Expert group on the development of draft model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice

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Draft Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

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Introduction

1. The Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice have been prepared to help Member States to address the need for integrated strategies for violence prevention and child protection, thereby offering children the protection to which they have an unqualified right.

2. The Model Strategies and Practical Measures take into consideration the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors on the other, in creating a protective environment and in preventing and responding to violence against children. They draw attention to the need for Member States to ensure that criminal law is used appropriately and effectively to criminalize various forms of violence against children, including forms of violence prohibited by international law. The Model Strategies and Practical Measures will enable criminal justice institutions to strengthen and focus their efforts to prevent and respond to violence against children and to increase their diligence in investigating, convicting and rehabilitating perpetrators of violent crimes against children, so as to effectively protect children against violence.

3. The Model Strategies and Practical Measures take into account the fact that children who are alleged as, accused of or recognized as having infringed the criminal law, especially those who are deprived of their liberty, face a high risk of violence. Because special attention must be paid to the especially vulnerable situation of these children, the Model Strategies and Practical Measures aim not only to improve the effectiveness of the criminal justice system in preventing and responding to violence against children, but also to protect children against any violence that may result from their contact with the justice system.

4. The Model Strategies and Practical Measures reflect the fact that some of the perpetrators of violence against children are themselves children and that the need to protect child victims in such instances cannot negate the rights of all the children involved to have their best interests considered as a matter of primary importance.

5. The Model Strategies and Practical Measures are grouped into three broad categories: general prevention strategies to address violence against children as part of broader child protection and crime prevention initiatives; strategies and measures to improve the ability of the criminal justice system to respond to crimes of violence against children and to protect child victims effectively; and strategies and measures to prevent and respond to violence against children in contact with the justice system. Good practices based on contemporary knowledge and relevant international and regional norms, standards and principles are set forth, to be implemented in accordance with international human rights law. Member States should undertake to implement the strategies and measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.
Definitions

6. The following definitions apply:

(a) “Child” is defined, as in article 1 of the Convention on the Rights of the Child, as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”;

(b) “Child victims” denotes children under the age of 18 who are victims of crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders;

(c) “Children in contact with the justice system” refers to children who come into contact with the justice system as victims, witnesses or alleged offenders, or in any other situation requiring judicial intervention, for example regarding their care, custody or protection;

(d) “Child-sensitive” denotes an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views;

(e) A “child protection system” is defined as the formal and informal structures, functions and capacities to prevent and respond to violence, abuse, exploitation and neglect of children;

(f) “Crime prevention” comprises strategies and measures that seek to reduce the risk of crimes occurring and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence the multiple causes of crime;

(g) “Criminal justice system” refers to laws, procedures, professionals, authorities and institutions that apply to victims, witnesses and persons alleged as, accused of or recognized as having infringed the law;

(h) “Deprivation of liberty” means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which that person is not permitted to leave at will, by order of any judicial, administrative or other public authority;

(i) “Diversion” refers to a process for dealing with children alleged as, accused of or recognized as having infringed the law without resorting to judicial proceedings, with the consent of the child and the child’s parents or guardians;

(j) “Informal justice system” refers to the resolution of disputes and the regulation of conduct by adjudication or with the assistance of a neutral third party that is not part of the judiciary as established by law and/or whose substantive, procedural or structural foundation is not primarily based on statutory law;

(k) A “juvenile justice system” is comprised of laws, policies, guidelines, customary norms, systems, professionals, institutions and treatment specifically applicable to children alleged as, accused of or recognized as having infringed the law;

(l) “Legal aid” includes legal advice, assistance and representation for persons detained, arrested or imprisoned as a result of being suspected or accused of or charged with a criminal offence, and for victims and witnesses in the criminal justice process, that is provided at no cost for those without sufficient means or
when the interests of justice so require. Furthermore, “legal aid” is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes;

(m) “Restorative justice programme” means any programme that uses restorative processes and seeks to achieve restorative outcomes;

(n) “Restorative process” means any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime, participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles;

(o) A “protective environment” is an environment conducive to ensuring to the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity;

(p) “Violence” is understood to mean “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”, as listed in article 19, paragraph 1, of the Convention on the Rights of the Child.

