***To the UN Special Rapporteur on the sale***

***and sexual exploitation of children***

*Answers of the Republic of Latvia to the information request*

**I Context, awareness and attitudes underpinning the sale and sexual exploitation of children**

**Latency**

Abusive sexual offences have one of the highest degrees of latency. Sexual abuse of children is a particularly topical problem. In view of the general apathy of the population, lack of victims’ trust in the law enforcement authorities, people do not report committed criminal offences, and do not cooperate with law enforcement authorities, thus increasing the level of latency.

One of the most serious challenges reported by the police is failure to report sexual abuse of children to the police in a timely manner. This prevents the effective investigation of criminal offences of sexual nature, since the direct duties of the police are to investigate the case and gather evidence, and therefore the time and the quality of the evidence obtained are very important in the process. This problem is linked to the lack of awareness about the distribution of functions among professionals (e.g., local government authorities receive information on possible sexual abuse against a child and refer the child to a psychological examination in order to obtain information on whether the child has signs of an injury, rather than report this directly to the police); different understanding on the part of different specialists, as each professional looks at the specific situation through the prism of their direct duties and responsibilities, etc.

**Lack of capacity**

Investigation of criminal offences of sexual nature is complicated. Signs and consequences of the offence can often be seen in the affected child, but direct evidence is difficult to obtain, particularly if the child is of very young age, with mental disabilities and so on. A rapid and timely investigation of crimes is essential, and the proceedings must be such as not to expose children to another injury. It is important to note that in cases of sexual abuse testimonies provided by the affected child may be the only evidence in the detection of a crime, which indicates the need for and importance of effective questioning.

Therefore, in view of the specific nature of criminal offences of sexual nature, specialisation and qualitative and effective investigation of criminal proceedings are essential. However, it should be noted that the capacity of the State Police and the authorities supervising the investigation have deficiencies. These problems are related to long-standing problems in the system of qualification and professional development of persons driving the proceedings; shortcomings in the organisation and methodological management of investigation work; the reduced scope and content of supervisory prosecutors’ competence as regards the provision of instructions with the adoption of the Criminal Procedure Law (hereinafter – CPL), as well as lack of common understanding between investigators, their direct supervisors and prosecutors; inability to effectively apply the solutions promoting the speed, economy and efficiency of criminal proceedings introduced by provisions of the CPL[[1]](#footnote-1).

**Availability of data**

No sufficient reliable data are available in Latvia on the prevalence, factors of origin and root causes of sexual abuse. There is no assessment of the latent crime level. State Police statistics provide an overview of registered crime broken down by sections of the Criminal Law (hereinafter – CL). However, this does not provide comprehensive information on criminal offences of sexual nature against children.

The examination and recognition of sexual abuse and the study of the personality of the criminal and the personality of the victim are of great importance. These aspects have not been studied in depth in Latvia. The available statistics only highlight the visible part of the problem, but do not show the true prevalence of violence.

It should be concluded that there is no uniform system in Latvia to thoroughly investigate and list cases of sexual abuse against children.

In its recommendations to Latvia, the UN Committee on the Rights of the Child[[2]](#footnote-2) drew attention to the lack of a comprehensive information system on child abuse, including reported cases, investigations carried out, cases initiated, and penalties imposed (Article 36(a)). Therefore, the Latvian state should develop an integrated information system so that it can thoroughly analyse child abuse, monitor the effectiveness of target measures and develop evidence-based policies to prevent and investigate child abuse (Article 37(a)).

**Prevention**

One of the most important tools in dealing with sex offenders are special therapeutic social behaviour correction programmes.

The State Probation Service currently uses two probation programmes in its work with sex offenders: one is an established probation programme for sex offenders who serve their sentence in society, and the other is a probation programme for sex offenders who serve their sentence in prison. However, the existing system does not provide such person with effective support also after serving the sentence, when the probation client is no longer in sight of the State Probation Service.

