

Expert Workshop
Implementation of the child sexual abuse directive 2011/93/EU with regard
to children with disabilities
30 January 2018

<h2 style="margin: 0;">Conclusions Paper</h2>

The **Child Sexual abuse and Exploitation Directive 2011/93/EU**¹ is the main EU legislative instrument in this area. The Directive is a comprehensive legal framework which covers investigation and prosecution of crimes, assistance to and protection of victims, and prevention. It approximates the definition of 20 offences, sets minimum levels for criminal penalties, and facilitates reporting, investigation and prosecution. It extends national jurisdiction to cover sexual abuse by EU nationals abroad, gives child victims easier access to legal remedies and includes measures to prevent additional trauma from participating in criminal proceedings. Offenders are to be subjected to risk assessments, and have access to special intervention programmes. Information on convictions and disqualifications are to circulate more easily among criminal records, making controls more reliable. The Directive prohibits advertising the possibility of sexual abuse, or organising child sex tourism, and provides for education, awareness raising and training of officials. 27 EU Member States (not including Denmark) are obliged to implement its provisions in their national laws. The deadline for transposition of this directive was December 13, 2013.

On 16 December 2016, the **Commission adopted two reports on the measures taken by Member States** to combat the sexual abuse and sexual exploitation of children and child pornography. [One report](#)² covers the entire Directive whereas the [other report](#)³ focuses on the measures against websites containing or disseminating child pornography (Article 25 of the Directive). The reports present a first overview of measures taken by Member States to transpose the Directive into national law. The reports show that, although the Directive has led to substantial progress, there is still considerable room for improvement, in particular with regard to prevention and intervention programmes for offenders, the assistance, support and protection measures for child victims and the provision of adequate safeguards when the optional blocking measures are applied.

In the reports, the Commission announced that it would continue to provide support to Member States to ensure a satisfactory level of transposition and implementation, notably by facilitating the development and exchange of best practices in specific areas.

¹ Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual sexual abuse and sexual exploitation of children and child pornography, OJ L 335/1
17.12.2011

² Report from the Commission to the European Parliament and the Council assessing the extent to which the Member States have taken the necessary measures in order to comply with Directive 2011/93/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, COM(2016) 871 final, 16.12.2016

³ Report from the Commission to the European Parliament and the Council assessing the implementation of the measures referred to in Article 25 of Directive 2011/93/EU of 13 December 2011 on combating the sexual sexual abuse and sexual exploitation of children and child pornography, COM/2016/0872 final, 16.12.2016

One area identified as requiring targeted attention is the protection of children with disabilities. While all children are vulnerable, children with different degrees and forms of disabilities are particularly so. Different factors enhance their exposure to risks of child sexual abuse, pose challenges to the society's responses, and require strengthening the measures in place with the aim of preventing the sexual abuse, protecting child victims and prosecuting offenders. These factors may include reduced awareness in children with disabilities of the risks of sexual abuse, increased dependence on adults for different daily tasks, insufficient support for families or carers for children with disabilities, difficulties in realising the nature and extent of the sexual abuse, difficulties in reporting it or fear of retribution by the offender, or responses to the sexual abuse from different actors (teachers, medical staff, lawyers, etc) that are not completely adapted to the specific needs of children with disabilities among many others.

With that in mind, the Commission organised on 30 January 2018 an *Expert workshop on the implementation of the Child sexual abuse directive with regard to children with disabilities*. The purpose of the expert workshop was to facilitate discussions among participants from EU Member States in the field of law enforcement and child protection, international organisations and bodies and external experts. The discussions were structured around two sorts of environment in which children with disabilities may find themselves, namely in the private life environment; and in the public and social life environments, knowing that the same child may be in different environments on different occasions.

