni ravni med različnimi organi, ki so odgovorni za zaščito otrok pred spolnim izkoriščanjem in spolno zlorabo, njuno preprečevanje ter boj proti njima, zlasti na področju izobraževanja, zdravstva, socialnih storitev, odkrivanja in pregona ter sodstva.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da vzpostavi ali določi:
 - a) neodvisne pristojne državne ali lokalne institucije za spodbujanje in zaščito otrokovih pravic, pri čemer se jim zagotovijo posebni viri in pristojnosti;
 - b) mehanizme za zbiranje podatkov ali informacijske točke, ki bodo na državni ali lokalni ravni v sodelovanju s civilno družbo spremljale in vrednotile pojav spolnega izkoriščanja in spolne zlorabe otrok ob upoštevanju zahtev za varstvo osebnih podatkov.
3. Vsaka pogodbenica spodbuja sodelovanje med pristojnimi državnimi organi, civilno družbo in zasebnim sektorjem, da bi bila preprečevanje spolnega izkoriščanja in spolne zlorabe otrok ter boj proti njima boljša.

IV. poglavje – Zaščitni ukrepi in pomoč žrtvam

11. člen – Načela

1. Vsaka pogodbenica uvede učinkovite socialne programe in vzpostavi večdisciplinarne strukture, da zagotovi potrebno pomoči žrtvam, njihovim svojcem in osebam, odgovornim za njihovo oskrbo.
2. Vsaka pogodbenica izvede potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da je žrtev, katere starosti ni mogoče natančno določiti in za katero se upravičeno domneva, da je otrok, dokler se ne ugotovi njena dejanska starost, deležna ukrepov zaščite in pomoči, predvidenih za otroke.

12. člen – Prijava suma spolnega izkoriščanja ali spolne zlorabe

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da pravila o zaupnosti, ki jih nalaga notranja zakonodaja glede nekaterih poklicev, ki so povezani z delom z otroki, za tiste, ki jih opravljajo, niso ovira pri možnosti prijave službam, odgovornim za zaščito otrok, o vsaki okoliščini, pri kateri obstajajo utemeljeni razlogi za sum, da je otrok žrtev spolnega izkoriščanja ali spolne zlorabe.

2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi vsakogar, ki ve ali v dobri veri sumi, da gre za spolno izkoriščanje ali spolno zlorabo otrok, spodbuja, da o tem obvesti pristojne službe.

13. člen – Linije za pomoč

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi spodbuja in podpira vzpostavitev informacijskih storitev, kot so telefonske ali spletne linije za pomoč, za svetovanje uporabnikom, tudi zaupno ali ob ustreznem spoštovanju njihove anonimnosti.

14. člen – Pomoč žrtvam

1. Vsaka pogodbenica sprejme zakonodajne ali druge ukrepe, s katerimi kratkoročno in dolgoročno pomaga žrtvam pri njihovem telesnem in psihosocialnem okrevanju. Pri ukrepih, sprejetih po tem odstavku, se upoštevajo otrokovi pogledi, potrebe in skrbi.
2. Vsaka pogodbenica ob upoštevanju notranjega prava sprejme ukrepe za sodelovanje z nevladnimi in drugimi ustreznimi organizacijami ali drugimi deli civilne družbe, ki sodelujejo pri zagotavljanju pomoči žrtvam.
3. Kadar so v spolno izkoriščanje ali spolno zlorabo vpleteni starši ali osebe, ki skrbijo za otroka, intervencijski ukrepi za izvajanje prvega odstavka 11. člena vključujejo:
 - možnost odstranitve domnevnega storilca;
 - možnost odstranitve žrtve iz njenega družinskega okolja. Pogoji in trajanje take odstranitve se določijo ob upoštevanju otrokovih koristi.
4. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da so lahko osebe, ki so blizu žrtvi, po potrebi deležne terapevtske pomoči, predvsem nujne psihološke pomoči.

V. poglavje – Intervencijski programi ali ukrepi

15. člen – Splošna načela

1. Vsaka pogodbenica v skladu s svojim notranjim pravom za osebe iz prvega in drugega odstavka 16. člena zagotovi ali spodbuja učinkovite intervencijske programe ali ukrepe za preprečevanje in zmanjševanje tveganj za ponovitev kaznivih dejanj zoper spolno nedotakljivost otrok. Taki programi ali ukrepi so v skladu s pogoji, določenimi v notranjem pravu, kadar koli med postopkom na voljo v zaporu in zunaj njega.
2. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi ali spodbuja razvoj partnerstev ali drugih oblik sodelovanja med pristojnimi organi, predvsem zdravstvenimi in socialnimi službami, ter pravosodnimi in drugimi organi, odgovornimi za spremljanje oseb iz prvega in drugega odstavka 16. člena.
3. Vsaka pogodbenica zaradi določitve ustreznih programov in ukrepov v skladu s svojim notranjim pravom zagotovi oceno nevarnosti in morebitnega tveganja za ponovitev kaznivih dejanj, opredeljenih s to konvencijo, ki bi jih lahko storile osebe iz prvega in drugega odstavka 16. člena.
4. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi oceno učinkovitosti izvedenih programov in ukrepov.

16. člen – Prejemniki intervencijskih programov in ukrepov

1. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi, da imajo lahko osebe, ki se obravnavajo v kazenskih postopkih zaradi kakršnega koli kaznivega dejanja, opredeljenega s to konvencijo, dostop do programov ali ukrepov iz prvega odstavka 15. člena pod pogoji, ki niti ne škodijo pravicam obrambe ter zahtevam za pošteno in nepristransko sojenje niti niso v nasprotju z njimi, predvsem pa ob upoštevanju pravil, ki veljajo za načelo domneve nedolžnosti.
2. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi, da imajo lahko osebe, obsojene za kakršno koli kaznivo dejanje, opredeljeno s to konvencijo, dostop do programov ali ukrepov iz prvega odstavka 15. člena.
3. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi, da so intervencijski programi ali ukrepi zasnovani ali prilagojeni tako, da ustrezajo razvojnim potrebam otrok, ki storijo kazniva dejanja zoper spolno nedotakljivost, tudi tistih, ki še niso kazensko odgovorni, da bi se reševale njihove težave, povezane s spolnim vedenjem.

17. člen – Obveščanje in soglasje

1. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi, da so osebe iz 16. člena, ki so jim bili predlagani intervencijski programi ali ukrepi, v celoti seznanjene z razlogi za tak predlog in da soglašajo s programom ali ukrepom ob poznavanju vseh dejstev.
2. Vsaka pogodbenica v skladu s svojim notranjim pravom zagotovi, da lahko osebe intervencijske programe ali ukrepe, ki so jim bili predlagani, zavrnejo in da so, če gre za obsojene osebe, seznanjene z morebitnimi posledicami take zavrnitve.

VI. poglavje – Materialno kazensko pravo

18. člen – Spolna zloraba

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se kot kaznivo dejanje opredeli to naklepno ravnanje:
 - a) sodelovanje v spolnih dejanjih z otrokom, ki v skladu z ustreznimi določbami notranjega prava še ni dopolnil z zakonom določene starosti za spolnost;
 - b) sodelovanje v spolnih dejanjih z otrokom, kadar se:
 - uporabi prisila, sila ali grožnja ali
 - zlorabi priznani položaj zaupanja, moč nad otrokom ali vpliv nanj, tudi v družini, ali
 - zlorabi posebej ranljiv položaj otroka, predvsem zaradi duševne ali telesne motnje ali zaradi njegove odvisnosti od drugih.
2. Za namen prvega odstavka vsaka pogodbenica določi starost, pod katero je sodelovanje v spolnih dejanjih z otrokom prepovedano.
3. Določba točke a prvega odstavka ni namenjena urejanju sporazumnih spolnih dejanj med mladoletnimi osebami.

