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Child victims: stamping out all forms of violence, exploitation and abuse

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Jean-Charles GARDETTO, Monaco, Group of the European People's Party

Summary

The Committee on Legal Affairs and Human Rights considers that doing everything possible to protect children against the different forms of violence, exploitation and abuse they suffer is more than overdue. In this connection, it welcomes the Council of Europe's three-year action programme "Building a Europe for and with children", launched in April 2005 at the instigation of the Deputy Secretary General.

The Council of Europe and other international organisations have spared no effort to devise a range of legal instruments designed to protect child victims against what qualifies as unacceptable behaviour, notably in the societies of our member states.

While recognising the importance of these instruments and of the practical child protection arrangements implemented in the majority of states, the Committee decries the fact that children's rights are still too frequently abused in Council of Europe member states.

Accordingly, in addition to signing and ratifying the existing international and European legal instruments, which lay the foundation for any form of effective action in this field, the Committee calls on all the member states *inter alia* to reinforce and, where necessary, devise and introduce domestic procedures guaranteeing enhanced protection of children, and thereby to strive to stamp out all kinds of violence and abuse perpetrated against such vulnerable victims.

A. Draft resolution

1. The Parliamentary Assembly believes, like the Heads of State and Government of the Council of Europe member states in the Final Declaration and Action Plan adopted at the 3rd Summit (Warsaw, 16-17 May 2005), that the Council of Europe has a fundamental role to play in finding concrete and effective solutions to cases of violence, exploitation and abuse in respect of children, whatever their form.
2. The Assembly supports the implementation, in this context, of the three-year action programme (2006-2008) for the promotion of children's rights and the protection of children from violence, "Building a Europe for and with children", launched in Monaco on 4 and 5 April 2006.
3. It continues to be concerned about the high numbers of children in member states who, particularly because of their vulnerability, their legal incapacity as minors and the inadequacy of the legal and social protection they receive, are victims of violence, ill-treatment, exploitation, trafficking and trade in their organs, child prostitution and child pornography.
4. The statistics gathered in this field by international organisations such as UNICEF and the International Labour Organisation (ILO) still fall short of reality since many children are not able to report to the authorities or to specialist associations the violence and abuses which they suffer.
5. The Assembly recalls that there is an extensive legal apparatus at the international level intended to secure children's rights and combat certain forms of exploitation, in particular the United Nations (UN) Convention of 1989 on the rights of the child and its Protocols, and more recently Resolution 61/... on the rights of the child adopted by the UN General Assembly in November 2006, Convention No 182 of the ILO concerning the worst forms of child labour, and the Yokohama Global Commitment made in 2001 at the 2nd World Congress against Commercial Sexual Exploitation of Children.
6. At the European level, the Assembly recalls in particular the relevant Council of Europe conventions, especially the European Convention on Human Rights, the Revised European Social Charter (CETS no 163), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CETS no 126), specialised conventions such as the Convention on Cybercrime (CETS no 185) on Action against Trafficking in Human Beings (CETS no 197), as well as many of its own resolutions and recommendations concerning the recognition, promotion and protection of children's rights.
7. The Assembly recalls the Committee of Ministers' reply of 20 April 2005 to its Recommendation 1666 (2004), stressing the importance which it attached to the issue of children's protection and its commitment to the welfare of children as a group in need of special protection from all forms of violence.
8. It is essential that the Parliamentary Assembly and the Committee of Ministers ensure that resolute action is taken Europe-wide to eradicate all forms of violence against children. From this standpoint, it is indispensable, in so far as they are also subjects of law, to grant children adequate legal protection as well as legal representation outside the family whenever necessary.
9. The Assembly welcomes the fact that work on a draft Council of Europe Convention on the protection of children against sexual exploitation and abuse has recently been commenced.
10. It deems it indispensable that, over and above the standard-setting measures already taken, and in view of the multitude of instruments each relating to specific forms of violence, an integrated approach be adopted at the European level in order to achieve greater effectiveness and coherence in the protection of children against the intolerable and extremely varied situations of discrimination, violence, exploitation and abuse which persist and are even increasing in some areas. It accordingly considers that the existing convention-based system should be strengthened by adopting an approach aimed at integrated protection of children whatever the type of violence, exploitation or abuse committed, and that co-operation between member states in this area should be intensified.
11. The increase in "cross-frontier" family disputes in which children are direct victims is also of concern to the Assembly. In this context, it recalls the Council of Europe Convention on contact concerning children (CETS no 192) and encourages the member states to ratify this Convention as soon as possible.
12. Also, in this matter, the Assembly considers it urgent to strengthen co-operation among member states as a whole by using speedy judicial procedures suited to children, especially in the context of family conflicts, and as a supplementary measure to mediation procedures which are not always successful, so as to avert additional harm to children resulting from lengthy and distressing contentious proceedings.

13. The Assembly further recalls its Recommendation 1460 (2000) on setting up a European Ombudsman for children and welcomes the stance of the Council of Europe Commissioner for Human Rights in favour of creating more such institutions in member states or extending the remit of existing ombudsmen to include the functions of promoting, safeguarding and strengthening children's rights.

14. In the light of the foregoing, the Parliamentary Assembly invites all parliaments of the Council of Europe member states:

14.1. to consolidate et develop strategies and national policies aimed at protecting the rights of children;

14.2. to examine the existing legislative framework and amplify it as appropriate to ensure children's protection against all forms of violence, exploitation and abuse, making all interference with the child's bodily or spiritual integrity a criminal offence defined in relation to its degree of gravity and carrying effective, proportionate and dissuasive penalties;

14.3. to harmonise these provisions in order to set up child protection legislation common to all states, in particular concerning such concepts as the child's best interests and the definition of criminal law offences committed against children;

14.4. to provide legal provisions :

14.4.1. to suspend the limitation period for serious offences until the victim has reached the age of majority;

14.4.2. to establish that the most serious offences committed against children may not be subject to limitation;

14.4.3. to extend states' jurisdiction so that perpetrators of offences against children committed beyond their borders may be effectively prosecuted;

14.4.4. to introduce speedy civil and criminal law procedures which are suited to children, comprising for example the right to be heard by a court where capable of discernment, the right to be assisted by a lawyer paid for by the state or the right to obtain appropriate legal aid;

14.4.5. to train specialised judges to conduct the above procedures, particularly to train them to question child victims of violence, exploitation or abuse; and, when absolutely necessary, to bring them face to face with the accused, in a manner that safeguards the interests of the child as well as that of justice;

14.4.6. to adapt civil and criminal law proceedings to children, with emphasis on methods which spare unnecessary anguish, especially with regard to their testimony and appearance in court (by video link, for instance).

15. The Assembly also calls upon the member states :

15.1. to ratify international and European legal instruments relating to the protection of children as enumerated above;

15.2. to establish, or promote where they already exist, mediation mechanisms designed to alleviate children's suffering, particularly in such contexts as their parents' separation, and to set up an ombudsman for children whom they can approach directly, or to extend the responsibilities of the established ombudsmen to encompass children's protection against all forms of violence;

15.3. to strengthen co-operation, at national and international level, between police forces and judicial services for effective action against child exploitation and trafficking in Europe and beyond;

15.4. to work towards the creation of a national body to collect information on child victims of violence, exploitation or abuse, and persons convicted of such offences, in order to produce a central file allowing the exchange of information, thus promoting the fight against these phenomena, and aiding the speedier resolution of disputes which involve children, in particular family conflicts, and with a view to creating an observatory of ill-treatment in each state and at the European level which would establish reliable statistics on cases of violence, exploitation and abuse involving children;

15.5. set up specialised European bodies as well as national and international co-operation and co-ordination networks between governmental authorities, judicial authorities, police forces, national bodies and NGOs specialising in protection of children's rights.