The **conclusions** below detail the salient points and challenges that practitioners are facing in this area together with corresponding, possible actions to be taken, as expressed and discussed by those present during the meeting. They only include risks and measures that are specific of or more significant in children with disabilities and are to be considered in addition to measures of more general scope relating to child sexual abuse. The adoption of the measures identified may contribute to better protection of children with disabilities from sexual abuse and ultimately to a better implementation of the child sexual abuse directive in EU Member States.

Children with disabilities in the private environment

PREVENTION OF SEXUAL ABUSE	
Risk factors for child sexual abuse	Possible actions to address them
<ul style="list-style-type: none"> Children whose disabilities render them non-verbal are a more attractive target for offenders as it diminishes the possibility of the victim reporting. 	<ul style="list-style-type: none"> Enhance prevention measures with regard to children whose disabilities render them non-verbal.
<ul style="list-style-type: none"> Insufficient knowledge and awareness on children's sexual rights among parents and primary caregivers of children with disabilities and among children with disabilities themselves. Limited information is given to children and young people with disabilities on relationships and sexuality including; sexual relations, what constitutes sexual abuse and what defines unacceptable/abusive behaviour. 	<ul style="list-style-type: none"> Awareness raising activities in accessible format for caregivers and family members on the risks of child sexual abuse, on possible action to avoid or reduce them and on strategies to empower children to avoid becoming victims of sexual abuse. Establishing educational programmes that strengthen the self-confidence and assertiveness of children with disabilities. Ensuring that information on the sexual rights of children is easily accessible both to children with disabilities and their parents and primary caregivers. Information packages should facilitate distinguishing healthy from abusive sexual relationships based on the use of adaptive communication techniques in such a way as to be easily understood by children with disabilities in an age-appropriate format.
<ul style="list-style-type: none"> Children with special needs are more vulnerable to sexual abuse and exploitation online, particularly children suffering from cognitive impairments or learning disabilities. For example, they may more easily give their trust to online groomers or have more difficulties to recognize signs of grooming. 	<ul style="list-style-type: none"> Enhancing awareness of caregivers and family members in contact with the child⁴ on the risks of online sexual abuse and means to prevent it. Developing training for parents and primary caregivers on how to protect children with disabilities from the risk of online sexual abuse arising from visiting websites and certain social media Empowering the children with the tools to protect themselves from online sexual abuse by avoiding risky situations, adopting security measures, identifying signs of online sexual abuse activity and being aware on action to take. Multi-disciplinary participation in the design of awareness raising campaigns and training material and activities, including the

⁴ Member States and the Commission noted the importance of raising awareness and training front-liners such as police officers, therapists and care-workers where the child and its representatives/family members/care givers are most likely to approach as their first point of contact.

	<p>involvement of Law Enforcement Agencies (LEAs), Child Protection NGOs, and social media and Internet service providers.</p> <ul style="list-style-type: none"> • Public authorities and child protection NGOs reaching out to chat/social media administrators to discuss the possibilities for sexual abuse and possible preventative and reactive measures they may adopt to reduce risks of child users and facilitate investigations. • Industry actors providing online services for children with disabilities to ensure protection by design in their products, notably by setting the privacy default settings at the most protective level.
<ul style="list-style-type: none"> • Overburdening of parents/primary caregivers and other family carers, notably due to lack of support for families, insufficient access to information about available services, limited or no access to respite programmes which would ease the financial, physical and emotional distress. This could lead to lack of effective protection and care, and increase the possibilities for sexual abuse. 	<ul style="list-style-type: none"> • Providing more consistent support services for families of children with disabilities. • Setting up holistic, individual tailor-made programs for families and caregivers to provide timely and adequate support within the child's private environment. • Training of doctors/psychologists/other medical professionals in primary healthcare to raise their awareness of the risks of sexual abuse of children with disabilities to discuss prevention of sexual abuse with the parents and primary carers to prevent sexual abuse from their side. • Considering the risks of sexual abuse for each child with disabilities and modulating accordingly the design of monitoring/inspection/supervision and review of foster care arrangements for children being cared for in institutions, as well as the design of home visits for children who are cared for by their parents
<ul style="list-style-type: none"> • Greater risk of sexual abuse for children with disabilities for the fact of being in institutions, due to the lack of a protective figure with a close bonding similar to parental care and greater opportunity for offenders to perpetrate sexual abuse which goes undetected.⁵ 	<ul style="list-style-type: none"> • Step up policies to achieve de-institutionalisation of children with disabilities and their placement in family or community care with appropriate support. • Institutions should adopt, publicise and implement robust child safeguarding policies, that cover four areas: policy, people, procedures and accountability as described in child safeguarding standards by Keeping children safe. • New institutional structures should be designed in such a way as to take into consideration and