19. člen – Kazniva dejanja v zvezi z otroško prostitucijo

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se kot kaznivo dejanje opredeli to naklepno ravnanje:
 - a) napeljevanje otroka k prostituciji ali povzročanje, da otrok sodeluje v prostituciji;
 - b) siljenje otroka v prostitucijo ali okoriščanje s takim ali drugačnim izkoriščanjem otroka za te namene;
 - c) poseganje po otroški prostituciji.
2. Za namene tega člena izraz »otroška prostitucija« pomeni zlorabo otroka za spolna dejanja, za katera se daje ali obljublja denar ali katera koli druga oblika plačila ali nadomestila ne glede na to, ali se to plačilo, obljuba ali nadomestilo daje otroku ali tretji osebi.

20. člen – Kazniva dejanja v zvezi z otroško pornografijo

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se kot kaznivo dejanje opredeli to naklepno ravnanje, če je storjeno neupravičeno;
 - a) izdelava otroške pornografije;
 - b) ponujanje ali omogočanje dostopnosti otroške pornografije;
 - c) širjenje ali prenašanje otroške pornografije;
 - d) pridobivanje otroške pornografije zase ali za koga drugega;
 - e) posedovanje otroške pornografije;
 - f) zavestna pridobitev dostopa do otroške pornografije s pomočjo informacijsko-komunikacijskih tehnologij.
2. Za namene tega člena izraz »otroška pornografija« pomeni kakršno koli gradivo, ki vizualno prikazuje otroka v dejanskem ali simuliranem izrazito spolnem ravnanju, ali kakršno koli prikazovanje spolnih organov otroka predvsem za spolne namene.
3. Vsaka pogodbenica si lahko pridrži pravico, da v celoti ali deloma ne uporablja točk a in e prvega odstavka za izdelovanje in posedovanje pornografskega gradiva, ki:
 - je sestavljeno izključno iz simuliranih predstavitev ali realističnih podob neresničnega otroka;
 - vključuje otroke, ki so že dopolnili starost iz drugega odstavka 18. člena, če se te podobe izdelajo in so v posesti otrok samih z njihovim soglasjem ter samo za njihovo zasebno uporabo.
4. Vsaka pogodbenica si lahko pridrži pravico, da v celoti ali deloma ne uporablja točke f prvega odstavka.

21. člen – Kazniva dejanja v zvezi s sodelovanjem otroka v pornografskih predstavah

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se kot kaznivo dejanje opredeli to naklepno ravnanje:

- a) napeljevanje otroka k sodelovanju v pornografskih predstavah ali povzročanje, da otrok sodeluje v takih predstavah;
 - b) siljenje otroka, da sodeluje v pornografskih predstavah, ali okoriščanje s takim ali drugačnim izkoriščanjem otroka za te namene;
 - c) zavestno obiskovanje pornografskih predstav, v katerih sodelujejo otroci.
2. Vsaka pogodbenica si lahko pridrži pravico, da omeji uporabo točke c prvega odstavka na primere, v katerih gre za napeljevanje ali siljenje otrok skladno s točko a ali b prejšnjega odstavka.

22. člen – Negativen vpliv na otroke

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi se kot kaznivo dejanje opredeli naklepno povzročanje, da je otrok, ki še ni dopolnil starosti iz drugega odstavka 18. člena, v spolne namene priča spolni zlorabi ali spolnim dejanjem, tudi če pri tem ne sodeluje.

23. člen – Pridobivanje otrok za spolne namene

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi kot kaznivo dejanje opredeli namerno nagovarjanje odrasle osebe s pomočjo informacijsko-komunikacijskih tehnologij za srečanje z otrokom, ki še ni dopolnil starosti iz drugega odstavka 18. člena, da bi storila katero koli kaznivo dejanje proti njemu, opredeljeno v skladu s točko a prvega odstavka 18. člena ali točko a prvega odstavka 20. člena, pri čemer nagovarjanju sledijo dejanja, ki lahko vodijo do takega srečanja.

24. člen – Pomoč ali sodelovanje pri storitvi kaznivega dejanja in poskus storitve kaznivega dejanja

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi kot kaznivo dejanje, kadar je storjeno naklepno, opredeli pomoč ali sodelovanje pri storitvi katerega koli kaznivega dejanja, opredeljenega s to konvencijo.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi kot kaznivo dejanje, kadar je storjeno naklepno, opredeli poskus storitve kaznivih dejanj, opredeljenih s to konvencijo.
3. Vsaka pogodbenica si lahko pridrži pravico, da v celoti ali deloma ne uporablja drugega odstavka za kazniva dejanja iz točk b, d, e in f prvega odstavka 20. člena, točke c prvega odstavka 21. člena ter 22. in 23. člena.

25. člen – Pristojnost

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi vzpostavi pristojnost za pregon kaznivih dejanj, opredeljenih s to konvencijo, kadar:

- a) je kaznivo dejanje storjeno na njenem ozemlju ali
- b) je kaznivo dejanje storjeno na ladji, ki plove pod zastavo te pogodbenice, ali
- c) je kaznivo dejanje storjeno na zrakoplovu, registriranem v skladu z zakonodajo te pogodbenice, ali
- d) kaznivo dejanje stori njen državljani ali
- e) oseba z običajnim prebivališčem na njenem ozemlju.

2. Vsaka pogodbenica si prizadeva za sprejetje potrebnih zakonodajnih ali drugih ukrepov za vzpostavitev pristojnosti za pregon kaznivih dejanj, opredeljenih s to konvencijo, kadar je kaznivo dejanje storjeno proti njenemu državljanu ali osebi z običajnim prebivališčem na njenem ozemlju.

3. Vsaka pogodbenica lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu na generalnega sekretarja Sveta Evrope naslovi izjavo, s katero si pridržuje pravico, da pravil glede pristojnosti iz točke e prvega odstavka tega člena ne uporablja ali jih uporablja samo v določenih primerih ali pod določenimi pogoji.

4. Za pregon kaznivih dejanj, opredeljenih v skladu z 18. in 19. členom, točko a prvega odstavka 20. člena in točkama a in b prvega odstavka 21. člena te konvencije, vsaka pogodbenica sprejme vse potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da njena pristojnost glede na točko d prvega odstavka ni odvisna od pogoja, da se dejanja obravnavajo kot kazniva v kraju, kjer so bila storjena.

5. Vsaka pogodbenica lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu na generalnega sekretarja Sveta Evrope naslovi izjavo, s katero si pridržuje pravico, da uporabo četrtega odstavka tega člena v zvezi s kaznivimi dejanji, opredeljenimi v skladu z drugo in tretjo alinejo točke b prvega odstavka 18. člena, omeji na primere, ko ima njen državljan običajno prebivališče na njenem ozemlju.

6. Za pregon kaznivih dejanj, opredeljenih v skladu z 18. in 19. členom, točko a prvega odstavka 20. člena in 21. členom te konvencije, vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da njena pristojnost glede točk d in e prvega odstavka ni odvisna od pogoja, da se pregon lahko začne le na podlagi prijave žrtve ali naznanitve države, v kateri je bilo kaznivo dejanje storjeno.

7. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi vzpostavi pristojnost za pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, kadar je domnevni storilec na njenem ozemlju in ga ne izroči drugi pogodbenici izključno na podlagi njegovega državljanstva.