16. Finally, the Assembly calls upon the member states to consolidate their child welfare policy by the following means:

16.1. action plans at local and national level to eliminate violence, exploitation and abuses concerning children, in particular in the family unit, at school, in care institutions and in the community;

16.2. sustained operation of education, information and awareness-raising mechanisms aimed at children, parents, professionals and all authorities with special responsibility for the legal and social protection of children, concerning detection of ill-treatment and of all forms of abuse and ways to address these problems;

16.3. arranging for child victims and perpetrators of violence to receive regular close attention in order to provide them with support from properly trained professionals and ensure their social readjustment and rehabilitation;

16.4. establishing machinery for the control and supervision of institutions looking after children (e.g. schools, orphanages, placement centres, young offenders' detention centres), as well as methods of detection (e.g. through school and pre-school medical examinations, interviews with psychologists) for exposing acts of violence, exploitation and abuse that may occur in family surroundings, in order to certify and sanction all behaviour through which a child suffers violence, exploitation or abuse;

16.5. providing freephone numbers, telephone answering devices and/or websites to enable children anonymously to report violence, exploitation or abuse, and to promote the wide dissemination of information to children who are victims of any kind of ill-treatment, particularly concerning social welfare facilities, specialised associations, bodies or institutions such as the ombudsman to which they can directly and anonymously complain of acts of violence committed against them or against other children.

17. The Assembly encourages its Monitoring Committee to continue including the child welfare field in its supervisory activities and in its reports.

B. Draft recommendation

1. The Parliamentary Assembly, referring to its Resolution... (2006) on "child victims: stamping out all forms of violence, exploitation and abuse", recommends that the Committee of Ministers invite those Council of Europe member states which have not already done so to sign and ratify as soon as possible the existing international and European legal instruments relating to the protection of children, in particular those mentioned in the resolution, and to introduce a procedure for monitoring the safeguards provided for children in member states.
2. The Assembly invites the Committee of Ministers to take all appropriate steps in order that the Council of Europe member states:
 - 2.1. draw up and establish domestic legal and social procedures as set out in Resolution ... (2006) in order to guarantee children's protection against all forms of violence, exploitation or abuse;
 - 2.2. encourage the competent national authorities to ensure wide circulation both to children and to adults of information and advice on prevention, detection and prosecution of abuses committed against a child, and to enhance specialist training in this respect for professionals dealing with children;
 - 2.3. encourage partnerships and co-operation at national, European and international level in implementing effective machinery to protect children, such as the provision of central files that make it possible to record the various types of violence encountered and the victims thereof, to discover and dismantle any child exploitation networks that exist, and to activate appropriate and effective criminal justice machinery;
 - 2.4. establish action plans backed by adequate material and human resources, in order to combat all forms of violence, exploitation and abuse affecting children.
3. In addition, the Assembly urges the Committee of Ministers to instruct its competent governmental committees, particularly the European Committee on Legal Co-operation (CDCJ), working closely with the Parliamentary Assembly, to produce a draft Convention aimed at affording children comprehensive effective protection against all forms of violence, exploitation or abuse, and a model law transposing the provisions of the aforementioned Convention which could be applicable in all member states and would in particular define such concepts as the child's best interests, harmonise criminal law definitions of offences committed against children, and seek to protect them comprehensively against all interference with their bodily or spiritual integrity, whatever the cause and the form thereof.

C. Explanatory memorandum¹ by Mr Jean-Charles Gardetto, Rapporteur

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I. Introduction

1. The Parliamentary Assembly has always taken a great interest in the protection of children, the recognition of their rights, and their welfare. However, despite the considerable number of existing instruments – international conventions, recommendations and resolutions of the Council of Europe, its Assembly or other international organisations – it is blatantly obvious that children continue to be victims of abuse, violence and exploitation of every kind. Is this due to loopholes in the current law, or to lack of political resolve to make the defence of children one of the governmental priorities? It is a fact that there is a glaring discrepancy between the rights secured to children on paper and the reality. Cases with high media exposure, particularly paedophilia trials, dismantling of child prostitution rings or denunciation of domestic slavery scandals render us unable to see the wood for the trees. How many battered, maltreated children are being maltreated from day to day in their families, at school or in specialised institutions?

2. This unconscionable reality is what the present report is intended to address; it originates in a proposal by its author, referred to the Committee on Legal Affairs and Human Rights on 12 December 2005, in which he noted the approaches, too often theme-specific and piecemeal, to the cause of the child, and instead suggested promoting a comprehensive approach in defining and implementing legal and social protection of children against violence in all its forms.

3. This report also follows on the decisions taken by the Heads of State and Government in the action plan adopted in Warsaw at the 3rd Council of Europe Summit, where priority was given to the protection of children in these terms: “We are determined to effectively promote the rights of the child and to fully comply with the obligations of the United Nations Convention on the Rights of the Child. A child rights perspective will be implemented throughout the activities of the Council of Europe and effective coordination of child-related activities must be ensured within the Organisation.” In this context, a three-year action programme (2006-2008) “Building a Europe for and with children” has been mounted. It comprises a large number of activities which are or will be conducted by the Council of Europe to advance children’s rights and protection against the various forms of violence, exploitation and abuse.

4. Indeed, violence against children takes different forms. Worldwide, there are millions of children daily undergoing violence and all kinds of exploitation and abuse. Every day, children are bought and sold, imported, exported and used as commodities or are subjected to forced marriages. Children are forced to engage in prostitution, to become soldiers or servants, to have their organs removed for the purpose of trafficking, exploited as labour in back-street workshops, or have their bodies used for pornographic ends; they are victims of sexual abuse or other uncivilised treatment. And, still more insidiously, how many children are victims of everyday maltreatment and trivialised domestic violence? How many situations of marital violence “behind closed doors” degenerate into parental violence against the children? This observation, alas, is also valid in the Council of Europe member states.

5. The aim of this report is precisely to gain a better grasp of these forms of violence, exploitation and abuse committed to the detriment of children, though without purporting to be exhaustive.

¹ I wish to point out that I had to complete this report in a shorter time than was allowed me under my initial terms of reference (ie at the end of 2007). This accounts for the fact that the information contained in this report could not be as detailed and comprehensive as I would have wished.

6. Advancement of the cause of children and recognition of their rights has been the object of numerous general or specific international instruments, indispensable in combating the different forms of violence affecting children. An inventory of them, on the one hand the legal standards devised by the Council of Europe or on the other those formulated by other international organisations, is made in this study. The present explanatory memorandum also draws attention to various types of legal, social or educational arrangements existing in the Council of Europe member states. Referring to the “good practice” applied in the member states in this respect, it further seeks to make definite, constructive proposals for more effective prevention and punishment of all forms of violence and abuse involving children.