⁵ Around 15.000 children live in residential settings across the EU.

	<p>minimize the risk of child sexual abuse.</p> <ul style="list-style-type: none"> • Ensuring that the child is never alone with only one adult staff member and that there is enough staff rotation to avoid burn-out and relaxation of mutual controls by staff. • Ensuring regular and child-rights based monitoring, inspections and supervision of care institutions.
<ul style="list-style-type: none"> • Insufficient expertise on child protection and children's rights among people working for or with children with disabilities 	<ul style="list-style-type: none"> • Increasing the level of expertise through appropriate training among people working for or with children
<ul style="list-style-type: none"> • Incomplete background checks on staff at institutions. 	<ul style="list-style-type: none"> • Mandatory initial screening and regular vetting of staff working directly with children in institutional care. • Criminal records authorities in Member States should ensure the exchange of criminal records through the European Criminal Records Information System (ECRIS).
<ul style="list-style-type: none"> • Children with disability who are subjected to frequent physical contact by carers affecting their sexual parts (for example, hygiene routines) may find it more difficult to recognize or object to inappropriate touching of private parts of their bodies due to the nature of their disability and needs. Such children may not be able to recognise sexual abuse if and when it occurs as they would have become accustomed to touch. This may provide more opportunities for sexual abuse. 	<ul style="list-style-type: none"> • Equipping children with the means to identify sexual abuse through education and awareness-raising⁶. • Setting out protocols for carers (particularly in institutions) to reduce or as much as possible eliminate the risk of sexual abuse (e.g. avoiding situations of a carer being alone with the child or without witnesses)
<ul style="list-style-type: none"> • Possible sexual abuse by peers within an institutional setup. 	<ul style="list-style-type: none"> • Grouping children in institutions in a way to minimize the chances of sexual abuse (taking account of e.g., age, overall abilities and difficulties such as already existing cases of sexual abuse...) • Education of children to protect other children and react in case of bullying, which can lead to sexual abuse.
<ul style="list-style-type: none"> • Specific needs of children with disabilities not sufficiently taken into account in the design of policies concerning them. 	<ul style="list-style-type: none"> • Enshrining processes that strengthen existing consultative mechanisms⁷ for persons with disabilities within legislative and policy making arenas.

DETECTION OF SEXUAL ABUSE, PROTECTION AND SUPPORT TO CHILD

⁶ SoSAFE! Is a system which uses a standardised framework of symbols, visual teaching tools and concepts to teach strategies for moving into intimate relationships in a safe and measured manner, and provides visual communication tools for reporting physical or sexual abuse: <https://sosafeprogram.com/> [accessed 18/02/2018]