Currently, there is no state-funded assistance in Latvia for individuals who feel sexual interest towards children and who have not performed criminal activities, but, knowing the existence of this problem, want help.

**Building public awareness**

The preventive educational measures for society and respective specialists focusing on building awareness of prevention, recognition, elimination of sexual abuse of children are insufficient. This is also reflected in the Latvian Plan for the protection of minors from criminal offences against morality and sexual inviolability for 2019-2020, which states that the measures included, which would contribute to a more uniform understanding of experts of the risks and consequences of these crimes, as well as the public education measures, were insufficient to cover all aspects of the reduction of the relevant risks[[3]](#footnote-3).

It is essential to improve the mechanism for detecting, identifying and preventing cases of sexual exploitation of children in a timely manner, including in particular the need to improve the awareness of educational establishments, medical establishments and citizens of their role in detecting and reporting cases of violence as quickly as possible.

Constant existence and availability of preventive educational programmes in educational establishments for children is important. Their task would be to teach children how to recognize dangerous situations, how to handle them, where to seek help, how to defend themselves and others.

**Online exploitation**

A significant part of all identified sexual offences against children in Latvia take place on the internet, using various social networking platforms and mobile applications. In Latvia, most criminal offences on the sexual exploitation of children are related to the sharing of materials (photos, videos) of child sexual exploitation on file sharing platforms, the involvement of children in creating such materials, and of leading to depravity in social networks and streaming platforms.

The offenders hide their identity and location by using constantly evolving anonymising services, including proxy servers, TOR, VPN, and anonymised e-mail services. This complicates the intelligence gathering and criminal investigation.

The State Police actively works to combat and prevent child sexual exploitation online. With the support of Europol, the State Police participates in various international projects and successfully leads national projects aimed at combating and preventing these crimes. The State Police also identifies new means of child sexual exploitation online and immediately informs the society about them, with the aim to prevent potential incidents and protect the potential victims.

**II Risk factors, root causes and demand for the sale and sexual exploitation of children**

**Problems of human trafficking**

In Latvia, the Ministry of the Interior is the leading authority in the development of a policy on combating and preventing crime (including in the field of human trafficking) and in its implementation. On an annual basis, the Ministry of the Interior prepares and reports the results of preventing and combating trafficking in human beings providing both statistical data and information on major issues.

Human trafficking should not be viewed in isolation from the general social problems in Latvian municipalities, and the risks of human trafficking will remain very high without targeted programmes to reduce poverty risks and stimulate the economy. Practice has shown that children who remain without parental care, pupils of boarding schools, children and adolescents from high social risk families, street children, children whose parents have travelled abroad to earn money, people with mental disabilities and pupils of special boarding schools are most frequently exposed to human trafficking.[[4]](#footnote-4)

Trafficking and exploitation of human beings is not a common form of criminal offence in the territory of Latvia, but Latvia is still the country of origin of victims of trafficking in human beings. In light of the foregoing, the Ombudsman believes that it is very important to raise awareness among specialists about human trafficking, the risks and consequences of human trafficking and the education of existing and potential victims of human trafficking about their right to be protected. Although according to the statistical data collected by the Ministry of the Interior, no child has become a victim of trafficking in human beings in Latvia in 2018, these data demonstrate that the responsible authorities of the state still have significant difficulties in identifying victims, which in turn prevents victims from receiving the necessary support and assistance.

In Latvia, one of the main problems that exist in effective combatting of human trafficking and prevention of its consequences are uncoordinated and unharmonized activities of state institutions in recognising potential victims of human trafficking and in the transfer of further information to competent authorities and organisations. This leads to many situations where there are significant contradictions between public authorities and non-governmental organisations about the number of potential victims who can receive social assistance from the state. This issue has come to the attention of the Ombudsman and is in focus when thinking about a possible change in the legal framework, so that the arrangements for the recognition of potential victims of human trafficking and the transfer of coordinated information are governed at legislative level.