II. The existing international legal provisions on protection of children

7. The values and fundamental principles with regard to human rights, and especially the European Convention on Human Rights (hereinafter: ECHR) apply to the 46 Council of Europe member states and to their 800 million citizens who include 155 million children. As subjects of law, children thankfully have the same fundamental rights as adults. On that basis, they therefore enjoy the rights recognised in the ECHR, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The Council of Europe and other international organisations have worked from these founding instruments towards effective strengthening of the protection of children’s rights by drawing up legal instruments intended to provide specific responses to the problems they must address. This European and international legal weaponry is extensive.

i. Provisions formulated by the Council of Europe

8. Since its foundation in 1949, the Council of Europe has developed a large number of cogent instruments on the protection of children against violence. The ECHR, the Revised European Social Charter, specialised conventions and several resolutions and recommendations constitute the legal basis of its action.

9. The rights secured by the [ECHR](#) seek to protect every person, and that includes children. Thus, the Convention secures to children the right to life (Article 2), prohibition of torture and inhuman and degrading treatment (Article 3), prohibition of slavery and forced labour (Article 4), the right to liberty and security (Article 5), the right to a fair trial (Article 6), and the right to respect for private and family life (Article 8). Children must be able to enjoy these rights without suffering discrimination (Article 14) and must have an effective remedy in the event of a violation of one of their rights (Article 13). The European Court of Human Rights has delivered important judgments² demonstrating its commitment to effective protection of the rights of the child. It also takes into consideration, particularly in connection with alleged violations of Article 8 ECHR, the child’s best interests, a concept that carries great weight in its reasoning to determine whether or not the child’s right to respect for his or her family life has been infringed. Likewise, the Court has stressed in a case of corporal punishment by parents that the responsibility of States for protection extends to the family home³.

10. The [Revised European Social Charter](#) of 1996 explicitly secures the right of children and young people to protection, particularly of a social, legal and economic kind. It calls upon the Council of Europe member states to prohibit corporal punishment of children in the family and at school⁴. The European Committee of Social Rights (ECSR) has the function of satisfying itself that the law and practice of the States Parties conform to the Revised Social Charter. In this connection, the ECSR has stressed the special importance which it attaches to the protection of children against any form of violence, ill-treatment or abuse, whether physical or psychological. Proceeding from this principle, the Committee has come to consider in its interpretation of Article 17 of the European Social Charter that according to this provision national legislation must proscribe any form of violence against children, whether at school or in other institutions, at home or elsewhere. In the view of the ECSR, it also implies that the member states’ national legislation should prohibit any form of degrading punishment or treatment of children and declare it liable to penalties under civil or criminal law.

11. The 1987 [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) refers to Article 3 ECHR as a reference point for assessing situations conducive to torture or to inhuman or degrading treatment or punishment. This Convention institutes the Committee for the

² [See in this connection the relevant case-law of the Court](#), most recently *Okkali v. Turkey*, No. 52067/99 of 17 October 2006, a judgment in which the Court unanimously found a violation of Article 3 (prohibition of inhuman or degrading treatments) of the ECHR, concerning the ill-treatment inflicted by the police on a boy aged 12.

³ Case of *A v. United Kingdom*, No. 25599/94, judgment of 23 September 1998, Reports 1998-VI.

⁴ See Articles 7 and 17 of the Revised European Social Charter.

Prevention of Torture (CPT) whose members make visits to places of detention in Council of Europe member states. Following these visits, the CPT is required to draw up a report setting out the facts found and containing, as appropriate, recommendations for improving the protection of persons in custody. The Convention applies to all detainees, children included.

12. In addition to these basic legal instruments, more specific conventions have been drawn up or are in preparation. Examples are the 1967 European Convention on the Adoption of Children, the 1975 Convention on the Legal Status of Children Born out of Wedlock, the 1980 European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, the 1996 European Convention on the Exercise of Children's Rights, the 2003 Convention on contact concerning children, the 2001 Convention on Cyber-Crime⁵ and the 2005 Convention on Action against Trafficking in Human Beings (not yet in force).

13. To supplement this array of instruments, a European Convention on the protection of children against sexual exploitation and abuse is currently being drawn up. This draft convention is a complete legal instrument divided into ten chapters covering the most significant aspects of children's protection in the event of sexual exploitation and abuse: preventive and protective measures, provisions in criminal law and criminal procedure including the classification of the various offences, provisions governing investigations and prosecution, rules on the treatment of sex offenders, compilation of national databases and provisions on pooling of information, and finally provisions relating to international co-operation. Through these various measures, the draft convention sets out to provide full, exhaustive "legal coverage" regarding the protection of children against sexual exploitation and sexual abuse in order to consolidate the corpus of standards which already exist in this field. A further aim of this convention is to achieve harmonisation of criminal law and relevant measures in the Council of Europe member states.

14. The [Parliamentary Assembly](#) for its part has adopted a number of resolutions and over twenty recommendations on the recognition and promotion of children's rights. Examples are Recommendation 1286 (1996) on a European strategy for children, Recommendation 1336 (1997) on combating child labour exploitation as a matter of priority, Recommendation 1371 (1998) on the abuse and neglect of children, Resolution 1215 (2000) on a campaign against the enlistment of child soldiers and their participation in armed conflicts, Recommendation 1666 (2004) on a Europe-wide ban on corporal punishment of children, and more recently Resolution 1468 and Recommendation 1723 (2005) on forced marriages and child marriages.

15. The [Committee of Ministers](#) also has a long-standing commitment to combating violence against children. It has adopted a series of recommendations inviting the member states to fight this evil, such as Recommendation R(79)17 concerning the protection of children against ill-treatment, Recommendation R(84) 4 on parental responsibilities, Recommendation R(85)2 on legal protection against sex discrimination, Recommendation R(85)4 on violence in the family, Recommendation R(87)20 on social reactions to juvenile delinquency, Recommendation (91)9 on emergency measures in family matters, Recommendation (93)2 on the medico-social aspects of child abuse, and Recommendation R(97)13 concerning intimidation of witnesses and the rights of the defence⁶. More recently the Committee of Ministers also adopted Recommendation (2001)16 on the protection of children against sexual exploitation, Recommendation (2005)5 on the rights of children living in residential institutions, and Recommendation (2006)12 on empowering children in the new information and communications environment.

16. In 1999 [the Commissioner for Human Rights](#) of the Council of Europe was instituted. His mission is to promote human rights in the Council of Europe member states. He discharges his functions in close co-operation with the national ombudsmen, national human rights institutes, and other agencies for the defence of human rights. He also endeavours to establish ongoing dialogue with governments, organisations of civil society and educational establishments in order to make the public more aware of the Council of Europe standards concerning human rights. The Commissioner in office at present, Mr Thomas Hammarberg, has made it one of his priorities to combat the violence against children: "Neither tradition, culture, nor the need for discipline can justify or legitimise violence against children". He has also pointed out that children are not completely protected in any country, and encourages states without ombudsmen for children to provide themselves with an independent institution of this kind⁷.

⁵ Particularly in Article 9 on offences relating to child pornography.

⁶ Paragraph 19 of the appendix to this recommendation provides that "special protection should be made available to children together with support against any abuse of authority in the family. Children should be made aware of their rights, in particular, the right to report crime"; and according to paragraph 20, "The specific interests of the child should be protected throughout proceedings by a social agency and, if appropriate, through specially trained lawyers."

