



Regional Consultation for the UN Study on Violence Against Children

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Europe and Central Asia

**TOOL FOR ANALYTICAL REVIEW OF STATE ACCOUNTABILITY
TO PROTECT CHILDREN FROM VIOLENCE IN CARE,
IN JUVENILE JUSTICE
AND IN THE EDUCATION SYSTEM**

This document has been prepared by Nigel Cantwell, in collaboration with the UNICEF Regional Office for CEE/CIS and the Baltics and the UNICEF Geneva Regional Office.

It is part of the documentation for the Regional Consultation for the UN Study on Violence Against Children.

INTRODUCTION

Children are subjected to violence in all spheres of their lives; from the 'private' domain of the home, to the 'public' space of educational, detention and care facilities, children require protection. In all settings, the State has an obligation under the Convention on the Rights of the Child (CRC) to prevent and protect children from all forms of violence.

As a contribution to the UN Secretary General's Study on Violence against Children, UNICEF's Regional Office for CEE/CIS and the Baltics and the UNICEF Geneva Regional Office have developed a practical tool for conducting national reviews of how States are meeting their obligations to protect children from violence. The tool focuses on three 'public'¹ settings where violence against children may occur and where the state has a direct responsibility for child welfare: the care system,² the law enforcement and justice systems and the education system.

The overall purpose of this tool is to help States assess and monitor their progress towards fulfilling their obligations under the CRC to protect each child from violence in the main situations where the State explicitly or implicitly has or assumes direct responsibility for their welfare.

The tool uses the same tentative definition of violence as the Global Study which includes "all forms of physical and mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse". Further, it encompasses acts and omissions on the part of the State, its agents or licensees that may place children in situations where their risk of falling victim to violence is increased.

This tool covers three principal facets of State accountability:

- Policies, laws and other instruments adopted by the State that conform to and promote the relevant CRC provisions;
- Structures, mechanisms and procedures put in place by the State to ensure that these instruments are known, implemented and respected at all levels;
- Mechanisms established by the State to monitor the degree to which compliance is in fact being achieved, enabling it to take any necessary steps to address identified problems.

In sum, accountability demands that once the obligations of the CRC are met on paper at central level, that there be a system for ensuring both an outward and an inward flow of information on compliance. This should allow for effective ongoing assessment and, as needs be, for corrective action to be taken. For example, if a law is enacted requiring all educational facilities to formulate anti-violence policy, specific instructions must follow to incorporate this requirement into the mandate of relevant educational authorities, plans for training and supervision of staff must be developed and carried out and reporting mechanisms and processes must be established for the national government to monitor how the law is being implemented.

¹ The term public setting should be understood to include privately run facilities for which the State is also accountable.

² The care system includes both residential care facilities (public and private) and foster care.

KEY OBJECTIVES OF THE REVIEW PROCESS

The accountability review process has two key objectives.

First, to obtain a national “snapshot” of how well the State is complying with provisions of the CRC relevant to protecting children from violence;

Second, to provide a basis for the development of specific procedures to help managers, practitioners and professionals working in State institutions to ensure violence-free environments for children. Examples may include standard setting, codes of conduct, procedures for complaints and reporting mechanisms, etc...³

APPLICATION OF THE TOOL IN SELECTED COUNTRIES

The first reviews of State accountability using this tool were carried out in eight States in Europe and Central Asia (November 2004-January 2005). The countries were selected largely on the basis of interest and capacity to manage the process within the UNICEF country office or National Committee, with an effort to ensure some geographic balance. The final listing was:

Care:	Denmark, Kyrgyzstan, Romania
Justice:	Georgia, Kyrgyzstan, Netherlands, Romania, Ukraine
Education:	Albania, Greece, Kyrgyzstan, FYR Macedonia

The research required for completing the questionnaire essentially involved, on the one hand, a desk review and analysis of relevant legislation and other instruments and, on the other, discussion with government officials and interviews during site visits to facilities with a view to gaining insight into the impact and functioning of the measures taken. Each review was carried out by an independent researcher (or team of researchers) and took approximately one month to complete.⁴

The findings from all participating countries have provided a unique body of data regarding the degree of existing compliance and pointed to a number of shortcomings in different aspects of accountability. The diversity of system in place and customary practice in each country for establishment of standards, regulatory and organizational directives, however, have made a comparable analysis difficult if not impossible.