Guiding principles

7. In implementing the Model Strategies and Practical Measures, Member States must ensure:

(a) That the inherent rights of the child to life, survival and development are protected;

(b) That the right of the child to have his or her best interests as the primary consideration in all matters involving or affecting him or her is respected, whether the child is a victim or a perpetrator of violence, as well as in all measures of prevention and protection;

(c) That every child is protected from all forms of violence without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the parents or guardians;

(d) That the right of the child to be informed of his or her rights, to be consulted and to express his or her views freely in all matters affecting him or her, is fully respected;

(e) That all strategies and measures to prevent and respond to violence against children are designed and implemented from a gender perspective specifically addressing gender-based violence;

(f) That the specific vulnerability of various groups of children, including children working or living on the streets, children with disabilities, children suffering from mental illness, children of minority groups, unaccompanied children, migrant children, children who are refugees or asylum seekers, indigenous children, children living with HIV/AIDS, children with substance abuse problems, children...
engaged in survival behaviours and children exposed to violence and harassment due to their sexual identity, must be addressed as part of comprehensive violence prevention strategies and identified as a priority for action;

(g) That measures to protect child victims of violence are non-coercive and do not compromise the rights of these children.

Part one

Prohibiting violence against children, implementing broad prevention measures and promoting research and data collection

8. Child protection must begin with proactive prevention of violence and the explicit prohibition of all forms of violence. Member States have the obligation to take appropriate measures that effectively prohibit all forms of violence against children.

I. Ensuring the prohibition by law of all forms of violence against children

9. Recognizing the importance of the existence of a sound legal framework which prohibits violence against children and empowers authorities to respond appropriately to incidents of violence, Member States are urged to ensure:

(a) That their laws are comprehensive and effective in eliminating all forms of violence against children and that provisions that justify, allow for or condone violence against children or may increase the risk of violence against children are removed;

(b) That all forms of violence against children are prohibited;

(c) That corporal punishment of children is prohibited and eliminated in schools and other settings.

10. Because countless numbers of girls and boys fall victim to harmful practices, many of them violent in nature, including female genital mutilation or cutting, forced marriage, degrading initiation rites, breast ironing, son preference, acid attacks, stoning, honour killings, forced feeding and witchcraft rituals, Member States are urged:

(a) To establish by law a clear and comprehensive prohibition of all harmful practices against children, supported by detailed provisions in relevant legislation to secure the effective protection of girls and boys from those practices, to provide means of redress and to fight impunity;

(b) To remove from all national legislation any legal provisions that provide justification or allow for consent to harmful practices against children, including on grounds of culture, tradition, honour or religion;
(c) To ensure that resorting to informal justice systems does not jeopardize children’s rights or preclude child victims from accessing the formal justice system, and to establish the supremacy of international human rights standards.

11. Recognizing the serious nature of many forms of violence against children and the need to criminalize these conduct, Member States should review and update their criminal law to ensure that, at a minimum, the following acts are fully covered under their criminal law:

(a) Engaging in sexual activities with a child without consent, ensuring as well that an appropriate “age of protection” or “age of consent” is set below which a child cannot legally consent to sexual activity;

(b) Engaging in sexual activities with a child using coercion, force or threats, abusing a position of trust, authority or influence over a child, including within the family, and abusing a particularly vulnerable situation of a child, notably because of a mental or physical disability or a situation of dependence;

(c) Committing sexual violence against a child, including sexual abuse, sexual exploitation and sexual harassment through or facilitated by the use of new information technologies, including the Internet;

(d) The sale of or trafficking in children for any purpose and in any form;

(e) Offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child, for the purpose of transferring organs of the child for profit, or for the engagement of the child in forced labour;

(f) Offering, obtaining, procuring or providing a child for child prostitution;

(g) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(h) Slavery or practices similar to slavery, debt bondage and serfdom and forced labour, including forced or compulsory recruitment of children for use in armed conflict;

(i) Committing gender-related violence against a child and, in particular, gender-related killing of girls.