8. Kadar pristojnost za pregon domnevnega kaznivega dejanja, opredeljenega v skladu s to konvencijo, uveljavlja več kot ena pogodbenica, se zadevne pogodbenice, kadar je to primerno, posvetujejo, da ugotovijo najprimernejšo pristojnost za pregon.

9. Ne glede na splošna pravila mednarodnega prava ta konvencija ne izključuje kazenskopravne pristojnosti, ki jo država pogodbenica izvaja v skladu s svojim notranjim pravom.

26. člen – Odgovornost pravne osebe

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da pravna oseba lahko odgovarja za kaznivo dejanje, ki je opredeljeno v skladu s to konvencijo in ga v njeno korist samostojno ali kot del organa pravne osebe stori fizična oseba, ki ima vodilni položaj v pravni osebi na podlagi:

- a) pooblastila za zastopanje pravne osebe;
- b) pooblastila za odločanje v imenu pravne osebe;
- c) pooblastila za opravljanje nadzora v pravni osebi.

2. Poleg primerov iz prvega odstavka vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da lahko pravna oseba odgovarja, kadar je pomanjkljiv nadzor ali kontrola, ki jo opravlja fizična oseba iz prvega odstavka, omogočila, da je v korist te pravne osebe njej podrejena fizična oseba storila kaznivo dejanje, opredeljeno s to konvencijo.
3. V skladu s pravnimi načeli pogodbenice je lahko odgovornost pravne osebe kazenska, civilna ali upravna.
4. Ta odgovornost ne vpliva na kazensko odgovornost fizičnih oseb, ki so storile kaznivo dejanje.

27. člen – Sankcije in ukrepi

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se kazniva dejana, opredeljena v skladu s to konvencijo, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami z upoštevanjem njihove teže. Te sankcije vključujejo kazni odvzema prostosti, ki so lahko podlaga za izročitev.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se pravne osebe, ki so odgovorne skladno s 26. členom, kaznujejo z učinkovitimi, sorazmernimi in odvračilnimi sankcijami, ki vključujejo kazenske ali nekazenske denarne kazni, lahko pa tudi druge ukrepe, kot so:
 - a) izvzetje iz upravičenosti do javnih ugodnosti ali pomoči;
 - b) začasna ali trajna prepoved opravljanja gospodarskih dejavnosti;
 - c) uvedba sodnega nadzora;
 - d) sodna likvidacija.
3. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi:
 - a. omogoči zaseg in odvzem:
 - blaga, dokumentov in drugih pripomočkov, ki so bili uporabljeni za storitev kaznivih dejanj, opredeljenih v skladu s to konvencijo, ali so pripomogli k njihovi storitvi;
 - premoženjske koristi, pridobljene s temi kaznivimi dejanji, ali premoženja, katerega vrednost ustreza tej premoženjski koristi;
 - b. omogoči začasno ali trajno zaprtje katerega koli prostora, uporabljenega za katero koli kaznivo dejanje, opredeljeno v skladu s to konvencijo, ne da bi to vplivalo na pravice dobrovernih tretjih oseb, ali storilcu začasno ali trajno onemogoči opravljanje poslovne ali prostovoljne dejavnosti, ki vključuje stik z otroki in pri kateri je bilo kaznivo dejanje storjeno.
4. Vsaka pogodbenica lahko v zvezi s storilci sprejme druge ukrepe, kot so odvzem roditeljske pravice ali spremljanje obsojenih oseb ali nadzor nad njimi.
5. Vsaka pogodbenica lahko določi, da se po tem členu odvzeta protipravno pridobljena premoženjska korist ali premoženje prenese v poseben sklad za financiranje programov preprečevanja in pomoči žrtvam katerega koli kaznivega dejanja, opredeljenega v skladu s to konvencijo.

28. člen – Obteževalne okoliščine

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se lahko naslednje okoliščine, če še ne pomenijo znakov kaznivega dejanja, v skladu z ustreznimi določbami notranjega prava obravnavajo kot obteževalne okoliščine pri določanju sankcij v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo:

- a) kaznivo dejanje je resno prizadelo telesno ali duševno zdravje žrtve;
- b) kaznivo dejanje je spremljalo mučenje ali hudo nasilje;
- c) kaznivo dejanje je bilo storjeno nad še posebej ranljivo žrtvijo;
- d) kaznivo dejanje je storil družinski član, oseba pri kateri otrok živi, ali oseba, ki je zlorabila svoj položaj;
- e) kaznivo dejanje je storilo več oseb, ki so med seboj sodelovale;
- f) kaznivo dejanje je storila kriminalna združba;
- g) storilec je bil predhodno že obsojen za enaka kazniva dejanja.

29. člen – Predkaznovanost

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi je mogoče pri določanju sankcij upoštevati pravnomočne sodbe, ki jih je v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo, izdala druga pogodbenica.

VII. poglavje – Preiskovanje, pregon in procesno pravo

30. člen – Načela

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da sta preiskovanje in kazenski postopek izvedena v korist otroka in ob upoštevanju njegovih pravic.
2. Vsaka pogodbenica sprejme zaščitne ukrepe za žrtve, s katerimi zagotovi, da se s preiskovanjem in kazenskim postopkom ne povečuje travma, ki jo je doživel otrok, in da se mu hkrati po potrebi zagotovi pomoč.
3. Vsaka pogodbenica zagotovi, da se preiskovanje in kazenski postopek obravnavata prednostno ter se izvedeta brez nepotrebnega odlašanja.
4. Vsaka pogodbenica zagotovi, da ukrepi po tem poglavju skladno s 6. členom Konvencije o varstvu človekovih pravic in temeljnih svoboščin ne vplivajo na pravice obrambe ter zahteve po poštenem in nepristranskem sojenju.
5. Vsaka pogodbenica skladno s temeljnimi načeli svojega notranjega prava sprejme potrebne zakonodajne ali druge ukrepe, s katerimi:
 - zagotovi učinkovito preiskovanje in pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, in pri tem, kadar je to primerno, dopušča možnost tajnega delovanja;
 - omogoči enotam ali preiskovalnim službam, da identificirajo žrtve kaznivih dejanj iz 20. člena, zlasti z analizo gradiva z otroško pornografijo, kot so

fotografije in avdiovizualni posnetki, preneseni ali dani na razpolago z informacijsko-komunikacijskimi tehnologijami.