LESSONS LEARNED REGARDING THE PROCESS

- The exercise has resulted in comprehensive compilations of national legal texts dealing in whole or in part, directly or indirectly, with issues of relevance to each sphere studied, and this in itself constitutes a potentially high value outcome.

³ It should be noted that the aim of this exercise is not to assess the country situation in terms of the incidence of children’s rights violations by the State or its agents.

⁴ Some of the participating researchers indicated that one month was too short to carry out the exercise, and they would have preferred two months.

- In each case, the data point to areas where there are inconsistencies within the legislative framework, as well as gaps in legislation and in explicit policy. They also highlight lacunae in the implementation of texts in force.
- The review processes opened a constructive national dialogue within government, bringing together a range of ministries and actors to set an agenda for future action.
- While most of the pilot countries focused on only one or two of the three sectors, several of the researchers suggested that the tool might best be applied to all three sectors, as there is significant inter-relatedness and overlap among them.

WAY FORWARD

- Based on the experiences from surveys in trial countries, the assessment tool will be revised, refined and widely disseminated;⁵
- Ethical standards will be developed for professionals working with children;
- A toolkit will be produced to guide establishment of 'violence-free environment' in every facility for children;
- Independent monitoring and possible certification mechanisms for 'violence-free environment' will be promoted.

⁵ Findings may be used as an integral part of the periodic country reports to the Committee on the Rights of the Child.

UN SECRETARY-GENERAL'S STUDY ON VIOLENCE AGAINST CHILDREN

“ACCOUNTABILITY SURVEY” ON

**STATE MEASURES TO COMPLY WITH CRC OBLIGATIONS REGARDING
VIOLENCE AGAINST CHILDREN IN CARE AND IN THE JUSTICE AND EDUCATION SYSTEMS**

October 2004

This project, which constitutes one of UNICEF's inputs to the Study on Violence against Children, covers selected countries of Europe and Central Asia. In addition to the analysis of state compliance, the findings of this survey will also serve as a benchmark and skeleton for development of programming and monitoring tool. The project is a joint initiative of UNICEF's Geneva Regional Office and the Regional Office for CEE/CIS/the Baltics.

1. Definition of “violence”: For the purposes of this survey, the tentative definition of violence against children proposed by the Study will be used which includes “all forms of physical and mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”. Further, it encompasses acts and omissions on the part of the State, its agents or licensees that may place children in situations where their risk of falling victim to violence is increased.
2. **Goal of the “accountability survey”**: The goal of this exercise is to examine the extent to which an illustrative sample of States in Europe and Central Asia have taken pro-active measures to fulfil their obligations under the CRC (see “3” below) to:
 - prevent violence towards children
 - protect children from violence
 - sanction violence towards children in some of the main situations where the State explicitly or implicitly takes direct responsibility for their welfare, viz.:
 - the child-care system (foster placements and residential care)
 - the law enforcement and justice systems
 - the education system.
3. **Scope of the “accountability survey”**: The survey will examine the scope and adequacy of State initiatives to prevent or respond to violence towards children as per the CRC provisions that set out the basic obligations for which the States are accountable. The examination will include relevant policy, legislative, administrative and other initiatives as well as assessment of the degree to which these initiatives are reflected in policy and practice at the level of individual services and facilities, both public and private, in the country concerned.

Please note that the aim of this survey is NOT to assess country situations in terms of the **incidence** of children's rights violations by the State or its agents.