II. Implementing comprehensive prevention programmes

12. General and context-specific measures must be developed to prevent violence against children and challenge the many ways in which such violence is tolerated. Prevention measures, building on a growing understanding of factors giving rise to violence against children and addressing the risks of violence to which children are exposed, must be part of a comprehensive strategy to eliminate violence against children. Criminal justice agencies, working together with child protection, social welfare, health and education agencies and civil society organizations, should develop effective violence prevention programmes, as part of both broader crime prevention programmes and initiatives to build a protective environment for children.
13. Preventing the victimization of children through all available means must be recognized as a crime prevention priority and Member States are therefore urged:

(a) To strengthen existing child protection systems and to help create a protective environment for children;

(b) To adopt measures to prevent violence within the family, address cultural acceptance or tolerance of violence against children and challenge harmful practices;

(c) To encourage and support the development and implementation at every level of government of comprehensive plans for the prevention of violence against children in all its forms, based on in-depth analysis of the problem and incorporating:

(i) An inventory of existing policies and programmes;

(ii) Well-defined responsibilities for the relevant institutions, agencies and personnel involved in preventive measures;

(iii) Mechanisms for the appropriate coordination of preventive measures between governmental and non-governmental agencies;

(iv) Evidence-based policies and programmes that are continuously monitored and carefully evaluated in the course of implementation;

(v) Methods for effectively identifying, mitigating and reducing the risk of violence against children;

(vi) Public awareness-raising and community involvement in prevention policies and programmes;

(vii) Close interdisciplinary cooperation with the involvement of all relevant agencies, civil society groups, local and religious leaders and other stakeholders;

(viii) Participation of children and families in policies and programmes for the prevention of criminal activities and victimization;

(d) To identify the specific risks faced by certain groups of children and children in different contexts and to adopt proactive measures to reduce the risk to which individual children or groups of children may be exposed;

(e) To take appropriate action to support and protect children in need of special protection, such as children working or living on the streets, children with disabilities, children suffering from mental illness, children of minority groups, unaccompanied children, migrant children, children who are refugees or asylum seekers, indigenous children, children living with HIV/AIDS, children with substance abuse problems, children engaged in survival behaviours, children exposed to violence and harassment due to their sexual identity and other vulnerable groups of children;
(f) To be guided by the Guidelines for the Prevention of Crime\(^1\) and play a leadership role in developing effective crime prevention strategies and in creating and maintaining institutional frameworks for their implementation and review.

14. The risk of violence against children committed by children must be addressed by:

(a) Preventing physical, psychological and sexual violence exerted, often through bullying, by children against other children;

(b) Preventing violence sometimes exerted by groups of children, including violence by youth gangs;

(c) Preventing the recruitment, use and victimization of children by youth gangs;

(d) Identifying and protecting children, in particular girls, who are linked to gang members and who are vulnerable to sexual exploitation;

(e) Encouraging law enforcement agencies to use multi-agency intelligence to proactively profile local risk and, accordingly, to direct enforcement and disruption activity.

15. The risk of violence associated with trafficking in children and various forms of exploitation by criminal groups should be addressed by specific prevention measures, including by measures:

(a) To prevent the recruitment, use and victimization of children by criminal or terrorist organizations;

(b) To prevent the sale of children, trafficking in children, child prostitution and child pornography;

(c) To prevent the production, possession and dissemination of images and all other materials that depict or glorify acts of violence, in particular acts of violence perpetrated by or against children, and affect the mental and emotional development of children, particularly through information technologies, such as the Internet.