⁷ Note: in 1997 the [European network of ombudsmen for children](#) was founded, and now comprises thirty-two member states among the countries which have a mediator (or ombudsman). This official's role is specifically to introduce

ii. Provisions formulated by other international agencies

17. The 1989 [United Nations Convention on the Rights of the Child](#) is the first international instrument to deal expressly with the protection of children against violence. Article 19 requires states to take “*all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child*”. Several other articles of this convention consolidate children’s right to physical integrity and to protection of their human dignity. The application of this convention is supervised by the United Nation Committee on the Rights of the Child. The convention is supported by two optional protocols respectively concerning the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

18. While the United Nations Convention on the Rights of the Child is the world’s most widely known and ratified convention relating to protection of children’s rights, several other instruments originating from the United Nations and other international agencies contribute to strengthening the protection of these rights. Accordingly, in November 2006, [resolution](#) 61/... was adopted in the United Nations General Assembly, embodying the recommendations set out in the report of Professor Pinheiro. Attention may also be drawn to the African Charter on the Rights and Welfare of the Child by the Organisation for African Unity, adopted in 1990, the Geneva Conventions on international humanitarian law (1949) and their additional protocols (1977), [International Labor Convention No 138](#) (1973) providing that in general persons under 18 years of age may not be employed in tasks endangering their health or development, and [International Labour Convention No 182 on the worst forms of child labour](#).

19. Many important international meetings have helped reinforce the weaponry for the protection of children by devising principles and rules in the form of political undertakings, such as the [Yokohama World Congress](#) (8-9 July 2005) against commercial sexual exploitation of children, and the extraordinary session of the United Nations General Assembly devoted to children (2002), which reaffirmed the commitment of governments and civil society organisations to the protection of children, and laid the foundations for action plans to achieve it. Among the international undertakings to combat violence, it is worth mentioning the Berlin Commitment of May 2001 whereby the signatory governments undertook to “*take all necessary measures in order to end all forms of violence against children, such as sexual abuse and exploitation and corporal punishment; combat all violence in schools; protect children from violence and pornography in the media and on the Internet; end trafficking of children without criminalising child victims (...)*”, and the Sarajevo Commitment of May 2004 pledging the states to “*initiate and support actions aimed at ensuring state accountability to protect children from all forms of violence, including violence as a result of conflict, in the home, in the media and other technologies, through inter alia, the adoption of appropriate legislation, education and awareness-raising campaigns, the provision of confidential child protection services and the strengthening of monitoring and reporting mechanisms (...)*”.

20. At the level of the European Union (EU), on 4 July 2006 the European Commission launched the [European Strategy on the Rights of the Child](#) in which one priority is to ensure that all internal and external EU policies respect children’s rights in accordance with the principles of Community law, and that they are fully compatible with the principles and provisions of the United Nations Convention on the Rights of the Child and other relevant instruments of international law. However, it is important to note that the EU possesses no legislative power in the area of children’s rights. Article 24 of the EU Charter of Fundamental Rights does indeed set forth specific rights⁸, but is not yet legally binding.

21. Two Hague Conventions also relate to the protection of children, one on Civil Aspects of International Child Abduction (1980), and another on Protection of Children and Co-operation in respect of Inter-country Adoption.

22. The OSCE Parliamentary Assembly at its fifteenth annual session, adopted in July 2006 the [Brussels Declaration](#) inviting the OSCE participating States to lay down protection standards common to all

strategies to strengthen the rights of the child, and strive for fuller compliance with the International Convention on the Rights of the Child.

⁸ Article 24 of the Charter stipulates that: “Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. 2. In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration. 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.”

states, particularly as regards the concept of the child's interest and the definition of the criminal offences of which children are victims. It also invited states to put in place development policies to avoid recourse to child soldiers and child labour. Besides, the OSCE Parliamentary Assembly adopted on that occasion a resolution on combating trafficking and the exploitation of children in pornography.

III. Varieties of violence, exploitation and abuse undergone by children in Europe, and existing protection machinery

23. As we have seen, there is a substantial, but by no means exhaustive, web of legal provisions on child protection. The Council of Europe's member states have all subscribed to these commitments to protect children from violence, maltreatment, exploitation and abuse of all sorts. However, the everyday reality there is different. Violence against children still exists within our frontiers. Our laudable efforts to secure ratification of various conventions are unfortunately belied by alarming statistics that in any case represent no more than the tip of the iceberg.

24. As UNICEF has frequently reminded us, there is a real problem of access to data, which means that this violence remains largely invisible. As Mr Pinheiro's report emphasises, quite apart from the fear of stigmatisation associated with reporting such behaviour, an important contributory factor to this hidden violence is the fact that society is willing to accept it.

25. The limited statistics that the rapporteur has been able to assemble⁹ offer some indication of trends in these infringements of children's rights. They show that although the United Nations Convention on the Rights of the Child has been ratified by a very large number of countries, including all the Council of Europe's member states, it is unfortunately being violated in Europe from day to day.

i. Infringements of children's rights

26. Following a recommendation of its Committee on the Rights of the Child¹⁰, the United Nations has conducted an in-depth study of all forms of violence against children. The [study](#) was carried out by an independent expert, Professor Paulo Sérgio Pinheiro, who delivered it to the UN Secretary General in August 2006. The report emphasises the world proportions of the problem of violence against children, a violence which is hidden and inadequately documented but which the statistics and other data assembled by the expert show to be mainly committed by persons who are part of these children's everyday lives.

27. In particular, the statistics show that in 2002 alone, 53,000 children across the world were murdered. In developed countries, 3,500 children under 15 are killed each year. The majority of the victims come from the most vulnerable groups, such as street children, children with disabilities, members of ethnic minorities, refugees and young offenders. Yet appalling though these statistics are, sexual violence and corporal punishment are incomparably more frequent than homicides. For example, Mr Pinheiro's report notes that in 2002, 150 million girls and 73 million boys throughout the world were forced to have sexual relations, usually within the family or by a near relative. Nearly two million young persons have been forcibly recruited for prostitution or pornography and more than a million of them were bought and sold beyond their countries' borders. Between 100 and 140 million women have suffered sexual mutilation in their childhood. Finally, nearly 220 million of the world's children are economically exploited, more than half of them in dangerous activities.

28. These alarming figures also concern Europe, whose children are not excluded from these terrible statistics.

29. According to UNICEF figures, in the industrialised countries almost 3,500 children under the age of 15 die each year from maltreatment, physical violence and/or neglect, including for example two per week in Germany and the United Kingdom and three per week in France. The risk of death from maltreatment is approximately three times higher among babies of under one year – most of them killed by their parents – than for children aged one to four¹¹.

⁹ The rapporteur particularly wishes to thank Ms Marta Santos Pais, Director of the UNICEF Innocenti Research Centre, for her valuable help in compiling statistics for this report, and Mr Peter Newell, co-ordinator of the Global Initiative to End all Corporal Punishment of Children, in London.

¹⁰ In its resolution 56/138, paragraph 5.c, the United Nations General Assembly asked the Secretary-General to conduct this in-depth study, which Professor Paulo Pinheiro was appointed to lead in February 2002.

¹¹ Figures taken from a September 2003 report produced by the UNICEF Innocenti Research Centre – *A League Table of Child Maltreatment Deaths in Rich Nations*, Florence, 2003

30. As far as the trafficking of children is concerned, and in particular the trafficking of their organs, it is extremely difficult, if not almost impossible, to find reliable statistics. However, we do know that these types of trafficking do exist. UNICEF notes that trafficking of children is particularly prevalent in family environments marked by poverty, exploitation and the absence of any outlook for the future. According to an article on the Swiss UNICEF website, lack of education and information renders parents more receptive to proposals and promises from traffickers. Children are sold abroad as slaves, are forced into prostitution, are handed over to adoptive parents for large sums of money or are used for international organ trafficking. The children under the most threat are those whose birth has not even been registered.