4. State obligations: While all provisions of the CRC are in some way relevant to children in these situations, the following contain the most relevant obligations (full texts of the provisions concerned are annexed):

Generic (applicable to all three spheres covered by this survey)

- art. 2 (non-discrimination on any grounds)
- art. 12 (right to be consulted and to have opinions taken into account)
- art. 19 (protection from violence and abuse on the part of any person having the care of the child)
- art. 34 (protection from sexual abuse and exploitation)
- art. 39 (rehabilitation of child victims)

More especially applicable to **child-care system** (foster placements and residential care)

- art. 3.3 (quality of care in institutions)
- art. 9.1-3 (conditions of removal from parental care)
- art. 20 (provision of substitute care)
- art. 25 (periodic review of placements)

More especially applicable to the **law enforcement and justice systems**

- art. 37 a-c (protection from torture, deprivation of liberty as a last resort, separation from adults)
- art. 40.1 (treatment of children alleged as, accused of, or recognized as having infringed the law)

More especially applicable to the **education system**

- art. 28.2 (acceptable forms of discipline)

These provisions set out the basic obligations for which the States are accountable, and should therefore serve as **the constant reference point** for this survey when considering the scope and adequacy of State initiatives.

5. Types of State initiatives to be covered: relevant initiatives taken by the State may be in the form of:

- official policy statements
- official guidelines
- legislative texts
- administrative directives, decrees, ordinances.

Central government may **instruct** those responsible to act in a given way or they may **delegate responsibility** for decision-making on the issues concerned to the sub-national level.

The State initiatives in question will be those directed in particular towards:

- Standard setting for services, including the development of codes of conduct/ethical guidelines for professionals
- Quality control of services (rules governing selection, training and supervision of staff, inspection of facilities)
- Putting in place accountability systems (structures, processes and mechanisms to ensure effective oversight)
- Sanctions and remedial action in case of violation or non-compliance.

Types of services to be covered: **the survey should seek to determine the extent to which each of the above-mentioned State initiatives apply to services and facilities:**

- administered directly by the central government
- administered by regional or local governments
- run by for-profit agencies (foreign or domestic)
- run by non-profit bodies (NGOs, associations, religious groups, etc., whether foreign or domestic).

N.B. Given the increasingly important role of private service providers, it is important to examine the ways that **the State is ensuring protection of children in privately-run facilities** (whether operated by for-profit organizations or not-for-profit agencies, associations, foundations or individuals).

6. Notes on methodology

Please review the attached checklist of issues regarding the specific sector which will be examined in your country. Structure and use of the checklist:

- a) **“Issues”**: the first column lists the questions directly relevant to the survey, including some questions on actions that can place children at *particular or increased risk of violence*, e.g. institutional placement, deprivation of liberty, exclusion from school.
- b) **“Document/text references”**: under this column, the results of a **desk review** should provide, for each issue, a fully-referenced (number, full title, source and date) listing of the following texts:
 - Relevant legislation in force (Acts approved by Parliament)
 - Ratification of relevant international Conventions/Treaties, including relevant reservations
 - Relevant secondary legislation in force (regulations that have gone through some Parliamentary approval process)
 - Government decrees in force (unilateral decisions not subject to parliamentary approval but enforceable in the same way as a law)

- Relevant government policy statements that are currently valid
- Relevant guidelines issued by government that are currently valid
- Relevant directives issued by government ministries/departments/agencies that are currently valid
- Any other significant government document on the issue that is currently valid
- Relevant case law
- Draft laws under consideration

These documents should each be identified, respectively, as “Law”, “SecLaw”, “Decree”, “Policy”, “Guide”, “Law”, “Directive”, or “Other”. NB: All relevant texts and documents – or the relevant parts thereof – should be put on file.

c) **“Comments”**: this column is designed to capture all relevant information from identified documents and texts, notably:

- a summary of the **main purpose and thrusts** of each text
- notes on any **features of special significance** (including compliance or not with the letter and spirit of the CRC)
- how the texts are actively **made known** to those responsible for applying them*
- what measures are foreseen or undertaken to **facilitate implementation** of the texts, e.g. allocation of resources to local level*
- what measures are foreseen or undertaken to ensure **enforcement** of the texts, e.g. inspection, oversight/reporting/accountability chains and mechanisms*

Please adjust the size of the “Comments” column in the template to the length of the response!