31. člen – Splošni zaščitni ukrepi

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi na vseh stopnjah preiskovanja in kazenskega postopka zaščiti pravice in interese žrtev, vključno s posebnimi potrebami, ki jih imajo kot priče, zlasti z:
 - a) obveščanjem o njihovih pravicah in storitvah, ki so jim na voljo, in razen če tega ne želijo, o ukrepanju v zvezi z njihovo prijavo, obtožbah, poteku preiskave ali kazenskega postopka in njihovi vlogi pri tem ter rešitvi njihovega primera;
 - b) zagotavljanjem, da so lahko, vsaj ko bi lahko bile same in njihove družine v nevarnosti, po potrebi obveščene, da je sodno preganjana ali obsojena oseba začasno ali trajno izpuščena;
 - c) omogočanjem, da so skladno s postopkovnimi pravili notranjega prava zaslišane, da predložijo dokaze ter izberejo načine, kako bodo njihovi pogledi, potrebe in skrbi neposredno ali po posredniku predstavljeni ter obravnavani;
 - d) omogočanjem dostopa do ustreznih podpornih služb, da so njihove pravice in koristi ustrezno predstavljene in upoštevane;
 - e) varovanjem njihove zasebnosti, istovetnosti in ugleda ter s sprejetjem ukrepov v skladu z notranjim pravom za preprečevanje javnega širjenja kakršnih koli informacij, na podlagi katerih bi jih bilo mogoče prepoznati;
 - f) zagotavljanjem njihove varnosti ter varnosti njihovih družin in prič pred ustrahovanjem, povračilom in ponovno viktimizacijo;
 - g) preprečevanjem stikov med žrtvami in storilci v prostorih sodišča in organov odkrivanja in pregona, razen kadar pristojni organi v otrokovo korist ne odločijo drugače ali kadar je tak stik potreben zaradi preiskovanja ali sodnega postopka.
2. Vsaka pogodbenica zagotovi, da imajo žrtve že od svojega prvega stika s pristojnimi organi dostop do informacij o ustreznih sodnih in upravnih postopkih.
3. Vsaka pogodbenica zagotovi, da imajo žrtve dostop do pravne pomoči, če je upravičeno, brezplačne, kadar so lahko stranke v kazenskem postopku.
4. Vsaka pogodbenica zagotovi možnost, da pravosodni organi žrtvi dodelijo posebnega zastopnika, kadar je lahko po notranjem pravu stranka v kazenskem postopku in kadar je nosilec starševske odgovornosti onemogočeno zastopanje otroka v tem postopku zaradi neskladja interesov med njimi in žrtvijo.
5. Vsaka pogodbenica z zakonodajnimi ali drugimi ukrepi skladno s pogoji svojega notranjega prava skupinam, ustanovam, združenjem, vladnim ali nevladnim organizacijam zagotovi možnost, da v kazenskih postopkih, ki se nanašajo na kazniva dejanja, opredeljena v skladu s to konvencijo, žrtvam z njihovo privolitvijo pomagajo in/ali jim zagotavljajo podporo.
6. Vsaka pogodbenica zagotovi, da so informacije žrtvam dane v skladu s tem členom tako, da je to primerno njihovi starosti in zrelosti, ter v jeziku, ki ga lahko razumejo.

32. člen – Začetek postopka

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da preiskovanje ali pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, niso odvisni od prijave ali obtožbe žrtve in da se lahko postopek nadaljuje tudi, če žrtev umakne svoje izjave.

33. člen – Zastaranje

Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se zastaralni rok za začetek postopka v zvezi s kaznivimi dejanji, opredeljenimi v skladu z 18. členom, točkama a in b prvega odstavka 19. člena ter točkama a in b prvega odstavka 21. člena, podaljša za obdobje, ki je potrebno za učinkovit začetek postopka, potem ko je žrtev postala polnoletna, in je sorazmerno s težo kaznivega dejanja.

34. člen – Preiskave

1. Vsaka pogodbenica sprejme ukrepe, ki so potrebni za zagotovitev, da so osebe, enote ali službe, ki vodijo preiskave, specializirane za boj proti spolnemu izkoriščanju in spolni zlorabi otrok ali da so osebe usposobljene za to. Te enote ali službe imajo ustrezne finančne vire.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da negotovost glede dejanske starosti žrtve ni ovira za začetek kazenske preiskave.

35. člen – Razgovori z otrokom

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da:
 - a) se razgovori z otrokom opravijo brez nepotrebne odlašanja, potem ko so bili pristojni organi obveščeni o dejstvih;
 - b) razgovori z otrokom po potrebi potekajo v prostorih, oblikovanih ali prilagojenih za ta namen;
 - c) razgovore z otrokom opravijo za to usposobljeni strokovnjaki;
 - d) vse razgovore z otrokom opravijo iste osebe, če je mogoče in kadar je to primerno;
 - e) se število razgovorov omeji, kot je to nujno potrebno za kazenski postopek;
 - f) lahko otroka spremlja njegov zakoniti zastopnik ali po potrebi odrasla oseba po njegovi izbiri, razen če je bila v zvezi z njo sprejeta utemeljena odločitev, ki temu nasprotuje.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da se vsi razgovori z žrtvijo ali po potrebi tisti, v katerih kot priča nastopa otrok, avdiovizualno posnamejo in da se lahko ti posnetki razgovorov skladno z notranjim pravom sprejmejo kot dokaz v sodnem postopku.
3. Kadar starosti žrtve ni mogoče natančno določiti in se upravičeno domneva, da je še otrok, se do ugotovitve njene starosti uporabljajo ukrepi iz prvega in drugega odstavka.

36. člen – Sodni postopek

1. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi ob upoštevanju pravil, ki urejajo neodvisnost pravne stroke, zagotovi, da je vsem, ki sodelujejo v sodnem postopku, zlasti pa sodnikom, tožilcem in odvetnikom, na voljo usposabljanje o otrokovih pravicah ter spolnem izkoriščanju in spolni zlorabi otrok.
2. Vsaka pogodbenica skladno z notranjim pravom sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da:
 - a) lahko sodnik odredi obravnavo brez prisotnosti javnosti;
 - b) je lahko žrtev zaslišana, ne da bi bila v sodni dvorani, in sicer z uporabo ustrezne komunikacijske tehnologije.

VIII. poglavje – Evidentiranje in shranjevanje podatkov

37. člen – Evidentiranje in shranjevanje podatkov države o obsojenih za kazniva dejanja zoper spolno nedotakljivost

1. Za preprečevanje in pregon kaznivih dejanj, opredeljenih v skladu s to konvencijo, vsaka pogodbenica v skladu z ustreznimi določbami o varstvu osebnih podatkov ter drugimi ustreznimi pravili in jamstvi notranjega prava sprejme potrebne zakonodajne ali druge ukrepe za zbiranje in shranjevanje podatkov o identiteti in genetskem profilu (DNK) oseb, obsojenih za kazniva dejanja, opredeljena v skladu s to konvencijo.
2. Vsaka pogodbenica ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu generalnemu sekretarju Sveta Evrope sporoči ime in naslov državnega organa, pristojnega za namene prvega odstavka.
3. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, da se lahko informacije iz prvega odstavka skladno s pogoji njenega notranjega prava in ustreznimi mednarodnimi dokumenti pošljejo pristojnemu organu druge pogodbenice.

IX. poglavje – Mednarodno sodelovanje

38. člen – Splošna načela in ukrepi za mednarodno sodelovanje

1. Pogodbenice v skladu s to konvencijo in na podlagi ustreznih mednarodnih in regionalnih dokumentov, dogovorov, ki temeljijo na poenoteni ali vzajemni zakonodaji, ter notranjega prava čim bolj sodelujejo pri:
 - a) preprečevanju spolnega izkoriščanja in spolne zlorabe otrok ter boju proti njima;
 - b) varovanju žrtev in zagotavljanju pomoči žrtvam;
 - c) preiskavah ali postopkih v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.
2. Vsaka pogodbenica sprejme potrebne zakonodajne ali druge ukrepe, s katerimi zagotovi, da lahko žrtve kaznivega dejanja, ki je opredeljeno v skladu s to konvencijo in ni bilo storjeno na ozemlju pogodbenice, v kateri imajo stalno prebivališče, vložijo prijavo pri pristojnih organih države stalnega prebivališča.
3. Če pogodbenica, ki za medsebojno pravno pomoč v kazenskih zadevah ali za izročitev zahteva obstoj mednarodne pogodbe, od druge pogodbenice, s katero nima sklenjene take mednarodne pogodbe, prejme zaprosilo za pravno pomoč ali izročitev, lahko to

konvencijo šteje kot pravno podlago za medsebojno pravno pomoč v kazenskih zadevah ali za izročitev v zvezi s kaznivimi dejanji, opredeljenimi v skladu s to konvencijo.