31. Physical violence against children occurs in all the familiar settings of children's lives: their home and family as well as streets, schools, welfare facilities, juvenile justice premises, and workplaces both legal and illegal. Most of this violence is inflicted by adults, either as punishment or for purposes of exercising control. The Council of Europe's Commissioner for Human Rights has remarked that when children are beaten in Europe, it is generally by persons in whom they place the most confidence. Briefly, although it is less visible and less generally acknowledged than other forms of violence, violence to children within the family is the most widespread. According to the Pinheiro report¹², traditional social acceptance of this form of violence has paralysed the child welfare services.

32. Similarly, research conducted by UNICEF¹³ shows that violence against children living in institutions is a general phenomenon, from Ireland to Kyrgyzstan. Studies in Ireland reveal cases of maltreatment stretching over many decades. In Great Britain, in a survey of young people living in institutions, 62 out of 71 respondents complained of physical violence between children. Half of them claimed to have been the victims of maltreatment¹⁴. A study in 2000 revealed that there had been abuse investigations into over 500 residential children's homes, with an estimated 5 000 alleged victims¹⁵. UNICEF's findings are damning. Children living in institutions, whether children's homes or detention centres, are particularly exposed because they are isolated from the rest of society and live in a closed environment. The more it is, the greater the risk of violence and the less likely to be talked about. The violence ranges from verbal to physical intimidation, not to mention corporal punishment and other forms of humiliation. A national study by UNICEF, reference year 2000, of over 3 000 children in residential care in Romania found 37.5% of children aged 7–18 reporting receiving severe physical punishment or simply beatings, for no particular reason. Most of these figures – 77% - concern boys. In late 2000, there were 119,041 children in state care in Romania, including 68 146 in institutions, 30,022 in foster homes and 20,873 with their own families or adoptive parents. By late 2002, 88,000 children in addition were placed, 48,000 of them in 515 public and 269 private establishments and 40 000 in foster homes. Numerous reports, including one by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reveal the dreadful conditions in which children are placed in Romanian institutions, which make their normal development almost impossible¹⁶. Finally, it should be noted that Belgium, the Czech Republic, France and Moldova do not explicitly ban corporal punishment in institutions.

33. It should be noted in this context that the CPT¹⁷ has expressed concern about certain countries, such as Bulgaria and Moldova, whose legislation does not require regular reviews of children's placements in specialist social services establishments. The CPT reported¹⁸ that in Croatia custodial staff had been seen striking young persons with punches, kicks or batons.

34. Other children besides those living in institutions who are highly vulnerable include street children, children with disabilities and those suffering from HIV/AIDS¹⁹. WHO has also revealed²⁰ that the number of murders of young persons in eastern Europe has risen significantly since the late 1980s and early 1990s. An

¹² Cited above.

¹³ See the UNICEF-IRC reports - *The General Measures of the Convention on the Rights of the Child: The Process in Europe and Central Asia*, 2006; *Council of Europe Actions to Promote Children's Rights to Protection from all Forms of Violence* (2005); *A League Table of Child Maltreatment Deaths in Rich Nations* (Innocenti report card, Issue No 5, September 2003)

¹⁴ Of the 62 who claimed to have experienced physical violence, in 40 cases it was as victims, in 25 as perpetrators and in 15 as witnesses.

¹⁵ *Breach of trust*, J. Robins, Law Society Gazette, 11 March 2000

¹⁶ <http://www.cpt.coe.int/en/states/rom.htm>.

¹⁷ <http://www.violencestudy.org/europe-ca>.

¹⁸ Ibid.

¹⁹ A report published in August 2006 by [Human Rights Watch](#) says that thousands of young Romanians with HIV are the victims of general discrimination that prevents them from attending school, obtaining necessary medical care, working, and even being informed of their medical condition. Fewer than 60% of children with HIV go to school and those who do risk exclusion and mistreatment from staff and other pupils, and even exclusion, if their condition becomes known.

²⁰ Report on world violence and youth, WHO, Geneva, 2002, Chapter 2, Youth Violence, pp 25 et seq.

ILO study has suggested that up to 20% of working street children in St Petersburg, or an estimated total of between 10 000 and 16 000, are involved in prostitution rackets²¹.

35. Child labour is another form of exploitation that still exists in Europe. According to ILO Convention No 182 the worst forms of labour constitute violence in themselves. The ILO²² says that in central and eastern Europe, children as young as 10 are exploited in the agriculture sector, in the construction sector and in many different trades – from shoe and match making to brick kilns. They are also exploited for criminal activities such as petty theft, drug peddling and begging. Street children selling food and small consumer items, cleaning shoes, washing windscreens and begging are the most visible aspect of this economic exploitation. An estimated one million children live homeless in the streets in the Russian Federation and 5 000 in Bucharest. In Romania, more than 70% of children work in agriculture. They handle pesticides, fertilizers and other highly toxic products. Many are aged between 6 and 14²³. These forms of child exploitation, whether economic or sexual, occur in the context of their everyday lives but also sometimes involve trafficking that takes children beyond the boundaries of their countries of origin.

36. Child trafficking is one of the worst aspects of child labour. In some countries, children from the countryside are sent to towns and cities to be exploited. They are forced to work as domestic slaves, in construction and, above all, in the sex trade. For example, more than 8 000 Albanian girls, of whom 30% are under 18, are the victims of prostitution trafficking²⁴. The worst affected are children from the Czech Republic, Hungary, Poland, Romania, Russia and Ukraine, who are trafficked for different forms of exploitation to various countries of the European Union²⁵.

37. A review of the main studies hitherto of sexual violence and abuse²⁶ and its victims in fourteen European countries shows that among girls the rate varies from 9% to 33%, and averages 19%, and among boys from 3% to 15%, with an average of 8%. Although this rate may seem very low in certain countries, for example Finland, where 4.8% of girls and 1.6% of boys have reportedly suffered sexual abuse, elsewhere it is apparently much higher, for example in Switzerland: 34% of girls and 11% of boys. However, such differences may reflect the definition applied to sexual abuse, which often varies from country to country, making it difficult to interpret the figures. Children are also reluctant to reply honestly to such surveys, and this must be reckoned with. In a study carried out in Poland²⁷, the official figures gave rates of 3.6% of girls suffering sexual abuse and 5.5% of boys. However, a "survey" of young persons in Warsaw and Glogów indicated that 14 % of children in Warsaw and 24% in Glogów claimed to know at least one child who had had sexual contacts with an adult. The exploitation of children in sex tourism is a serious problem affecting Asian children but involving adults from European countries especially. As a consequence of the deep poverty in certain parts of Asia, children aged as young as 5 are forcibly recruited into prostitution networks aimed at child sex tourism²⁸.

38. Over and above these most extreme cases, many European children are the victims of emotional and psychological abuse. Children may suffer psychological bullying from their parents, and may also be adversely affected by scenes of violence between their parents or other members of their families. Moreover, psychological violence in the home is frequently accompanied by physical violence towards children. Two studies produced in Denmark and the United Kingdom suggest that 6 % of children experienced psychological violence or absence of physical care.²⁹ One worrying trend in this context is the rise in family litigation in Europe, particularly as a growing number of matrimonial proceedings extend across frontiers. This factor increases the impact of parental separation on children's emotional balance. They are the main victims of such situations, which often lead to long and distressing court actions, guardianship disputes and sometimes even abduction by one of the parents.