- Information to be collected through key informant interviews and site visits

d) **Gathering information:**

Desk review of existing documents (listed under b.), including summary of purpose, thrust and specific features of the texts (two bullet points under c) will provide a bulk of information.

Interviews with key informants will complement the gathered information and

- ensure that all relevant texts have been identified;
- provide more knowledge about how the State has sought to achieve maximum impact and compliance;
- indicate specifically how the identified texts and documents have impacted on policy, programme and practice at regional, local and facility levels. In addition, indicate how the oversight and accountability chains work in reality.

For the interviews you might need to consider organizing one or more consultative (group) meetings with government staff, regional and/or local officials as well as site visits to a limited number of “representative” facilities (at least one State-run and, where they exist, one private, or of two different types of State facilities for different age groups, etc.)

e) Presenting the Project

In the ‘face-to-face’ situations in particular, it will be important to ensure that the exercise is not perceived as a ‘threatening’ investigation of the State. Please explain:

- The context and aim of the UN Study on Violence Against Children, and UNICEF’s input into it
- The use that is to be made of the information provided
- The purpose of the meeting, interview or site visit as a means to improve understanding of how things work to enable the State to shoulder its CRC obligations to each child.

Please keep in mind that we are looking for facts, not opinions. The findings from these meetings should be reflected under the relevant issue in the “Comments” column – (not reports on the encounters themselves)

- f) **Any additional information** – including the results of interviews, visits, etc. – deemed to be relevant but falling outside the scope of the listed issues should be included in an annex.
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Throughout the survey attention should be given to whether the various laws, regulations, standards, mechanisms, etc. ensure that children are not discriminated against on the basis of:

- Gender
- Ethnicity
- Health status
- Special needs (disability), etc.

In addition, with regard to children with special needs, please examine if any different laws, regulations, standards and mechanisms are in place for these children.

We recognize that this is a complex exercise, including a vast array of substantive standards, hierarchical chains of responsibility, and a range of both public and (in many cases) private service providers. Perhaps the simplest basic reference point to bear in mind throughout is the following question:

“How is the State trying to ensure that its CRC obligations to protect each child from violence are met, and how does it keep track of whether or not it is succeeding?”

CHECKLIST OF ISSUES: STATE PROTECTION OF CHILDREN IN CARE

General legislative framework	Document/text reference	Comments
<ul style="list-style-type: none"> • Does legislation exist that expressly and specifically prohibits violence towards children? <p>If so:</p> <ul style="list-style-type: none"> • Does the law, explicitly or implicitly, cover all forms of violence towards children? • Does the law specify coverage of only given forms of violence towards children? If so, which? • Do the above forms of violence constitute a criminal offence (under the penal code)? • Do the acts covered differ in any way from those against adults? (e.g. allowing corporal punishment in certain cases?) • Is the law limited to certain specified perpetrators of violence towards children? 		
<p>Residential child Care</p> <ol style="list-style-type: none"> 1. Has the State drawn up and disseminated standards for residential child care? <p>If so, are there specific standards with regard to:</p> <ul style="list-style-type: none"> • physical conditions • age groups • gender • children with special needs • periodic medical check-ups and access to health services and care 		