4. Vsaka pogodbenica si prizadeva, da v razvojne programe pomoči, ki so namenjeni tretjim državam, po potrebi vključi preprečevanje spolnega izkoriščanja in spolne zlorabe otrok ter boj proti njima.

X. poglavje – Nadzorni mehanizem

39. člen – Odbor pogodbenic

1. Odbor pogodbenic sestavljajo predstavniki pogodbenic konvencije.
2. Odbor pogodbenic sklicuje generalni sekretar Sveta Evrope. Prvi sestanek je v enem letu po začetku veljavnosti te konvencije za deseto podpisnico, ki jo je ratificirala. Potem se sestaja na zahtevo najmanj ene tretjine pogodbenic ali generalnega sekretarja.
3. Odbor pogodbenic sprejme svoj poslovnik.

40. člen – Drugi predstavniki

1. Po enega predstavnika v Odbor pogodbenic imenujejo Parlamentarna skupščina Sveta Evrope, komisar za človekove pravice, Evropski odbor za vprašanja kriminalitete (CDPC) in drugi ustrezni medvladni odbori Sveta Evrope.
2. Odbor ministrov lahko po posvetovanju z Odborom pogodbenic povabi druge organe Sveta Evrope, da vanj imenujejo svojega predstavnika.
3. Predstavniki civilne družbe, zlasti nevladnih organizacij, so lahko v Odbor pogodbenic sprejeti kot opazovalci skladno s postopkom, določenim na podlagi ustreznih pravil Sveta Evrope.
4. Predstavniki, imenovani v skladu s prvim do tretjim odstavkom, na sestankih Odbora pogodbenic sodelujejo brez glasovalne pravice.

41. člen – Naloge Odbora pogodbenic

1. Odbor pogodbenic nadzira izvajanje te konvencije. Postopek za nadzor nad izvajanjem konvencije je opredeljen v njegovem poslovniku.
2. Odbor pogodbenic skrbi za lažje zbiranje, analizo in izmenjavo informacij, izkušenj in dobrih praks med državami, da se izboljša njihova sposobnost za preprečevanje spolnega izkoriščanja in spolne zlorabe otrok ter boj proti njima.
3. Odbor pogodbenic, kadar je to primerno, prav tako:
 - a) spodbuja učinkovito uporabo in izvajanje te konvencije, vključno z ugotavljanjem težav in vplivov kakršne koli izjave ali pridržka po tej konvenciji;
 - b) izraža mnenje o vprašanih v zvezi z uporabo te konvencije in spodbuja izmenjavo informacij o pomembnih dogajanjih na področju prava, politik ali tehnologije.
4. Odboru pogodbenic pri izvajanju njegovih nalog po tem členu pomaga Sekretariat Sveta Evrope.
5. O dejavnostih iz prvega, drugega in tretjega odstavka tega člena se redno obvešča Evropski odbor za vprašanja kriminalitete (CDPC).

XI. poglavje – Razmerje do drugih mednarodnih dokumentov

42. člen – Razmerje do Konvencije Združenih narodov o otrokovih pravicah in Izbirnega protokola h Konvenciji o otrokovih pravicah glede prodaje otrok, otroške prostitucije in otroške pornografije

Ta konvencija ne vpliva na pravice in dolžnosti iz Konvencije Združenih narodov o otrokovih pravicah in Izbirnega protokola h Konvenciji o otrokovih pravicah glede prodaje otrok, otroške prostitucije in otroške pornografije in je namenjena izboljšanju zaščite, ki jo zagotavljata, ter razvoju in dopolnitvi njunih standardov.

43. člen – Razmerje do drugih mednarodnih dokumentov

1. Ta konvencija ne vpliva na pravice in dolžnosti, ki izhajajo iz drugih mednarodnih dokumentov, katerih pogodbenice so tudi pogodbenice te konvencije ali bodo to postale in ki vsebujejo določbe o zadevah, ki jih ureja ta konvencija, ter otrokom žrtvam spolnega izkoriščanja in spolne zlorabe zagotavljajo večjo zaščito in pomoč.
2. Zaradi dopolnitve ali krepitev določb te konvencije ali za lažjo uporabo njenih načel lahko pogodbenice o zadevah, ki jih ureja ta konvencija, sklenejo dvostranske ali večstranske sporazume.
3. Pogodbenice, ki so članice Evropske unije, v medsebojnih odnosih uporabljajo pravila Skupnosti in Evropske unije, če ta urejajo zadevno vprašanje in se uporabljajo za konkreten primer, ne da bi to vplivalo na predmet in namen te konvencije ter njeno uporabo v celoti v razmerju do drugih pogodbenc.

XII. poglavje – Spremembe konvencije

44. člen – Spremembe

1. Vsak predlog za spremembo te konvencije, ki ga da pogodbenica, se sporoči generalnemu sekretarju Sveta Evrope, ta pa ga pošlje državam članicam Sveta Evrope, vsaki podpisnici, vsaki državi pogodbenici, Evropski skupnosti, vsaki državi, ki je bila povabljena k podpisu te konvencije v skladu s prvim odstavkom 45. člena, in vsaki državi, ki je bila povabljena, da k njej pristopi v skladu s prvim odstavkom 46. člena.
2. Vsaka sprememba, ki jo predlaga pogodbenica, se pošlje Evropskemu odboru za vprašanja kriminalitete (CDPC), ta pa Odboru ministrov o njej predloži svoje mnenje.
3. Odbor ministrov preuči predlagano spremembo in mnenje, ki mu ga je predložil CDPC, ter lahko po posvetovanju z državami nečlanicami, ki so pogodbenice te konvencije, sprejme spremembo.
4. Vsaka sprememba, ki jo sprejme Odbor ministrov v skladu s prejšnjim odstavkom, se pošlje pogodbenicam v sprejetje.
5. Vsaka sprememba, sprejeta v skladu s tretjim odstavkom, začne veljati prvi dan meseca po enem mesecu od datuma, ko vse pogodbenice generalnega sekretarja obvestijo o sprejetju spremembe.

XIII. poglavje – Končne določbe

45. člen – Podpis in začetek veljavnosti

1. Ta konvencija je na voljo za podpis državam članicam Sveta Evrope in državam nečlanicam, ki so sodelovale pri njeni pripravi, ter Evropski skupnosti.
2. To konvencijo je treba ratificirati, sprejeti ali odobriti. Listine o ratifikaciji, sprejetju ali odobritvi se deponirajo pri generalnem sekretarju Sveta Evrope.
3. Ta konvencija začne veljati prvi dan meseca po treh mesecih od dneva, ko je pet podpisnic, vključno z vsaj tremi državami članicami Sveta Evrope, v skladu s prejšnjim odstavkom izrazilo svojo privolitev, da jih konvencija zavezuje.
4. Za vsako državo iz prvega odstavka ali Evropsko skupnost, ki svojo privolitev, da jo konvencija zavezuje, izrazi pozneje, začne ta veljati prvi dan meseca po treh mesecih od dneva deponiranja njene listine o ratifikaciji, sprejetju ali odobritvi.

46. člen – Pristop h konvenciji

1. Po začetku veljavnosti te konvencije lahko Odbor ministrov Sveta Evrope po posvetovanju s pogodbenicami te konvencije in po tem, ko pridobi njihovo soglasno privolitev, povabi katero koli državo, ki ni članica Sveta Evrope in ni sodelovala pri pripravi konvencije, da pristopi h konvenciji na podlagi odločitve, sprejete z večino glasov, kot to določa odstavek d 20. člena Statuta Sveta Evrope, in soglasne odločitve predstavnikov držav pogodbenic, ki imajo pravico odločati v Odboru ministrov.
2. Za vsako državo, ki pristopi h konvenciji, začne ta veljati prvi dan meseca po treh mesecih od dneva deponiranja listine o pristopu pri generalnem sekretarju Sveta Evrope.