VICTIMS	
Risk factors for child sexual abuse	Possible actions to address them
<ul style="list-style-type: none"> • Lack of clear reporting mechanisms for children to know how to report. 	<ul style="list-style-type: none"> • Having adequate structures in place that all children, regardless of their level of communication can refer to in case of possible sexual abuse.
<ul style="list-style-type: none"> • Children with cognitive impairments and disabilities that effect speech are less likely/able to report possible sexual abuse due to the nature of their disability. 	<ul style="list-style-type: none"> • Giving children the tools to express themselves through alternative forms of communication other than speech e.g. through drawings, or use of communication aids to facilitate reporting of sexual abuse.
<ul style="list-style-type: none"> • Difficulties of children with disabilities to report sexual abuse, especially if the sexual abuser is a family member or main care giver. 	<ul style="list-style-type: none"> • Training family, care givers, social services, education and leisure and healthcare personnel coming in contact with children with disability on how to notice possible signs and changes in behaviour of children suffering from sexual abuse in order to allow for easier and faster detection. • Setting up protocols for staff in institutions to take possible sexual abuse seriously and investigate/report when there are indications of such sexual abuse taking place.
<ul style="list-style-type: none"> • Children with disabilities may not feel comfortable talking about sexual abuse with adults and may instead talk to peers. 	<ul style="list-style-type: none"> • Raise awareness and train teachers/school psychologists to check if other children know of any sexual abuse that friends with disabilities may be going through. • Raise awareness and train peers to detect possible sexual abuse and report it.
<ul style="list-style-type: none"> • Professionals detecting signs of sexual abuse in children with disabilities may not report suspicions 	<ul style="list-style-type: none"> • Provide for mandatory reporting by professional working in contact with children of suspected sexual abuse they may detect • Set up detailed protocols to facilitate reporting of suspected sexual abuse on children with disabilities
<ul style="list-style-type: none"> • Lack of expertise in social services about the support needs of children with disabilities having suffered sexual abuse 	<ul style="list-style-type: none"> • Promoting training of social service employees to further specialise on the provision of social support to children and specifically children with disabilities.
<ul style="list-style-type: none"> • Fear of reprisal by the perpetrator following reporting. 	<ul style="list-style-type: none"> • Alleged perpetrators should be removed from the setting or the immediate environment frequented by the victim to protect the victim
<ul style="list-style-type: none"> • Continued traumatization of victims of sexual abuse due to cumbersome investigative and legal proceedings 	<ul style="list-style-type: none"> • Setting up protocols and providing training to Law enforcement officials, judicial authorities and lawyers⁸ on measures to prevent trauma to the children with disabilities from participating

⁸ See Validity Foundation (former MDAC) project Innovating European lawyers to advance rights of children with disabilities <http://mdac.org/en/innovating-lawyers>

	in interview processes and investigations (measures already contained in the Child sexual abuse directive), such as ensuring that the process of interviewing children is fast-tracked, minimizing the number of interviews, and implementing measures that minimize/remove the necessity for appearance at court to limit the possibility of re-victimization
<ul style="list-style-type: none"> • Lack of coordination among practitioners resulting in gaps within the support structures or overlap in work/treatment areas, and exposing victims to more trauma. 	<ul style="list-style-type: none"> • Encouraging the adoption of a multi-disciplinary approach to coordinate interventions with such children and avoid overlap or gaps in treatment. • Stimulating the organization of horizontal, multidisciplinary workshops at the national level that bring together different experts. This will ensure that all stakeholders are aware of what their role is in the overall process of protecting victims and ensuring the termination of sexual abuse. • Promoting the widespread use of specific models of interviewing such as the Barnahus with forensic, front-line and judicial staff.⁹
<ul style="list-style-type: none"> • Children with disabilities are seen by numerous specialists and practitioners who may however not have known the child over a long time-span, making it difficult to identify subtle, nuanced changes in behaviour or physical condition such as the somatic symptoms that may accompany sexual abuse. 	<ul style="list-style-type: none"> • Train General Practitioners who more often than not have the most contact with children with disabilities to identify signs of sexual abuse • Consider the possibility of assigning individual case workers trained in detecting signs of sexual abuse who have the overarching responsibility of managing the child's treatment, both in a familial setting and even more importantly in an institutional set up.