<ul style="list-style-type: none"> • safeguarding the physical and psychological integrity of the child <p>2. Do these standards cover private as well as State residential facilities? If not, do separate standards apply to private facilities, and how do they differ from those for State facilities?</p> <p>3. Is registration and/or accreditation of private facilities compulsory? If so, what body is responsible, what are the criteria and which body set those criteria? If not, is registration/accreditation voluntary, or does no such system exist?</p> <p>4. What provision is there for the mandatory inspection of residential facilities? Which body is responsible? Can unannounced inspections be made? Is it the same for private and State facilities? If not, how does it differ?</p> <p>5. Is there a mandatory check of the criminal record prior to recruitment of staff in residential facilities? Does it apply to staff in both private and State facilities? Does it apply to all staff or only to professionals working directly with the children?</p> <p>6. Is there a set of nationwide minimum qualifications and training required for different levels of staff in residential facilities? If so, do they apply to both private and State facilities? If not, which body(ies) is(are) responsible for setting requirements?</p> <p>7. Are there regulations covering conditions of employment (including remuneration) in private and/or State facilities, to ensure that the facilities can</p>		

<p>attract and retain high-quality staff?</p> <p>8. What forms of discipline and punishment are explicitly permitted or banned? In particular, is any form of corporal punishment permitted? Do the rules apply equally to State and private facilities? If not, what body(ies) determine rules on discipline?</p>		
<p>9. Are criteria and conditions laid down for the use of force by staff (e.g. to prevent self-harm or injury to others, etc.)? Do these criteria apply to private and State facilities alike? If not, what are the differences?</p>		
<p>10. What mandatory mechanisms or procedures are foreseen to enable a child to register complaints or concerns regarding violence on the part of staff or peers? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>11. What procedures are foreseen to investigate allegations of violence against a child in residential care? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>12. What administrative procedures and criminal sanctions are foreseen for staff convicted of violence towards children?</p>		
<p>13. What measures are foreseen in favour of children who have been victims of violence (e.g. recovery, alternative placement, compensation...)?</p>		
<p>14. What rules govern the contact of children in residential care with their parents, siblings or other relatives? Do the rules apply equally to State and</p>		

<p>private facilities? If not, how do they differ and what body(ies) determine the rules?</p>		
<p>15. What rules govern the contact of children in residential care with the outside world (e.g. attending local school, receiving visits, accessing recreational and other activities...)? Do the rules apply equally to State and private facilities? If not, how do they differ and what body(ies) determine the rules?</p>		
<p>16. What standards are set for ensuring adequate supervision of children in residential care to prevent violence and abuse among them, including at night? Do the standards apply equally to State and private facilities? If not, how do they differ and what body(ies) determine the rules?</p>		
<p>17. Is there a State requirement that children in care be made fully aware of rights and responsibilities while in a residential facility?</p>		
<p>18. Is there a national independent body, such as an ombudsman, mandated to deal with, <i>inter alia</i>, complaints regarding State and/or private residential facilities? And/or does such a body exist at regional or local levels?</p>		
<p>Informal and formal foster care</p>		
<p>19. Has the State set up a registration and/or accreditation system for informal carers (i.e. those who spontaneously take in children, without a placement order from the court or from the social services)? If so, is it compulsory or voluntary? Does it also apply to family members (kinship care)?</p>		

<p>What body is responsible? Are there fixed criteria for acceptance?</p> <p>20. Has the State set up a registration and/or accreditation system for formal carers (i.e. foster families taking in children placed by the courts or social services)? If so, is it compulsory or voluntary? Does it also apply to family members (formal kinship care)? What body is responsible?</p> <p>Are there fixed criteria for acceptance?</p>		
<p>21. As regards registered or accredited foster carers, does the State set out training requirements, e.g. in child welfare, children's rights, conflict resolution, etc.?</p> <p>22. Does the State stipulate levels of financial compensation (allowances, salaries, etc.) for foster carers? If so, does this concern formal and/or informal and/or kinship care?</p>		
<p>23. Has the State set out rules or guidelines concerning professional support to foster carers? If so, do they concern formal and/or informal and/or kinship care?</p>		
<p>24. Has the State set out rules or guidelines concerning the monitoring and supervision of foster carers? If so, do they concern formal and/or informal and/or kinship care?</p>		
<p>25. What forms of discipline and punishment are explicitly permitted or banned in relation to children in foster care? In particular, is any form of corporal punishment permitted?</p>		
<p>26. What mandatory mechanisms or procedures are foreseen to enable a child to register complaints or concerns regarding violence on the part of foster carers or others in the household?</p>		