²¹ In-depth analysis of the situation of working street children in St Petersburg, 2000, ILO/IPEC Working Paper, International Programme on the Elimination of Child Labour, International Labour Office, St Petersburg, 2001

²² See ILO Project of technical assistance against labour and sexual exploitation of children, including trafficking, in countries of Central and Eastern Europe, "Protect CEE", ILO International programme on the elimination of child labour (<http://www.ilo.org/public/english/standards/ipecc/protectcee/cloverview.htm>).

²³ "Child labour in Europe and Central Asia: problem and response"- IPEC-ILO - An overview of selected countries (2003).

²⁴ <http://www.ilo.org/public/english/standards/ipecc/themes/trafficking>.

²⁵ Ibid.

²⁶ Child sexual abuse in Europe, coordinated by Corinne May-Chahal and Maria Herczog, Council of Europe publications, Strasbourg, 2003, p. 13 et seq.

²⁷ Ibid, p. 27 – See [http://www.cahrv.uni-osnabrueck.de/reddot/CAHRVreportPrevalence\(1\).pdf](http://www.cahrv.uni-osnabrueck.de/reddot/CAHRVreportPrevalence(1).pdf).

²⁸ <http://www.ecpat.net/ENG/>

²⁹ For more information, see State of European Research on the prevalence of interpersonal violence and its impact on health and human rights, compiled by Manuela Martinez, University of Valencia and Monica Schröttle, University of Bielefeld, 2006.

39. Intimidation at school³⁰ is another common form of violence. It is frequently reflected in quite "subtle" forms of aggression generally akin to harassment and usually suffered in silence. It emerged from a simultaneous study in the United Kingdom and Germany³¹ that 24% of British pupils suffered such violence each week, compared with 8% of Germans. In both countries, the victims were more frequently boys than girls. Another study³² shows that the figures vary significantly from country to country, and between regions in these countries. Among 11 year olds, the lowest rates are in Sweden - 3 % for girls and 5 % for boys. The highest rate occurs in Lithuania, with 21 % for girls and 37 % for boys. According to a survey of maltreatment and physical violence inflicted on children conducted in Georgia in 2000³³, out of 4 382 children aged 6 to 7, 31.8% had reportedly received corporal punishment at school, in 96% of cases from teachers.

40. About 30% of children live in European countries that have formally banned all corporal punishment. In most European countries corporal punishment by parents remains legal and socially accepted. As a result, in May 2005, the European Committee of Social Rights ruled that Estonia, France, Hungary, Lithuania, Malta, Moldova, Poland, Romania, Slovakia, Slovenia, Spain and Turkey were not in compliance with Article 17 of the European Social Charter³⁴. The European Court of Human Rights has also moved gradually towards condemning corporal punishment of children in all circumstances, including punishment administered in the home.

41. In the light of these patchy figures, one may well ask what real purpose is served by drawing up, signing and ratifying conventions, approving recommendations and entering into political commitments. What is the point if nothing practical is done to back up these undertakings?

42. Admittedly, international and national machinery does exist to protect children against violence and exploitation. Moreover, thanks to the work of international organisations and international non-governmental organisations active in the child protection field, it is now possible to bring the good practices adopted by certain countries to the attention of a much wider audience. In this way they can be more generally applied and can help to reduce these excessive and unacceptable levels of violence, whatever the cause. However, further steps are needed to secure a firm and resolute response to the appalling phenomena of violence, exploitation and abuse.

ii. Examples of means of protecting children

43. Examples of good practices followed in Council of Europe member states can be a source of inspiration for other states and pave the way for universal application of legal and/or social instruments affording children enhanced protection. These good practices make it possible to devise down-to-earth, innovative approaches. Some examples are given below.

44. In Germany statistics showing a resurgence of violence against children have prompted the authorities to consider means of improving prevention of child abuse, by providing for compulsory, systematic medical check-ups organised by the social services. Parents who refuse to comply could have part of their family allowances withdrawn. This proposal is currently under discussion in Germany and has not yet been adopted. It has even triggered a heated debate, a sign of a genuine public awakening to the pressing nature of the problem and the need for measures to address it.

45. In Turkey³⁵, as a result of a campaign run by the Child Labour Unit of the Labour Inspectorate, over 4,000 children and adolescents in three of the country's provinces have escaped from the worst forms of

³⁰ The Council of Europe has encouraged young people from across Europe to draw up a European Charter for Democratic Schools without Violence, based on the fundamental values and principles shared by all Europeans, particularly those embodied in the Convention for the Protection of Human Rights and Fundamental Freedoms.

³¹ State of European research on the prevalence of interpersonal violence and its impact on health and human rights, compiled by Manuela Martinez, University of Valencia and Monika Schröttle, University of Bielefeld, 2006.

³² Ibidem.

³³ <http://www.violencestudy.org/europe-ca>.

³⁴ European Committee of Social Rights, Poland, Conclusions XVI-2, 2003, vol. 2, p. 658; Slovakia, Conclusions XVI-2, p. 807; France, Conclusions 2003, vol. 1, p. 178; Romania, Conclusions 2003, vol. 2, p. 406 (although in the meantime, the Parliamentary Assembly has welcomed Romania's decision to ban corporal punishment in its legislation); Slovenia, Conclusions 2003, vol. 2, p. 551. See finally Conclusions XVII-2, published in March 2005, concerning Spain, Hungary, Malta, Poland, Portugal and Turkey. The Parliamentary Assembly also welcomes the new legislation in Greece that will come into force on 24 January 2007 and that bans all corporal punishment of children. The new act will be the basis of a public education campaign to convince parents of the need for an end to corporal punishment. Enactment of the legislation was brought forward following the finding that Greece was in breach of Article 17 of the European Social Charter.

³⁵ Information released by the International Labour Organization (ILO) in early November 2006

child labour. A partnership between the ILO, the programme on the elimination of child labour and the Turkish Labour Inspectorate has allowed the introduction of a reliable, comprehensive monitoring and reporting mechanism and the development of a computer system to record data on the nature of child labour and its incidence on the education of working children. Close co-operation with other organisations has made it possible to enrol child workers in school. In view of the undeniable success of this approach, a meeting was held to share the experience with other countries. Representatives came in particular from Albania, Azerbaijan, Bulgaria, Georgia, Moldova, Romania and Ukraine. This has enabled the participating states to draw inspiration from the Turkish Labour Inspectorate's practices.

46. In Montenegro³⁶ new legislation on the protection of children and on social protection was passed in 2005. The corresponding action plan covers the period up to 2010. In this context a centre for children with special needs has already been opened, and the opening of another centre is planned for 2006. Two teams to protect children from abuse and neglect have been set up at municipal level.

47. In France an Act of 6 March 2000 established an independent administrative authority for the protection of children's rights: the Children's Ombudsman (*défenseur des enfants*), whose role is to uphold and further children's rights as defined in French law and by duly ratified international instruments, such as the International UN Convention on the Rights of the Child. One task is to receive individual petitions from children or their legal representatives concerning situations in which children's rights have allegedly been violated.