47. člen – Ozemlja uporabe

1. Vsaka država ali Evropska skupnost lahko ob podpisu ali deponiranju listine o ratifikaciji, sprejetju, odobritvi ali pristopu navede ozemlje ali ozemlja, za katera se konvencija uporablja.
2. Vsaka pogodbenica lahko kadar koli pozneje z izjavo, naslovljeno na generalnega sekretarja Sveta Evrope, razširi uporabo te konvencije na katero koli drugo ozemlje, ki je navedeno v izjavi in za katerega mednarodne odnose je odgovorna ali v imenu katerega je pooblaščen, da sprejema obveznosti. Za tako ozemlje začne konvencija veljati prvi dan po treh mesecih od dneva, ko generalni sekretar prejme tako izjavo.
3. Vsaka izjava na podlagi prejšnjih odstavkov se lahko v zvezi s katerim koli v njej navedenim ozemljem umakne z uradnim obvestilom generalnemu sekretarju Sveta Evrope. Umik začne veljati prvi dan meseca po treh mesecih od dneva, ko generalni sekretar prejme tako uradno obvestilo.

48. člen – Pridrški

Glede določb te konvencije ni mogoč noben pridržek, razen tistih, ki so izrecno določeni. Vsak pridržek se lahko kadar koli umakne.

49. člen – Odpoved

1. Vsaka pogodbenica lahko z uradnim obvestilom generalnemu sekretarju Sveta Evrope to konvencijo kadar koli odpove.

2. Odpoved začne veljati prvi dan meseca po treh mesecih od dneva, ko generalni sekretar prejme tako uradno obvestilo.

50. člen – Uradno obvestilo

Generalni sekretar Sveta Evrope države članice Sveta Evrope, vse države podpisnice, vse države pogodbenice, Evropsko skupnost, vse države, ki so bile v skladu s 45. členom povabljene k podpisu te konvencije, in vse države, ki so bile v skladu s 46. členom povabljene, da k njej pristopijo, uradno obvesti o:

- a) vsakem podpisu;
- b) deponiranju vsake listine o ratifikaciji, sprejetju, odobritvi ali pristopu;
- c) vsakem datumu začetka veljavnosti te konvencije v skladu s 45. in 46. členom;
- d) vsaki spremembi, sprejeti v skladu s 44. členom, in datumu začetka njene veljavnosti;
- e) vsakem pridržku na podlagi 48. člena;
- f) vsaki odpovedi na podlagi 49. člena;
- g) vsakem drugem dejanju, uradnem obvestilu ali sporočilu v zvezi s to konvencijo.

V potrditev tega so podpisani, ki so bili za to pravilno pooblaščen, podpisali to konvencijo.

Sklenjeno na Lanzarotu 25. oktobra 2007 v angleškem in francoskem jeziku, pri čemer sta besedili enako verodostojni, v enem izvodu, ki se hrani v arhivu Sveta Evrope. Generalni sekretar Sveta Evrope pošlje overjene kopije vsaki državi članici Sveta Evrope, državam nečlanicam, ki so sodelovale pri pripravi te konvencije, Evropski skupnosti in vsaki državi, ki je bila povabljena, da k njej pristopi.

3. člen

Republika Slovenija ob deponiranju svoje listine o ratifikaciji Konvencije Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo, generalnemu sekretarju Sveta Evrope sporoči naslednjo izjavo:

»1. V skladu s tretjim odstavkom 24. člena konvencije Republika Slovenija izjavlja, da si pridržuje pravico, da v celoti ne uporablja drugega odstavka 24. člena za kaznivo dejanje iz 23. člena.

2. V skladu s tretjim odstavkom 25. člena konvencije Republika Slovenija izjavlja, da si pridržuje pravico, da pravila glede pristojnosti iz točke e) prvega odstavka 25. člena uporablja pod pogoji, ki jih določata 10. in 13. člen Kazenskega zakonika (Uradni list RS, št. 55/08, 66/08 – popr., 39/09, 55/09 – Odl. US in 91/11KZ-1).

3. V skladu z drugim odstavkom 37. člena konvencije Republika Slovenija izjavlja, da je organ, pristojen za izvajanje nalog iz 37. člena, ministrstvo, pristojno za notranje zadeve - Policija.«

4. člen

Za izvajanje konvencije skrbi ministrstvo, pristojno za pravosodje, v sodelovanju z ministrstvom, pristojnim za notranje zadeve, ministrstvom, pristojnim za družino in socialne zadeve, ministrstvom, pristojnim za zdravje in ministrstvom, pristojnim za izobraževanje.

5. člen

Ta zakon začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije - Mednarodne pogodbe.

OBRAZLOŽITEV

Konvencijo Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo (v nadaljevanju konvencija) je sprejel Odbor ministrov Sveta Evrope dne 12. 7. 2007 na 1002. zasedanju Odbora ministrskih namestnikov Sveta Evrope.

Konvencija je bila dana na voljo za podpis 25. 10. 2007, na 28. konferenci ministrov za pravosodje Sveta Evrope na Lanzarotu v Španiji, ko jo je podpisala tudi Republika Slovenija.

Konvencija je začela veljati 1. 7. 2010, do začetka junija 2013 jo je ratificiralo 26 držav članic Sveta Evrope.

Konvencija je eden izmed ključnih instrumentov Sveta Evrope na področju boja zoper spolno izkoriščanje otrok in trenutno najvišji mednarodno veljavni standard za zaščito otrok pred spolno zlorabo in izkoriščanjem in pomeni nadaljnji korak pri izboljšanju zaščite, ki jo je prinesel Izbirni protokol h Konvenciji o otrokovih pravicah glede prodaje otrok, otroške prostitucije in otroške pornografije. Predstavlja celovit mednarodni instrument, ki je osredotočen na vidike preprečevanja in zaščite žrtev tega pojava.

Namen konvencije je preprečevanje in boj proti spolnemu izkoriščanju in spolnemu zlorabljanju otrok, varstvo pravic otrok, ki so žrtve spolnega izkoriščanja in spolne zlorabe, spodbujanje državnega in mednarodnega sodelovanja pri boju proti spolnemu izkoriščanju in spolnemu zlorabljanju otrok. Spolno izkoriščanje in spolna zloraba otrok dosejata skrb vzbujajoč obseg na državni in mednarodni tudi zaradi uporabe informacijsko - komunikacijske tehnologije, tako s strani storilcev kot žrtev.

Ob omenjenih vidikih preprečevanja in zaščite, konvencija vsebuje tudi kazenskopravne določbe, ki vsebujejo tudi inkriminacije dejanj, povezanih s sredstvi informacijske in komunikacijske tehnologije. Te tehnologije predstavljajo nove možnosti za oblike spolne zlorabe in izkoriščanja otrok. Z namenom zagotovitve, da bi pogodbenice učinkovito izvajale njene določbe, konvencija vzpostavlja poseben nadzorni mehanizem, Odbor pogodbenic, ki je sestavljen iz predstavnikov pogodbenic in ki bo nadziral njeno izvajanje.