16. Broad public education and awareness campaigns are required. Member States, in cooperation with educational institutions, non-governmental organizations, professional associations and the media, are urged:

(a) To implement and support effective public awareness and public education initiatives that prevent violence against children by promoting respect for their rights and by educating families and communities about the harmful impact of violence;

(b) To raise awareness of how to prevent and respond to violence against children among persons who have regular contact with children in the justice, child protection, social welfare, health and education sectors and in areas relating to sport, culture and leisure activities;

(c) To encourage and support inter-agency cooperation in implementing violence prevention activities and programmes, planning and delivering public

\(^1\) Economic and Social Council resolution 2002/13, annex.
information campaigns, training professionals and volunteers, gathering data on the incidence of violence against children, monitoring and evaluating the effectiveness of programmes and strategies and exchanging information on good practices;

(d) To encourage the private sector, in particular the information and communications technology sector, the tourism and travel industry and the banking and finance sectors, and civil society, to participate in the development and implementation of policies to prevent the exploitation and abuse of children, and to involve the media to help ensure that the community at large supports efforts to prevent and respond to violence against children and to promote changes in social norms that tolerate such violence;

(e) To involve children, families, communities, local leaders and religious leaders in discussing the impact and detrimental effects of violence against children and ways to prevent violence and abandon harmful practices;

(f) To challenge attitudes that condone or normalize violence against children, including the tolerance and acceptance of corporal punishment and harmful practices or the acceptance of violence.

17. In order to address the vulnerability and the specific risks of violence faced by unaccompanied children, migrant children and children who are refugees or asylum seekers, Member States are urged:

(a) To ensure that these children have access to independent assistance, advocacy and advice, that they are always placed in appropriate accommodation and treated in a manner that is fully compatible with their best interests, that they are separated from adults when necessary to protect them and when applicable to sever relationships with smugglers and traffickers, and that a legal representative is appointed from the moment an unaccompanied child is detected by the authorities;

(b) To conduct regular analyses of the nature of the threats faced by these children and to assess their needs for assistance and protection.

III. Promoting research and data collection, analysis and dissemination

18. Member States, the institutes of the United Nations crime prevention and criminal justice programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations and professional associations are urged:

(a) To set up and strengthen mechanisms for systematic and coordinated collection of data on violence against children, including on violence against children in contact with the justice system;

(b) To monitor and publish annual reports on cases of violence against children reported to the police and other criminal justice agencies, including the number of cases, apprehension or arrest and clearance rates, prosecution and case disposition of the alleged offenders and the prevalence of violence against children; in so doing, use should be made of data derived from population-based surveys. Such reports should disaggregate data by type of violence and include, for example,
information on the age and gender of the alleged offender and his or her relationship to the victim;

(c) To develop population-based surveys and methodologies aimed at collecting data regarding children, including crime and victimization surveys, to allow for assessment of the nature and extent of violence against children;

(d) To develop and implement indicators relating to the performance of the justice system in preventing and responding to violence against children;

(e) To develop and monitor indicators relating to the prevalence of violence against children in contact with the justice system;

(f) To evaluate the efficiency and effectiveness of the justice system in meeting the needs of child victims of violence, including with regard to the way in which the justice system treats child victims of violence, the use it makes of different intervention models and the degree to which it cooperates with other agencies responsible for the protection of children, and also to evaluate and assess the impact of current legislation, rules and procedures relating to violence against children;

(g) To collect, analyse and disseminate data on independent inspections of places of detention, access to complaint mechanisms by children in detention and outcomes of complaints and investigations;

(h) To use research studies and data collection to inform policy and practice and to exchange and disseminate information concerning successful violence prevention practices;

(i) To encourage and provide sufficient financial support for research on violence against children.

Part two

Enhancing the ability and capacity of the criminal justice system to respond to violence against children and protect child victims

IV. Establishing effective detection and reporting mechanisms

19. Because of the crucial need to detect and report acts of violence against children, Member States are urged:

(a) To ensure that measures are taken to identify risk factors for certain groups of children and identify signs of actual violence in order to trigger appropriate intervention as early as possible;

(b) To ensure that criminal justice professionals who routinely come into contact with children in the course of their work are aware of risk factors and indicators of various forms of violence, have received guidance on how to interpret such indicators and have the necessary knowledge, willingness and ability to take appropriate action, including the to ensure the provision of immediate protection;
(c) To legally require professionals who routinely come into contact with children in the course of their work to notify appropriate authorities if they suspect that a child is a victim of violence or is likely to become a victim of violence;

(d) To ensure that safe child- and gender-sensitive procedures and complaint, reporting and counselling mechanisms are established by law, are in conformity with international human rights instruments and are accessible to all children and their representative or a third party without fear of reprisal or discrimination;

(e) To ensure that individuals reporting alleged incidents of violence against children are protected against all forms of reprisal;

(f) To require, by law, Internet service providers, mobile telephone companies, search engines, Internet cafes and others to report any case of child pornography to the police, block access to offending websites and keep records, in accordance with the law, and to preserve such material as evidence in their servers for a period of time determined by law for the purpose of investigation and prosecution.