It is also necessary to address the issue of setting up the so-called “checklist” which would always be accessible to law enforcement officials for the effective recognition and identification of potential victims of human trafficking.

The Ombudsman has carried out a study “Understanding of Latvian local government social services, orphan’s courts and branches of the State Employment Agency of their role in the process of identification of victims of trafficking in human beings”. It was stated in the study that a large number of institutions basically see themselves as informants who report to the police for investigation of a criminal offence. When they perceive their role in this way, the aspect of social assistance is forgotten, which, according to the competence of the interviewed institutions, would have the most pressing role. This circumstance, together with the information provided on the institutional behaviour models, confirms that not all institutions understand the system of allocation of the social rehabilitation service to victims of trafficking in human beings in Latvia.

**Risks of social exclusion**

There are risks of poverty and social exclusion in Latvia. As a result, children are looking for the best and easiest ways to earn subsistence for themselves and their family. This vulnerability situation is being exploited by many recruiters promising a better and prosperous life, when in fact their real aim is sexual exploitation of these children, often abroad. Similarly, the widespread domestic violence is often the risk of alienation of child not only from their family, but also from friends and acquaintances, leading to a child being lured into human trafficking networks by the hope of a “better life”.

**III Children’s vulnerability to sale and sexual exploitation, including in the context of cross-border challenges, technology and innovation**

Vulnerable groups include children (especially children under the age of 14), persons with special needs (for example, mental disabilities), persons who have suffered from violence (especially, sexual violence), and persons in extra-familial care facilities.

Risks for children to become victims of online exploitation include the accessibility of the internet and the lack of control and monitoring of its use, file sharing and communication, as well as the lack of knowledge of risks and consequences. The parental factor is highly important in this. According to international statistics, victims usually are minors and underage girls.

**IV The overarching legal-normative framework, commitment and institutional capacity**

Regarding the existing national legal framework in Latvia, we would like to highlight the following sections of CL and CPL:

1. In accordance with Section 1541, paragraph 2 of CL, for a person who commits human trafficking if it has been committed against a minor, the applicable punishment is deprivation of liberty for a period of three and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period up to three years;
2. In accordance with Section 1541, paragraph 3 of CL, for a person who commits human trafficking against an underaged person, the applicable punishment is deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period up to three years;
3. In accordance with Section 1542 paragraph 1 of CL, human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent;
4. The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation is recognised as human trafficking also in cases not connected with the use of any of the means referred to in paragraph 1 of Section 1542;
5. Within the meaning of Section 1542, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs;
6. Within the meaning of Section 1542, state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation;
7. In accordance with Section 961, subsection 1, paragraph 1 of CPL, a minor is to be recognised as a specially protected victim. In addition to general rights of the victim, a specially protected victim may participate in procedural activities, with a permission of the person directing the proceedings, together with the trusted person, unless it is a person against whom criminal proceedings have been initiated, a detained, a suspect, or an accused. Furthermore, a specially protected victim may request and receive information regarding release or escape of such arrested or convicted person from a place of imprisonment or a place of temporary detention who has inflicted harm to him or her, if there is a threat to the victim and there is not risk of harm to the arrested or convicted person. Such request may be notified until making of a final ruling in criminal proceedings;
8. Finally, under Section 108, paragraph 5 of CPL, the provision of legal assistance to a minor victim and the representative of a minor victim is mandatory in criminal proceedings regarding a criminal offence related to violence committed by a person, upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability. If a minor victim or his or her representative has not entered into an agreement with an advocate regarding provision of legal assistance, the person directing the proceedings shall take a decision to invite an advocate as the provider of legal. In such case payment to the advocate for the provision of State ensured legal assistance and the reimbursable expenses related to the provision thereof shall be covered in accordance with Cabinet of Ministers regulations governing payment for the provision of State ensured legal assistance.