<p>27. What procedures are foreseen to investigate allegations of violence against a child in foster care?</p>		
<p>28. What measures are foreseen in favour of children who have been victims of violence in foster care (e.g. recovery, alternative placement, compensation...)?</p>		
<p>29. What rules govern the contact of children in foster care with their parents, siblings or other relatives?</p>		
<p>30. What rules govern the contact of children in foster care with the outside world (e.g. attending local school, receiving visits, accessing recreational and other activities...)?</p>		
<p>31. Is there a State requirement that children in care be made fully aware of their rights and responsibilities while in foster care?</p>		
<p>32. Is there a code of conduct for foster carers? If so, is it promulgated or endorsed by the State?</p>		

CHECKLIST OF ISSUES: STATE PROTECTION OF CHILDREN IN THE LAW ENFORCEMENT AND JUVENILE JUSTICE SYSTEMS

General legislative framework	Document/text reference	Comments
<ul style="list-style-type: none"> • Does legislation exist that expressly and specifically prohibits violence towards children? <p>If so:</p> <ul style="list-style-type: none"> • Does the law, explicitly or implicitly, cover all forms of violence towards children? • Does the law specify coverage of only given forms of violence towards children? If so, which? • Do the above forms of violence constitute a criminal offence (under the penal code)? • Do the acts covered differ in any way from those against adults? (e.g. allowing corporal punishment in certain cases?) • Is the law limited to certain specified perpetrators of violence towards children? 		
<p style="text-align: center;">Law enforcement system</p>	<p style="text-align: center;">Document/text reference</p>	<p style="text-align: center;">Comments</p>
<p>1. Has the State laid down special rules governing police treatment of juveniles arrested by the police?</p>		
<p>2. Has the State set out rules governing police custody, so that it is used as a last resort and for the shortest possible period of time?</p>		
<p>3. Is it obligatory that a third party (e.g. social worker, lawyer) be present during the questioning of a juvenile by the police?</p>		

<p>4. Is it mandatory that a parent or other primary caregiver be present during the questioning of a juvenile by the police?</p>		
<p>5. Are there special rules governing the questioning of a juvenile by the police?</p>		
<p>6. Are there explicit rules requiring the separation of children from adults while in police custody? If so, do these rules permit exceptions?</p>		
<p>7. Are there rules or guidelines requiring the grouping of children while in police custody according to:</p> <ul style="list-style-type: none"> • status (e.g. severity of alleged crime, etc.) • vulnerability (e.g. gender, age, psychological state, etc.) 		
<p>8. Are there rules governing the use of force against children while in police custody?</p>		
<p>9. What mandatory mechanisms or procedures are foreseen to enable a child (or parents) to register complaints or concerns regarding violence and abuse while in police custody?</p>		
<p>10. What procedures are foreseen to investigate allegations of violence against a child while in police custody?</p>		
<p>11. Has the State set up specialized police units, with specific training on children's issues, to deal with young offenders?</p>		
<p>12. Does the State require that training on child welfare/children's rights be given to police officers in general?</p>		
<p>13. Is there a national independent body, such as an ombudsman, mandated to deal with, <i>inter alia</i>, complaints regarding law enforcement agencies or agents? And/or does such a body exist at regional or local levels?</p>		