48. In the United Kingdom an awareness-raising campaign³⁷ is being run against child sex tourism. This shock campaign aims to discourage people from travelling abroad for such purposes by informing them of the risks they run. Campaigns along these lines are also being launched, inter alia, by a growing number of airlines, which distribute material such as videos and brochures warning people against this type of violence, exploitation or abuse of children.

49. In addition to the various institutions at European and world level, which are so well known and so highly reputed for their effective, excellent work in the field that they need not be described in detail here, there are a number of associations and NGOs/INGOs which are very active at the national and international levels and are probably more easily accessible by children or adults wishing to report instances of violence or exploitation. However, distribution of information on these victim support organisations and their contact persons remains inadequate.

50. During a current affairs debate on violence and all forms of exploitation suffered by children, Princess Caroline of Hanover, who chairs the World Association of Children's Friends (*AMADE*), stated that institutions (such as the Council of Europe) needed NGO support to fight ill-treatment of children, and, since the NGOs were confined to a preventive role, co-operation between the institutions and the NGOs was absolutely essential to ensure the adoption of the legal instruments necessary to stamp out various forms of child abuse (such as forced organ removal, prostitution, cyber-crime involving children and the recruitment of child soldiers).

51. Devoting certain days to the protection of children's rights at an international level - such as Universal Children's Day on 20 November or the Word Day against Child Labour on 12 June - can also prove worthwhile since such events help to raise awareness of the problem both within civil society and among public authorities and to rally their support for this cause. They are also an opportunity to rethink existing policy approaches, so as to strengthen them or adapt them to changing circumstances, and, above all, to reach a wider audience when distributing essential information targeting victims of these forms of violence, exploitation or abuse.

52. Apart from these good practices, action programmes, such as the programme "[Building a Europe for and with Children](#)" launched by the Council of Europe in April 2005, have a role to play in combating violence and maltreatment of children. This Council of Europe programme has an operational focus and is aimed at actively promoting children's rights and eliminating violence against children. It is based on a number of principles for action, including protection of children, prevention of violence, prosecution of its perpetrators and participation by children. Another objective of this type of programme is to provide solutions and help combat maltreatment by proposing tangible means of action and measures.

³⁶ European Commission progress report on Montenegro, 2006, 8/11/2006, SEC (2006)1388

³⁷ This campaign includes the publication of pairs of photographs in certain magazines, one showing a child, for instance from Thailand, and mentioning his or her age (e.g. twelve) and the other showing a male offender from the United Kingdom with details of the prison sentence he received in his home country (e.g. ten years).

IV. Proposals for measures to counter abuse of children's rights

53. As we have seen, violence against children and disregard for their rights are not confined to countries with high levels of poverty. This unjustifiable behaviour also exists in Europe, and in all Council of Europe member states. Why and how is this possible? There are many legal instruments in this sphere, and some have even been ratified by all of our member states. Institutions and associations for the protection of children's rights have been established and are very active. So how do we account for the fact that the violence, exploitation and abuse suffered by children, regarded as unacceptable in our societies, are still with us today?

54. Poor knowledge of existing protection systems may be one explanation, and the lack of reliable data in this field is another, since it prevents a clear grasp of the situation, full understanding of the extent of the problem and mobilisation of the means of action needed to rid our societies of this disease. Limp political will is another explanation. Whatever its causes, the situation to be observed in our member states is appalling and necessitates that decisive action be taken forthwith to outlaw all forms of violence, exploitation and abuse affecting children. The political commitments entered into by our governments must no longer be mere statements of intent, whereby we salve our consciences; they must be followed up by tangible action. In some cases this constitutes a real challenge, since it is a matter of changing people's attitudes and eradicating sometimes deep-rooted, ancient customs passed on from one generation to the next. But whatever efforts it costs, "defending children against violence is non negotiable",³⁸ and no compromise can be envisaged in these matters.

55. What is now needed is an effective, global, concrete strategy to fight this evil which strikes the most vulnerable among us, to end the violence and to ensure that the instruments prohibiting and penalising it are more widely disseminated and applied.

56. During the drafting of this report the Rapporteur came up against the same stumbling block as has been mentioned by other international organisations, in particular the United Nations, linked to the scarcity of precise, reliable statistics, without which it is difficult to form a truly representative picture of the state of affairs in Europe. This problem of the lack of information on the acts of violence, exploitation or abuse perpetrated is undoubtedly attributable to the fact that children are not only unaware of the structures and resources potentially able to help them, but also dare not denounce the perpetrators, especially since the latter are more often than not people close to them whom they nonetheless continue to respect or whom they fear. Into the bargain, the children concerned have scant confidence in the people and means of assistance currently available to them to overcome their problems. Another obstacle is the shame experienced by children suffering exploitation in the form of sexual abuse, pornography or prostitution, which it is often impossible for them to overcome in order to denounce the culprits.

57. The first stage in a counter-strategy accordingly consists in educating those concerned to put their problems into words, the first step in defusing their "fear to speak out". This must be taught not just to children but also to their parents and carers. Reporting a criminal racket or sexual abuse is not something easy to do, and it does not stand to reason that the person concerned, especially a child, will know the right person to turn to. Educating people so as to loosen their tongues must therefore be among the measures implemented in each member state's education system.

58. Along the same lines, members of the judiciary, lawyers, judicial support staff and socio-educational staff who may have to assist children in such circumstances should be given specific training in appropriate communication techniques so they know how to broach these problems with children. The language used assumes particular importance here. Everyone coming into contact with abused children must approach the problem from the child's own standpoint so as to generate a climate of understanding and mutual trust between the child and the helpers, which will encourage these children to dare to break their silence at last.

59. Research into violence suffered by children is still piecemeal both in Europe and in other parts of the world. In particular, it is only very recently that children themselves have begun to be questioned about what they have gone through and their own experience of violence. However, society can get close to the truth, and thus make progress towards eradicating this problem, only by interviewing the children concerned, their parents and their carers in conditions of trust and confidentiality.

60. One essential stage is to set up child abuse observatories firstly in each member state and secondly at European level. This would make it possible to collect statistics on violence, exploitation and abuse

³⁸ Statement made by the Deputy Secretary General of the Council of Europe, Maud De Boer Buquicchio, on 11 October 2006 before the United Nations General Assembly, New York.

involving children and to constitute useful data files. A national register to record all cases involving any kind of violence done to children, and the perpetrators, would be a precious asset in the fight against this scourge. Co-operation between the member states' specialist youth protection services and police forces in the field of information through the exchange of data would for example facilitate speedier resolution of international child abductions in marital disputes, and would make it possible to know with precision the family background of any child involved in such a family conflict. A European observatory responsible for gathering and collating all the information available from the national observatories would be in a position to provide a more accurate picture than that which the various organisations and associations active in this field are currently attempting to draw. It would also make it possible to set up a European central register. Another task for the European observatory might be to promote exchanges of information and experience regarding good practices. These structures would be able to make an effective contribution to enhancing child protection and to set up an information source of key importance to the development of means of action against violence, exploitation and abuse more in tune with statistical reality.