Considering the existing legal framework, it is the opinion of the Ministry of the Interior that Latvia could increase sanctions for the dissemination of materials of child sexual exploitation online, as well as the involvement of children in the creation of such materials and the leading to depravity of children. Overall, the investigative capacity could be improved by expediting the international cooperation and cross-border exchange of information necessary for the purposes of the investigation.

**V New and innovative strategies to effectively prevent and protect children from sale and sexual exploitation**

The countering and prevention of sexual exploitation of children is a priority on a national as well as international level. Due to this, there are continuous developments and improvements to the normative framework, strategies and the involvement of public and private sector partners. The association for safer internet “Netsafe”, which is the direct line for communicating with and providing information to the broader public, is successfully operating in Latvia.

It must also be noted that on 2 July 2019 with the Cabinet of Ministers Order Nr. 328 (protocol Nr. 31 45.§) the Plan for the protection of minors from criminal offences against morality and sexual inviolability for 2019-2020 (hereinafter – Plan) was approved. Ministry of Justice is responsible for the implementation of this plan, with Ministry of the Interior, Ministry of Health, Ministry of Education and Science and Ministry of Welfare participating in specific aspects of its implementation. About the actions to be taken and the results to be achieved, the Plan highlights the protection of children from criminal offences, including from sexual violence.

The Plan includes several directions of action, which are in accordance with:

1. the Committee of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention) recommendations on the actions to be taken to facilitate the effective implementation of the Lanzarote Convention, set out in the Committee’s 4 December 2015 report “Protection of children against sexual abuse in the circle of trust: The framework”;
2. the Directive2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

The actions set out in the Plan are also connected to the UN Sustainable Development Goals, in particular Targets 16.1 to significantly reduce all forms of violence and related death rates everywhere and 16.2 to end abuse, exploitation, trafficking and all forms of violence against and torture of children. The actions set out in the Plan also derive from the National Development Plan 2014 – 2020, in particular action 274 to decrease child crime, prevent factors that facilitate criminal behaviour, to increase the security of children by protecting them from threats to health and life, to ensure the accessibility of mental health services, and to decrease child traumatism.

**VI Data and monitoring**

New and ever more effective tools, systems, databases and programmes have been created, the aim of which is to alleviate, expedite and improve online monitoring, information gathering, processing and analysis. It has had an observable positive result in such databases and systems as “CPS”, “ICACCOPS”, “ICSE” and others.

However, a drawback must be noted regarding the Passenger data register: the lack of information profiling and automatic data crosschecking with other state registers limits the access to high-risk data with the aim of combatting human trafficking, in particular trans-border sexual exploitation and the exploitation of children.

**VII Institutional accountability**

Overall, the cooperation between the public and private sector is successful, in particular when law enforcement authorities turn to private cooperation partners for support. Cooperation partners are responsive and even proactive, if they encounter crimes or information of crimes on child sexual exploitation.

1. Report of the State Audit Office of the Republic of Latvia. Is the pre-trial investigation in the State Police effective? Riga, 2017. Available here: <http://www.lrvk.gov.lv/uploads//reviziju-zinojumi/2016/2.4.1-6_2016/rz_vp_20.09.2017_bez-ip.pdf>. [↑](#footnote-ref-1)
2. Recommendations of the UN Committee on the Rights of the Child to Latvia of 29 January 2016 (CRC/C/LVA/CO/3-5). [↑](#footnote-ref-2)
3. Plan for the protection of minors from criminal offences against morality and sexual inviolability for 2019-2020. Available in Latvian here: <https://likumi.lv/ta/id/307955-par-planu-nepilngadigo-aizsardzibai-no-noziedzigiem-nodarijumiem-pret-tikumibu-un-dzimumneaizskaramibu-2019-2020-gadam> [↑](#footnote-ref-3)
4. http://www.lm.gov.lv/upload/aktualitates2/met\_ctu\_080520151.pdf [↑](#footnote-ref-4)