PROSECUTION OF OFFENDERS	
Risk factors for child sexual abuse	Possible actions to address them
<ul style="list-style-type: none"> • Lack of clear reporting mechanisms to Law Enforcement authorities, particularly in cases of online sexual abuse. 	<ul style="list-style-type: none"> • Law enforcement authorities to set up dedicated reporting mechanisms, particularly for online sexual abuse, and to publicise them appropriately.
<ul style="list-style-type: none"> • Reports of sexual abuse may not lead to a proper investigation first respondent may not believe the child. 	<ul style="list-style-type: none"> • Reporting mechanisms should provide for the opening of a proper investigation for all reported cases, excluding the possibility for the first responder to decide that the report should

⁹ The "Barnahus" Model is a child-centred, interdisciplinary and multiagency approach utilized during investigations of suspected child sexual sexual abuse cases. The fundamental concept is to avoid subjecting the child to repeated interviews by various stakeholders in different locations thus supporting child victims of sexual abuse throughout the criminal justice process

	not be followed-up.
<ul style="list-style-type: none"> Children, particularly those whose disability resulted in a cognitive impairment may be considered as unreliable witnesses in court. To this end securing other forms of evidence such as forensic evidence is of great importance to back up the child's testimony and ensure that a crime has indeed taken place and that if it has, appropriate punishment and reparations are made. 	<ul style="list-style-type: none"> Encouraging and making available training on forensic techniques to ascertain the reliability of children's testimonies or to complement them for professionals including front-line and forensic law enforcement officers Promote the use of specialised investigative tools and forensic techniques to secure other forms of evidence
<ul style="list-style-type: none"> Risk of manipulation of the child victim by offender 	<ul style="list-style-type: none"> Avoid contact between the alleged offender and the child victim while the evidence is collected.
<ul style="list-style-type: none"> Not sufficient deterrence against committing sexual abuse of a child with disabilities 	<ul style="list-style-type: none"> Provide for very high penalties for sexual abuse of children with disability and prioritise investigation and prosecution of these offences
<ul style="list-style-type: none"> Lack of effective cooperation between professional services in the prosecution stage (e.g. LEA and social services). 	<ul style="list-style-type: none"> Encourage the setting up of multi-disciplinary meetings with the aim of enhancing awareness of the roles of different professional with children with disability and foster collaborating. Revising modes of referral in order to allow for swift assessment and handling of issues as an adjunct to effective cooperation.

Children with disabilities in public and social environments

PREVENTION OF SEXUAL ABUSE	
Risk factors for child sexual abuse	Possible actions to address them
<ul style="list-style-type: none"> Insufficient awareness of social environment institutions (schools, sports centres, etc) - dealing with children in general about the risks of sexual abuse, and in particular that of children with disabilities. 	<ul style="list-style-type: none"> Social environment institutions should define comprehensive child protection policies covering prevention, reporting of child sexual abuse and protection of victims. Child protection policies should take into account the specific needs of children with disabilities and should be made public. Public authorities should motivate institutions to adopt these policies through different means (legal obligation, condition to receive public funding or public recognition, etc)
<ul style="list-style-type: none"> Staff training on the risks of sexual abuse and measure to prevent them in places such as schools, social clubs, camp, healthcare setups etc.... may be inadequate, sporadic and often not mandatory. 	<ul style="list-style-type: none"> Better training of all staff in regular contact with children with disabilities, both professionals, temporary staff or voluntaries.