Konvencija upošteva tudi Konvencijo o varstvu človekovih pravic in temeljnih svoboščin, Evropsko socialno listino (spremenjeno), Evropsko konvencijo o uresničevanju otrokovih pravic, Konvencijo Organizacije združenih narodov o otrokovih pravicah, predvsem njen 34. člen, Izbirni protokol h Konvenciji o otrokovih pravicah glede prodaje otrok, otroške prostitucije in otroške pornografije, Protokol za preprečevanje, zatiranje in kaznovanje trgovine z ljudmi, zlasti ženskami in otroki, ki dopolnjuje Konvencijo Združenih narodov proti mednarodnemu organiziranemu kriminalu in tudi Konvencijo o prepovedi najhujših oblik dela otrok in takojšnjem ukrepanju za njihovo odpravo Mednarodne organizacije dela. Konvencija ravno tako upošteva vsebino Okvirnega sklepa Sveta Evropske unije o boju proti spolnemu izkoriščanju otrok in otroški pornografiji (2004/68/PNZ), Okvirnega sklepa Sveta Evropske unije o položaju žrtev v kazenskem postopku (2001/220/PNZ) in Okvirnega sklepa Sveta Evropske unije o boju proti trgovanju z ljudmi (2002/629/PNZ). Konvencija upošteva tudi druge mednarodne instrumente in programe na tem področju, predvsem Stockholmsko deklaracijo in Agendo za ukrepanje, sprejeto na 1. Svetovnem kongresu proti komercialnemu spolnemu izkoriščanju otrok, Globalne zaveze iz Yokohame, sprejete na 2. Svetovnem kongresu proti komercialnemu spolnemu izkoriščanju otrok, Zaveze in načrta za ukrepanje iz Budimpešte, sprejetih na pripravljalni konferenci za 2. Svetovni kongres proti komercialnemu spolnemu izkoriščanju otrok 20. in 21. novembra 2001, Resolucijo Generalne skupščine Združenih narodov S-27/2 »Svet po meri otrok« in triletni program »Gradimo Evropo za otroke in z njimi«, sprejet po tretjem vrhu in predstavljen na konferenci v Monaku 4. in 5. aprila 2006.

Ministrstvu, pristojni za pravosodje in notranje zadeve sta za potrebe ratifikacije konvencije pripravili vse potrebne zakonodajne ukrepe. Materialnopravno so določbe konvencije implementirane z novelo KZ-1B (Ur. l. RS, št. 91/11 z dne 14. 11. 2011), in sicer s spremembami 173., 175. in 176. člena ter z novim 173.a členom.

Konvencija Sveta Evrope o zaščiti otrok pred spolnim izkoriščanjem in spolno zlorabo v 18. členu z naslovom »Spolna zloraba« ureja zagotavljanje ukrepov, s katerimi države pogodbenice inkriminirajo izvajanje spolnih aktivnosti z otrokom, ki v skladu z ustreznimi določbami nacionalne zakonodaje še ni dosegel zakonske starosti za spolne aktivnosti in izvajanje spolnih aktivnosti z otrokom, kjer se uporablja nasilje, sila ali grožnja ali se zlorablja zaupanja vreden položaj, oblast ali vpliv nad otrokom, vključno znotraj družine ali se zlorablja posebej ranljiv položaj otroka, predvsem zaradi umske ali fizične motnje ali zaradi njegove odvisnosti od drugih. V drugem odstavku ta člen predvideva, da za namene kazenskih postopkov vsaka pogodbenica določi starost, pod katero ni dovoljeno izvajati spolnih aktivnosti z otrokom. V tretjem odstavku konvencija določa, da ureditev v prvem odstavku 18. člena ni namenjena urejanju sporazumnih spolnih aktivnosti med mladoletnimi osebami.

Te določbe so bile v naš pravni red prenesene z ustreznimi spremembami 173. člena KZ-1.

Z novim 173.a členom je bil implementiran 23. člen konvencije. Gre za tako imenovano kaznivo dejanje »groominga«, ko se storilec kaznivega dejanja z uporabo informacijskih ali komunikacijskih tehnologij dogovori z oškodovancem (otrokom) za srečanje, zaradi uresničitve načrtovanega protipravnega spolnega dejanja. Če temu dogovoru sledi določeno, konkretno dejanje v smeri izvršitve, na primer prihod storilca na dogovorjeni kraj srečanja, bi bili izpolnjeni znaki predlaganega kaznivega dejanja.

Spremenjen in dopolnjen je bil tudi 175. člen KZ-1 (zloraba prostitucije), na način, ki implementira točko c prvega odstavka 19. člena konvencije. V spremenjenem drugem odstavku je na tej podlagi določena kvalificirana oblika kaznivega dejanja zoper mladoletno osebo (ločeno od storitve tega kaznivega dejanja proti več osebam ali v okviru hudodelske združbe), pri čemer je dodan tudi način izvršitve – poseganje po prostituciji mladoletne osebe.

Prav tako je bil z novelo KZ-1B s konvencijo usklajen 176. člen KZ-1, ki je uvedel dodatno inkriminacijo (naklepne) pridobitve dostopa do pornografskega gradiva s pomočjo informacijskih in komunikacijskih tehnologij. Izrecno se že v uvodu opredeljuje tudi, da gre za pridobivanje gradiva zase ali za koga drugega. Iz splošnih določb zakonika izhaja, da mora biti pridobitev gradiva oziroma dostopa zavestna, kar izključuje primere, ko pride do pridobitve gradiva ali dostopa brez naklepa, na primer zaradi samodejnega posredovanja na dostopen elektronski naslov določene osebe, brez njene vednosti oziroma proti njeni volji. Po drugi strani pa bo sklepanje o naklepu lahko utemeljeno zlasti, če gre za dostop do plačljivih vsebin ali dostop s sistematičnim ali ponavljajočim pregledovanjem otroške pornografije, praviloma s prijavo, z geslom in trajnejšim in povezovanjem na spletne strani s kaznivo oziroma prepovedano vsebino.

Omenjene določbe so usklajene tudi z Direktivo Evropskega parlamenta in Sveta o boju proti spolni zlorabi in spolnemu izkoriščanju otrok ter otroški pornografiji, ki razveljavlja Okvirni sklep 2004/68/PNZ.

Pred ratifikacijo Konvencije je bil sprejet tudi Zakon o nalogah in pooblastilih policije (ZNPPol, Ur. l. RS št. 15/2013 z dne 18. 2. 2013). Zakon vsebuje ustrezno podlago za implementacijo 37. člena konvencije, ki določa obveznost način in pogoje beleženja in hranjenja podatkov o obsojenih spolnih prestopnikih. Konvencija določa, da države uvedejo zakonodajne ali druge

potrebne ukrepe za beleženje in hranjenje podatkov v zvezi z identiteto in genetskim profilom (DNA) oseb, obsojenih zaradi kazenskih dejanj, določenih v skladu s to konvencijo.

ZNPPol v 112. členu določa, da v primerih, ko teče predkazenski postopek zaradi kaznivih dejanj iz 170. do 176. člena Kazenskega zakonika in so ta storjena proti mladoletni osebi, policija zaradi iskanja osumljencev storitve teh kaznivih dejanj, odkrivanja kaznivih dejanj in njihovih sledov, preгона ali sojenja storilcem kaznivih dejanj, izločitve oseb iz postopka, pomoči žrtvam kaznivih dejanj, tako da je za te namene omogočena izmenjava osebnih podatkov s pristojnimi organi drugih držav, v vsakem posameznem primeru od osumljenca zbere in v evidenco preiskav DNK shrani podatke o njegovi identiteti in genskem profilu.

Skladno z Zakonom o vladi predlog določa, da za izvajanje konvencije skrbi ministrstvo, pristojno za pravosodje. Pri izvajanju sodeluje z resornimi ministrstvi, pristojnimi za določena področja, in sicer z ministrstvom, pristojnim za notranje zadeve, ministrstvom, pristojnim za družino in socialne zadeve, ministrstvom, pristojnim za zdravje in ministrstvom, pristojnim za izobraževanje.