<p>Juvenile justice system</p>		
<p>14. Does the law stipulate a specific justice system for children?</p> <ul style="list-style-type: none"> • focused on reintegration and well-being of the child • foreseeing privacy • prohibiting trial as adults 		
<p>15. Has the State drawn up and disseminated standards for child deprived of their liberty?</p> <p>If so, are there specific standards with regard to:</p> <ul style="list-style-type: none"> • physical conditions • age groups • gender • children with special needs • periodic medical check-ups and access to health services and care • safeguarding the physical and psychological integrity of the child 		
<p>16. Has the State stipulated that the remand of juveniles in pre-trial detention (where the risk of violence is enhanced) is to be considered a measure of last resort?</p> <p>Has the State set a maximum period for pre-trial detention and, if so, what is this?</p> <p>Has the State taken initiatives to ensure viable alternatives to such detention?</p>		
<p>17. Has the State stipulated that sentences involving the deprivation of liberty of juveniles (where the risk of violence is enhanced) are to be considered measures of last resort?</p> <p>Has the State taken initiatives to ensure viable alternatives to such custodial sentences?</p>		
<p>18. Are there explicit rules requiring the separation of children from adults while in pre-trial detention or serving a custodial</p>		

<p>sentence? If so, do these rules permit exceptions? 19. Are there rules or guidelines requiring the grouping of children according to:</p> <ul style="list-style-type: none"> • status (e.g. severity of alleged crime, etc.) • vulnerability (e.g. gender, age, psychological state, etc.) <p>while in pre-trial detention or serving a custodial sentence?</p>		
<p>20. Does the State allow or mandate private companies to establish and manage services and facilities for juvenile offenders? If so, what special criteria and conditions are applied, and which body is responsible for licensing and monitoring them?</p>		
<p>21. What provision is there for the mandatory inspection of detention facilities? Can unannounced inspections be made? Which body is responsible? Is it the same for private and State facilities? If not, how does it differ?</p>		
<p>22. Is there a mandatory check of the criminal record prior to recruitment of staff in detention facilities? Does it apply to staff in both State and (where they exist) private facilities of this nature? Does it apply to all staff or only to professionals working directly with the children?</p>		
<p>23. Is special training in children's issues required for staff in detention facilities? If so, does the requirement apply to staff in both State and (where they exist) private facilities of this nature?</p>		
<p>24. What forms of discipline and punishment are explicitly permitted or</p>		

<p>banned? In particular, is any form of corporal punishment permitted? Is isolation or solitary confinement permitted, and if so, for what period? Do the rules apply equally to State and private facilities? If not, what body(ies) determine rules on discipline?</p>		
<p>25. Are criteria and conditions laid down for the use of force by staff (e.g. to prevent self-harm or injury to others, etc.)? Do these criteria apply to private and State facilities alike? If not, what are the differences?</p>		
<p>26. What mandatory mechanisms or procedures are foreseen to enable a child (or parents) to register complaints or concerns regarding violence on the part of staff or co-detainees? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>27. What procedures are foreseen to investigate allegations of violence by staff or co-detainees against a child? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>28. What administrative procedures and criminal sanctions are foreseen for staff convicted of violence towards children?</p>		
<p>29. What measures are foreseen in favour of children who have been victims of violence (e.g. recovery, alternative placement, compensation...)?</p>		
<p>30. What rules govern the contact of children deprived of their liberty with their parents, siblings or other relatives? Do the rules apply equally to State and private facilities?</p>		

<p>If not, how do they differ and what body(ies) determine the rules?</p>		
<p>31. What rules govern the contact of children deprived of their liberty with the outside world (e.g. receiving visits, accessing recreational and other activities organized in the facility...)? Do the rules apply equally to State and private facilities? If not, how do they differ and what body(ies) determine the rules?</p>		
<p>32. What standards are set for ensuring adequate supervision of children in detention facilities to prevent violence and abuse among them, including at night? Do the standards apply equally to State and private facilities? If not, how do they differ and what body(ies) determine the rules?</p>		
<p>33. Is there a State requirement that children in care be made fully aware of their rights and responsibilities while in a detention facility?</p>		
<p>34. Is there a national independent body, such as an ombudsman, mandated to deal with, <i>inter alia</i>, complaints regarding State and/or private detention facilities? And/or does such a body exist at regional or local levels?</p>		