<ul style="list-style-type: none"> • Staff vetting not systematic, particularly in more informal settings (summer camps, social clubs) 	<ul style="list-style-type: none"> • Mandatory background checks for all staff in activities involving regular contacts with children. • Making possible checks for sexual abuse convictions across the EU through systematic use by national criminal registers of ECRIS.
<ul style="list-style-type: none"> • Possibility of medical staff, nurses or carers abusing children during health checks 	<ul style="list-style-type: none"> • Ensuring that Standard Operating Procedures (SOPs) mandate the presence of more than one professional at any given moment when in direct contact with the child, • Promoting the rotation of staff on an adequate shift basis to avoid burn-out and relaxation of control standards of staff, particularly in hospitals. • Making mandatory the review of required qualifications and background checks by employers coupled by compulsory training of staff.
<ul style="list-style-type: none"> • Children with disabilities may, , become isolated and excluded in social situations such as in segregated schools or even within an inclusive learning/school environment, leading to increased risk of sexual abuse. 	<ul style="list-style-type: none"> • Promotion of inclusive schools including children with disabilities to the maximum extent possible • Implementation of awareness raising campaigns promoting tolerance, understanding and inclusive schooling from early stages of education at the grass-root level. • Promoting the inclusion of modules on disability issues within the curriculum of teachers and learning support assistants. • Promoting a system of peer matching which brings together children with and without disabilities as school 'buddies' carrying out activities jointly. • Considering the inclusion of lessons/training sessions on personal and social development, and civil rights of children in the school curriculum to empower all children and especially children with disabilities.

DETECTION OF SEXUAL ABUSE, PROTECTION AND SUPPORT TO CHILD VICTIMS	
Risk factors for child sexual abuse	Possible actions to address them
<ul style="list-style-type: none"> • Insufficiently effective reporting channels 	<ul style="list-style-type: none"> • Developing of SOPs in all organisations conducting activities involving regular contacts with children related to the reporting of possible sexual abuse including inter alia: <ul style="list-style-type: none"> – Clearly establishing reporting mechanisms within the school hierarchy;

	<ul style="list-style-type: none"> – A checklist of questions to be asked to the child reporting the sexual abuse; – Practical measures to be taken upon reporting such as which authorities to contact; – Instructions on measures relating to the preservation of evidence.
<ul style="list-style-type: none"> • Difficulties of staff in detecting the sexual abuse due to insufficient bonding between occasional care givers and children with disabilities. 	<ul style="list-style-type: none"> • Introducing programs that improve child–caregiver communication skills; and increase the quality of the child–caregiver bond and build trusting, positive relationships.
<ul style="list-style-type: none"> • Insufficient detection of possible sexual abuse in public and social environments, particularly sexual abuse affecting children with cognitive or communication impairments. 	<ul style="list-style-type: none"> • Creating of manuals on symptoms of sexual abuse, alerts on behavioural changes. • Training to medical staff regularly examining children with disabilities to detect signs of sexual abuse. • Introduce mandatory reporting by professionals in contact with children on suspected sexual abuse.
<ul style="list-style-type: none"> • Professionals detecting signs of sexual abuse in children with disabilities may not report suspicions 	<ul style="list-style-type: none"> • Provide for mandatory reporting by professional working in contact with children of suspected sexual abuse they may detect • Set up detailed protocols to facilitate reporting of suspected sexual abuse on children with disabilities
<ul style="list-style-type: none"> • Parents may have difficulty believing that the child is telling the truth. 	<ul style="list-style-type: none"> • Awareness raising targeting parents about potential sexual abuses at school and other environments, about possible signs of sexual abuse, and about action to take and reporting channels in case of suspicions.

PROSECUTION OF OFFENDERS	
Risk factors for child sexual abuse	Possible actions to address them
<i>Similar to those of private life environment</i>	<i>Similar to those of private life environment</i>

Relevant documents:

- FRA report: Violence against children with disabilities: legislation, policies and programmes in the EU: <http://fra.europa.eu/en/publication/2015/children-disabilities-violence> [accessed on 13/02/2018]
- FRA report: Child-friendly justice – Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States + Annexes: <http://fra.europa.eu/en/publication/2017/child-friendly-justice-childrens-view> [accessed on 13/02/2018].
- MDAC & VALIDITY - Innovating European Lawyers to Advance the Rights of Children with Disabilities: <http://validity.ngo/innovating-european-lawyers-to-advance-the-rights-of-children-with-disabilities/> [accessed on 13/02/2018]

- the European Barnahus Quality Standards: <http://www.childrenatrisk.eu/promise/european-barnahus-quality-standards/> [accessed 13/02/2018]