V. Offering effective protection to child victims of violence

20. In order to more effectively protect child victims of violence through the criminal justice process, Member States are urged to take appropriate measures:

(a) To ensure that laws clearly define the roles and responsibilities of government departments and define standards for the actions of other institutions, services and facilities responsible for the detection of violence against children and the care and protection of children;

(b) To ensure that police and other law enforcement agencies have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against children and to take immediate measures to ensure the safety of children;

(c) To ensure that police, prosecutors, judges and other criminal justice professionals respond promptly to incidents of violence against children and that relevant cases are managed expeditiously and efficiently;

(d) To ensure that protocols are developed and implemented among relevant services on responding with sensitivity to child victims of violence whose physical or psychological integrity remains at serious risk and requires their urgent removal from the dangerous context, and that temporary protection and care are provided in an appropriate place of safety pending a full determination of the best interests of the child;

(e) That the police, courts and other competent authorities have the legal authority to issue and enforce protection and restraining or barring orders in cases of violence against children, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties inside and outside the domicile, as well as to impose penalties for breaches of those orders. Such protective measures should not be dependent on the initiation of a criminal case;
(f) To ensure that a registration system is established for judicial protection and restraining or barring orders, where such orders are permitted by national law, so that police and other criminal justice officials can quickly determine whether such an order is in force;

(g) To ensure that an informal or mediated settlement of cases involving violent offences against children only takes place when it is in the best interests of the child, taking into account any power imbalance and the vulnerability of the child or his or her family in consenting to a settlement, with due regard for any future risk to the safety of the child or other children;

(h) To ensure that child victims of violence receive reparation in order to achieve full redress, reintegration and recovery and to ensure that procedures for obtaining and implementing reparation, including against the State if necessary, are well publicized, readily accessible and child sensitive.

21. Recognizing the fact that, for prosecutions to be effective, it is often necessary for child victims of violence to participate in the criminal justice process, and that in some jurisdictions children can be required or compelled to testify and that these children are vulnerable and in need of special protection, assistance and support in order to prevent further hardship and trauma that may result from their participation in the criminal justice process, Member States are urged:

(a) To ensure the availability for children of special services, physical and mental health care and protection that take account of gender and are appropriate to the age, level of maturity and unique needs of the child in order to prevent further hardship and trauma and promote the physical and psychological recovery and social reintegration of child victims of violence;

(b) To ensure that children who have been subjected to sexual abuse and especially girls who have become pregnant or children living with HIV/AIDS or other sexually transmitted diseases as a result of the abuse, receive appropriate medical advice and counselling and are provided with the requisite physical and mental health care and support;

(c) To ensure that child victims receive assistance from support persons commencing at the initial report and continuing until such services are no longer required;

(d) To ensure that professionals who are responsible for assisting child victims make every effort to coordinate support to avoid excessive interventions and multiple interviews.

VI. Ensuring effective investigation and prosecution of incidents of violence against children

22. In order to effectively investigate and prosecute incidents of violence against children and bring the perpetrators to justice, Member States are urged, within the framework of their national legal systems and taking into account all relevant international human rights instruments:

(a) To ensure that the primary responsibility for initiating investigations and prosecutions lies with the police, the prosecution and other competent authorities
and does not require an official complaint to be filed by the child victim of violence or a parent or guardian of the child;

(b) To adopt and implement policies and programmes aimed at guiding all decisions concerning the prosecution of offences of violence against children and ensure the fairness, integrity and effectiveness of such decisions;