CHECKLIST OF ISSUES: STATE PROTECTION OF CHILDREN IN THE EDUCATION SYSTEM

General legislative framework	Document/text reference	Comments
<ul style="list-style-type: none"> • Does legislation exist that expressly and specifically prohibits violence towards children? <p>If so:</p> <ul style="list-style-type: none"> • Does the law, explicitly or implicitly, cover all forms of violence towards children? • Does the law specify coverage of only given forms of violence towards children? If so, which? • Do the above forms of violence constitute a criminal offence (under the penal code)? • Do the acts covered differ in any way from those against adults? (e.g. allowing corporal punishment in certain cases?) • Is the law limited to certain specified perpetrators of violence towards children? 		
<p>Pre-primary (kindergarten, etc.), primary (elementary) and secondary (middle- and high-) school systems</p> <ol style="list-style-type: none"> 1. Does the State require articulation of a mandate or mission statement for <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary school facilities? 2. Does the State permit and/or subsidize private <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? 	Document/text reference	Comments

<p>- secondary facilities?</p> <p>3. Is registration and/or accreditation of private facilities compulsory?</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? <p>If so, what body is responsible, what are the criteria and which body set those criteria? If not, is registration and/or accreditation voluntary, or does no such system exist?</p>		
<p>4. What provision is there for the mandatory inspection of:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? <p>Which body is responsible? Can unannounced inspections be made? Is this the same for private and State facilities? If not, how does it differ?</p>		
<p>5. Is there a mandatory check of the criminal record prior to recruitment of staff in:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? <p>Does it apply to staff in both private and State facilities? Does it apply to all staff or only to professionals working directly with the children? Does it differ between a day facility and a residential facility?</p>		
<p>6. Is there a set of nationwide minimum qualifications and training required for different levels of staff in:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? - for work with children with special needs? 		

<p>If so, do they apply to both private and State facilities? If not, which body(ies) is(are) responsible for setting requirements? Do the requirements differ between a day facility and a residential facility?</p>		
<p>7. Is a State-promoted policy in place regarding forms of discipline that are acceptable or banned in: - pre-primary school facilities? - primary school facilities? - secondary facilities? If so, does it cover private facilities?</p>		
<p>8. What mandatory mechanisms or procedures are foreseen to enable a child (or parents) to register complaints or concerns regarding violence on the part of staff or peers in - pre-primary school facilities? - primary school facilities? - secondary facilities? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>9. What procedures are foreseen to investigate allegations of violence against a child in - pre-primary school facilities? - primary school facilities? - secondary facilities? Do these apply equally to State and private facilities? If not, what are the differences?</p>		
<p>10. What administrative procedures and criminal sanctions are foreseen for staff convicted of violence towards children?</p>		
<p>11. Does the State require that an anti-bullying policy/programme be in place in each - pre-primary facility? - primary facility?</p>		

<p>- secondary facility? If so, does this cover both State and private facilities?</p>		
<p>12. What measures are foreseen in favour of children who have been victims of violence (e.g. access to health care, counselling services, alternative placement, compensation...)?</p>		
<p>13. Are there special State regulations regarding supervision of children in residential:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? - facilities for children with special needs? 		
<p>14. Are children provided with accessible information on their rights and responsibilities in the context of:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? 		
<p>15. Is there a State policy/requirement on decisions regarding the temporary and/or permanent exclusion of pupils from:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? <p>Does it cover private facilities?</p>		
<p>16. Is there a State policy/regulation regarding school truancy from:</p> <ul style="list-style-type: none"> - pre-primary school facilities? - primary school facilities? - secondary facilities? <p>Does it cover private facilities?</p>		
<p>17. Is there a national independent body, such as an ombudsman, mandated to deal with, <i>inter alia</i>, complaints regarding State and/or private school facilities? And/or does such a body exist at regional or local levels?</p>		

STOP Violence Against Children. ACT NOW!