Obrazložitev pridrzkov in izjav:

Skladno s tretjim odstavkom 24. člena konvencije si bo Republika Slovenija pridržala pravico, da v celoti ne bo uporabljala drugega odstavka 24. člena, ki kriminalizira poskus kaznivih dejanj opredeljenih s konvencijo, ko gre za kaznivo dejanja iz 23. člena konvencije. Z novelo KZ-1B, ki v 173.a členu uvaja kaznivo dejanje pridobivanja oseb, mlajših od petnajst let za spolne namene in ki v slovensko kazensko zakonodajo uveljavlja 23. člen konvencije, poskus namreč ni kazniv, saj ne gre za kaznivo dejanje za katerega je predvidena kazen treh let zapora ali hujša kazen niti zakon za kaznivo dejanje iz 173.a člena izrecno ne določa kaznivosti poskusa, zanj pa je v zakonu predvidena kazen zapora do enega leta.

Skladno s tretjim odstavkom 25. člena konvencije, Republika Slovenija izjavlja, da si pridržuje pravico, da pravila glede pristojnosti iz točke e prvega odstavka 25. člena uporablja pod pogoji, ki jih določajo 10., 11. in 13. člen Kazenskega zakonika (KZ-1). Slovenski kazenski zakonik ne določa posebej pravil o pregonu osebe s stalnim prebivališčem, ureja pa v določenih primerih veljavnost kazenskega zakonika tudi za storilce, ki niso državljani RS. KZ RS velja za storilca, ne glede na državljanstvo, ki stori kaznivo dejanje na njenem ozemlju. Za storilca, ki ni državljan RS in stori kaznivo dejanje izven ozemlja RS, velja Kazenski zakonik pod pogoji, ki jih določa KZ v 11. členu in naslednjih členih.

Skladno s 37. členom konvencije, Republika Slovenija izjavlja, da je organ, pristojen za izvajanje nalog iz 37. člena konvencije, ministrstvo, pristojno za notranje zadeve - Policija. Policija je za izvajanje teh nalog pristojna na podlagi Zakona o nalogah in pooblastilih policije (ZNPPol, Ur. l. št. 15/13 z dne 18. 2. 2013). Zakon določa ime organa, ne navaja pa njegovih konkretnih kontaktnih podatkov in sicer zaradi njihovega eventualnega spreminjanja. Republika Slovenija bo v izjavi generalnemu sekretarju Sveta Evrope sporočila naslednje kontaktne podatke organa:

Ministry of the Interior and Public Administration
POLICE
Štefanova 2
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Slovenia
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COUNCIL OF EUROPE CONVENTION
ON THE PROTECTION OF CHILDREN
AGAINST SEXUAL EXPLOITATION
AND SEXUAL ABUSE

Preamble

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

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

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;

Observing that the sexual exploitation of children, in particular child pornography and prostitution, and all forms of sexual abuse of children, including acts which are committed abroad, are destructive to children's health and psycho-social development;

Observing that the sexual exploitation and sexual abuse of children have grown to worrying proportions at both national and international level, in particular as regards the increased use by both children and perpetrators of information and communication technologies (ICTs), and that preventing and combating such sexual exploitation and sexual abuse of children require international co-operation;

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;

Recalling the Action Plan adopted at the 3rd Summit of Heads of State and Governments of the Council of Europe (Warsaw, 16-17 May 2005), calling for the elaboration of measures to stop sexual exploitation of children;

Recalling in particular the Committee of Ministers Recommendation No. R (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 (ETS No. 185), especially Article 9 thereof, as well as the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ETS No. 5), the revised European Social Charter (1996, ETS No. 163), and the European Convention on the Exercise of Children's Rights (1996, ETS No. 160);

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 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as well as the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

Bearing in mind the Council of the European Union Framework Decision on combating the 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), and the Council of the European Union Framework Decision on combating trafficking in human beings (2002/629/JHA);

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 1st World Congress against Commercial Sexual Exploitation of Children (27-31 August 1996), the Yokohama Global Commitment adopted at the 2nd 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 2nd 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 3rd Summit and launched by the Monaco Conference (4-5 April 2006);

Determined to contribute effectively to the common goal of protecting children against sexual exploitation and sexual abuse, whoever the perpetrator may be, and of providing assistance to victims;

Taking into account the need to prepare a comprehensive international instrument focusing on the preventive, protective and criminal law aspects of 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 to:
 - a prevent and combat sexual exploitation and sexual abuse of children;
 - b protect the rights of child victims of sexual exploitation and sexual abuse;
 - c 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 the 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 18 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 to 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 in collaboration with parents, where appropriate, 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 initiatives 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 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 co-ordination 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 and the law-enforcement and 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 cooperate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in 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 health-care services and the social services, and the judicial authorities and other bodies responsible for following 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 repetition of the offences established in accordance with this Convention, 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 provide, in accordance with its internal law, for an assessment of 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 in 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 paragraph 1.a are not intended 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 to limit the application of paragraph 1.c to cases where children have been recruited or coerced in conformity with paragraph 1.a or b.

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 Article 18, paragraph 1.a, or Article 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, attempts 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 subordinated to the condition that the acts are criminalised at the place where they were performed.
- 5 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 to limit the application of paragraph 4 of this article, with regard to offences established in accordance with Article 18, paragraph 1.b, second and third indents, to cases where its national has his or her habitual residence in its territory.
- 6 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 subordinated 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.
- 7 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 on its territory and it does not extradite him or her to another Party, solely on the basis of his or her nationality.

- 8 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.
- 9 Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its 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 judicial winding-up order.
- 3 Each Party shall take the necessary legislative or other measures to:
 - a provide for the seizure and confiscation of:

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

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 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, for the possibility of 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 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 investigation or proceedings, and their role therein as well as the outcome of their cases;
 - b ensuring, at least in cases where the victims and their families might be in danger, that they may be informed, if 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 choose the means of having 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 the victim.
- 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 provided 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 and which is commensurate with the gravity of the crime in question.

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 is as limited as possible and in so far as strictly 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 to the rules 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 name and address 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), as well as other relevant Council of Europe intergovernmental committees, 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, experience 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 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 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.
- 5 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the activities mentioned in paragraphs 1, 2 and 3 of this article.

Chapter XI – Relationship with other international instruments

Article 42 – Relationship with 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 – Relationship with other international instruments

- 1 This Convention shall not affect the rights and obligations arising from the provisions of 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 European Committee on Crime Problems (CDPC), 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 CDPC and, following consultation with the non-member States Parties to this Convention, 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 as well as 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 expressly established. Any reservation may be withdrawn at any time.

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 reservation made under Article 48;
- f any denunciation made in pursuance of the provisions of Article 49;
- g any other act, notification or communication relating to this Convention.

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

Done at Lanzarote, this 25th day of October 2007, 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.

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

Fait à Lanzarote, le 25 octobre 2007, en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des Etats membres du Conseil de l'Europe, aux Etats non membres ayant participé à l'élaboration de la présente Convention, à la Communauté européenne et à tout autre Etat invité à adhérer à la présente Convention.

Certified a true copy of the sole original document, in English and in French, deposited in the archives of the Council of Europe.

Strasbourg, 23 January 2008

The Director of Legal Advice
and Public International Law (Jurisconsult)
of the Council of Europe,

Copie certifiée conforme à l'exemplaire original unique en langues française et anglaise, déposé dans les archives du Conseil de l'Europe.

Le Directeur du Conseil Juridique
et du Droit International Public (Jurisconsulte)
du Conseil de l'Europe,

Manuel LEZERTUA