(c) To ensure that the applicable laws, policies, procedures, programmes and practices related to violence against children are consistently and effectively implemented by the criminal justice system and supported by appropriate regulations;

(d) To ensure that child-sensitive investigation procedures are adopted and implemented so as to ensure that violence against children is correctly identified and to help provide evidence for administrative, civil and criminal proceedings;

(e) To develop and implement policies and appropriate responses regarding the investigation and collection of evidence, in particular bodily samples, that take into account the unique needs and perspectives of child victims of violence, respect their dignity and integrity and minimize intrusion into their lives, while abiding by standards for the collection of evidence;

(f) To ensure that the persons investigating alleged incidents of violence against children have the duty, powers and necessary authorization to obtain all the information necessary to the investigation, in accordance with criminal procedure as laid out in national law, and have at their disposal all the necessary budgetary and technical resources for effective investigation;

(g) To ensure that great care is taken to avoid subjecting a child victim of violence to further harm through the process of the investigation, including by inviting and giving due weight to the child’s views and adopting child-sensitive and gender-sensitive investigation and prosecution practices;

(h) To ensure that decisions on the apprehension or arrest, detention and terms of any form of release of an alleged perpetrator of violence against a child take into account the need for the safety of the child and others related to the child through family, socially or otherwise, and that such procedures also prevent further acts of violence.

VII. Enhancing cooperation among various sectors

23. Acknowledging the complementary roles of the criminal justice system, child protection agencies, health, education and social service sectors and in some cases informal justice systems, in creating a protective environment and preventing and responding to incidents of violence against children, Member States are urged:

(a) To ensure effective coordination and cooperation among the criminal justice, child protection, social welfare, health and education sectors in detecting, reporting and responding to violence against children and protecting and assisting child victims;

(b) To establish stronger operational links, particularly in emergency situations, between health and social service agencies, both public and private, and
criminal justice agencies for the purposes of reporting, recording and responding appropriately to acts of violence against children, while protecting the privacy of child victims of violence;

(c) To establish stronger links between informal justice systems and government justice and child protection institutions;

(d) To develop information systems and inter-agency protocols to facilitate exchange of information and enable cooperation in identifying incidents of violence against children, responding to them, protecting child victims of violence and holding perpetrators accountable, in accordance with national laws on data protection;

(e) To ensure that violent acts against children, when suspected by the health and social services or child protection agencies, are promptly reported to the police and other law enforcement agencies;

(f) To promote the establishment of specialized units specifically trained to deal with the complexities and sensitivities of child victims of violence, where victims can receive comprehensive assistance, protection and intervention services, including health and social services, legal aid and police assistance and protection;

(g) To ensure that adequate medical, psychological, social and legal services sensitive to the needs of child victims of violence are in place to enhance the criminal justice management of cases involving violence against children, to encourage the development of specialized health services, including comprehensive, free and confidential forensic examinations by trained health providers and appropriate treatment, including HIV-specific treatment, and to facilitate and support inter-agency referrals of child victims for services.

VIII. Improving criminal proceedings in matters involving child victims of violence

24. With respect to criminal proceedings in matters involving child victims of violence, Member States are urged:

(a) To ensure that comprehensive services are provided and protection measures are taken to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process, without prejudice to the ability or willingness of the victim to participate in an investigation or prosecution, and to protect them from intimidation and retaliation;

(b) To ensure that age is not a barrier to a child’s right to participate fully in the justice process. Every child should be treated as a capable witness and his or her testimony should not be presumed invalid or untrustworthy by reason of the child’s age alone, as long as his or her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance;

(c) To ensure that child victims of violence cannot be required to testify in the justice process without the knowledge of their parents or guardian, that a child’s refusal to testify does not constitute a criminal or other offence and that child victims of violence are able to testify in criminal proceedings through adequate measures and child friendly practices that facilitate such testimony by protecting the
privacy, identity and dignity of the child, ensuring the safety of the child before, during and after legal proceedings, and avoiding secondary victimization while respecting the need and right of the child to be heard;