61. Adopting a harmonised definition of the concept of the child's best interests would constitute a not insignificant judicial advance. This is because differences in interpretation today make this a variable, fluctuating concept, which can have serious implications for children depending on their nationality and cultural background. Contrary to what is frequently asserted, this concept of the child's best interests is not a hazy idea. However, it has to be acknowledged that it is a complex one, referred to in Article 3 of the most widely ratified international treaty, the United Nations Convention on the Rights of the Child.³⁹ Its complexity is in part due to the different ways in which it has been construed by reason, inter alia, of cultural differences between states. However, even when interpreted from a specific cultural angle, this concept can offer no justification for "traditional" practices that degrade children or for violent forms of punishment. This concept of the child's best interests can also be found in the case-law of the European Court of Human Rights where the Court has had to determine the consistency of certain situations with Article 8 of the European Convention on Human Rights. It follows that there is scope - and indeed a strong case - for harmonising the concept of the child's best interests in the member states' national law.

62. Harmonisation of the criminal law classification and definition of offences at European level is also necessary. Such harmonisation must encompass all the forms of physical or mental violence, exploitation and abuse suffered by children and go hand in hand with harmonisation of the penalties incurred. This measure should be implemented regardless of a country's culture, practices and customs. It represents a genuine challenge since it involves exerting pressure to bring about a change of attitudes. Nonetheless it is plainly an unavoidable step if we wish to make progress in eradicating violence.

63. Another proposal for effective action is to do away with geographical and time limitations barring prosecution of the perpetrators of the most serious offences against children. This measure is moreover recommended by many NGOs active in the child welfare field. It means asking member states of the Council of Europe to provide in their legal systems that statutory limitation will not apply to such offences. A number of states routinely suspend the time-limit for prosecution of the most serious offences until the victim comes of age. However, once the time-limit has expired, civil or criminal proceedings against the offender are barred, even if the victim finally decides to lodge a complaint, and, apart from the psychological impact this naturally has on the victim, the offender goes unpunished. If the most serious offences were not subject to statutory limitation their number could in the long run be reduced, since the perpetrators often rely simultaneously on their victims' silence and the fact that prosecution will eventually be time-barred. Furthermore, the effectiveness of this measure could be enhanced by eliminating geographical restrictions on jurisdiction so that states could prosecute persons committing offences even outside of their national borders (for example, those guilty of child sex tourism could be prosecuted and sentenced in their country of origin).

64. Moreover, adapting judicial procedure in respect of child victims is another essential measure, failing which the effectiveness of judicial process may be compromised, not to mention the psychological impact which habitually protracted judicial proceedings can have on a child. It is therefore a matter of introducing specially adapted fast-track procedures designed to spare children's feelings, which must be implemented by judicial staff trained in the specific skills needed for contact with children.

65. Setting up free phone lines, answer phones, web sites and specialist agencies giving children access to information and enabling them to report - anonymously and confidentially - cases of violence, exploitation or abuse constitute simple but effective means of action.

³⁹ "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

66. Lastly, it is a great pity that, despite the vast arsenal of both European and international legal instruments devised to protect children, notably against various forms of violence, we have not progressed any further than voicing our amazement that cases of child abuse exist in Europe and asking ourselves what we can do to bring it to an end. The European conventions are sometimes too theme-specific in their approach, and I believe there is a need for a new European convention to tackle the problem from a holistic standpoint, encompassing all forms of violence, exploitation and abuse suffered by children and providing for judicial and social measures that are simple to implement, down-to-earth and, above all, standardised in all member states of the Council of Europe. This convention would for example include provisions requiring member states which have not yet adopted such measures to suspend the statute of limitations for the most serious offences until the victim comes of age and extend jurisdiction beyond national borders for good effect in prosecuting the perpetrators of offences against children. Other provisions might ensure that statutory limitation did not apply to the most serious of these offences, that fast-track civil and criminal proceedings adapted to children's needs were introduced, that co-operation between the police and the courts was reinforced at the national and the international levels, for an effective drive against all forms of violence, exploitation – in particular trafficking – , and abuse concerning children in Europe and elsewhere, and that states which have not yet done so were encouraged to establish independent institutions, such as a children's ombudsman.

67. The time has come for strong, resolute action. It is now time to adopt a comprehensive strategy, which will have achieved its ultimate goal only when infringement of children's rights has been entirely eradicated.

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Doc 10660 and Reference 3138 of 3 October 2005

Draft resolution and draft recommendation adopted unanimously by the Committee on 18 December 2006

Members of the Committee: Mr Dick **Marty** (Chairperson), Mr Erik Jurgens, Mr Adrian Severin, Mr György Frunda (Vice-Chairpersons), Mrs Birgitta Ahlqvist, Mr Athanasios **Alevras**, Mr Alexander Arabadjiev, Mr Miguel Arias, Mr Birgir Ármannsson, Mr Abdülkadir **Ateş**, Mr Jaume **Bartumeu Cassany**, Mrs Meritxell Batet, Mrs Soledad Becerril, Mrs Marie-Louise Bemelmans-Videc, Mr Giorgi Bokeria, Mr Erol Aslan **Cebeci**, Mrs Pia **Christmas-Møller**, Mr Boriss **Cilevičs**, Mr Telmo Correia, Mrs Herta Däubler-Gmelin, Mrs Lydie Err, Mr Jan Ertsborn, Mr Václav Exner, Mr Valeriy Fedorov (alternate: Mr Alexey **Aleksandrov**), Mr Aniello Formisano, Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Stef Goris, Mr Valery **Grebennikov**, Mr Holger **Haibach**, Mrs Gultakin Hajiyeva, Mrs Karin Hakl, Mr Nick **Harvey**, Mr Serhiy **Holovaty**, Mr Michel **Hunault**, Mr Rafael **Huseynov**, Mrs Fatme Ilyaz, Mr Kastriot Islami, Mr Želiko Ivanji, Mr Sergei Ivanov, Mr Tomáš Jirsa, Mr Antti Kaikkonen, Mr Karol **Karski**, Mr Hans Kaufmann, Mr András Kelemen, Mr Nikolay Kovalev (alternate: Mr Yuri **Sharandin**), Mr Jean-Pierre Kucheida, Mr Eduard **Kukan**, Mrs Darja Lavtižar-Bebler, Mr Andrzej Lepper, Mrs Sabine Leutheusser-Schnarrenberger, Mr Tony **Lloyd**, Mr Humfrey Malins, Mr Pietro Marcenaro (alternate: Mr Andrea **Manzella**), Mr Alberto Martins, Mr Andrew **McIntosh**, Mr Murat Mercan, Mrs Ilinka **Mitreva**, Mr Philippe Monfils, Mr Philippe Nachbar, Mr Tomislav Nikolić, Ms Ann Ormonde, Mr Claudio Podeschi, Mr Ivan Popescu, Mrs Maria Postoico, Mr Christos **Pourgourides**, Mr Jeffrey Pullicino Orlando, Mr Valeriy **Pysarenko**, Mr Martin Raguž, Mr François Rochebloine, Mr Francesco Saverio Romano, Mr Armen Rustamyan, Mr Michael Spindelegger, Mrs Rodica Mihaela Stănoiu, Mr Christoph Strasser, Mr Øyvind **Vaksdal**, Mr Egidijus **Vareikis**, Mr Miltiadis Varvitsiotis, Mrs Renate Wohlwend, Mr Marco Zacchera (alternate: Mr Giuseppe **Valentino**), Mr Krzysztof **Zaremba**, Mr Vladimir Zhirinovskiy (alternate: Mrs Natalia **Narohnitskaya**), Mr Miomir Žužul

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Drzemczewski, Mr Schirmer, Mrs Maffucci-Hugel, Ms Heurtin