(d) To ensure that child victims of violence, their parents or guardians and legal representatives, from the first contact with the justice system and throughout the judicial proceedings, are promptly and adequately informed, to the extent feasible and appropriate, of, inter alia, the rights of the child, the relevant procedures, available legal aid and the progress and disposition of the specific case;

(e) To ensure that the child victim’s parents or guardian are invited to accompany the child except in the following circumstances, as dictated by the best interests of the child:

(i) The parent(s) or the guardian are the alleged perpetrator(s) of the offence committed against the child;

(ii) The child expresses a concern about being accompanied by his or her parent(s) or guardian;

(iii) The court deems that it is not in the best interests of the child to be accompanied by his or her parent(s) or guardian;

(f) To ensure that proceedings relevant to the testimony of the child are conducted in a language that is simple and comprehensible to the child and that interpretation into a language that the child understands is made available;

(g) To protect the privacy of child victims of violence as a matter of primary importance, to protect them from undue exposure to the public, for example by excluding the public and the media from the courtroom during the child’s testimony, and to protect information relating to a child’s involvement in the justice process by maintaining confidentiality and restricting disclosure of information that may lead to identification of the child;

(h) To ensure that trials take place as soon as possible, unless delays are in the child’s best interest, for example by adopting procedures, laws or court rules that provide for cases involving child victims to be expedited;

(i) To provide for the use of child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated within the same location, modified court environments that take child witnesses into consideration, recesses during a child’s testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure the child goes to court only when necessary and other appropriate measures to facilitate the child’s testimony;

(j) To ensure that, where child victims of violence may be the subject of intimidation, threats or harm, appropriate conditions are put in place to ensure their safety and that protective measures are taken, such as:

(i) Preventing direct contact between a child victim and the accused at any point during the criminal justice process;

(ii) Requesting restraining orders from a competent court, supported by a registry system;
(iii) Requesting a pre-trial detention order for the accused from a competent court, with “no contact” bail conditions;
(iv) Requesting an order from a competent court to place the accused under house arrest if necessary;
(v) Requesting protection for a child victim by the police or other relevant agencies and safeguarding the whereabouts of the child from disclosure.

25. Recognizing the serious nature of violence against children and taking into account the severity of the physical and psychological harm caused to the child victim, Member States are urged to ensure, when informal justice systems are resorted to, that violence against children is appropriately denounced and deterred, that perpetrators of violence against children are held accountable for their actions and that redress, support and compensation for the child victim is provided.

26. Recognizing that measures to protect and assist child victims of violence must continue after the person accused of that violence has been convicted and sentenced, Member States are urged:
   (a) To ensure the right of a child victim of violence, or his or her parents or guardian, to be notified of the offender’s release from detention or imprisonment if they so wish;
   (b) To develop, implement and evaluate treatment and reintegration and rehabilitation programmes for adults convicted of violence against children that prioritize the safety of victims and the prevention of recidivism;
   (c) To ensure that judicial and correctional authorities, as appropriate, monitor compliance by perpetrators with any treatment or other court order;
   (d) To ensure that the risk to a child victim of violence and the best interest of that child are considered at the time of making decisions concerning the release of the offender from detention or imprisonment or re-entry into society.

IX. Ensuring that sentencing policies and practices reflect the serious nature of violence against children

27. Recognizing the serious nature of violence against children and the fact that the perpetrators of that violence may also be children, Member States are urged:
   (a) To ensure that offences involving violence against children are, by law, punishable by appropriate penalties that take into account their grave nature;
   (b) To ensure that national laws take into account specific factors which may, in accordance with national criminal law and criminal procedural law, aggravate a crime, including, for example, the age of the victim, repeated violent acts, abuse of a position of trust or authority and perpetration of violence against a child in a close relationship with the offender;
   (c) To ensure that people who commit acts of violence against children while under the influence of alcohol, drugs or other substances are not exempt from criminal responsibility;
(d) To ensure that individuals can be prohibited or restrained by a court order or other means, within the framework of the national legal systems, from harassing, intimidating or threatening children;

(e) To ensure that safety risks, including the vulnerability of victims, are taken into account in decisions concerning non-custodial sentences, bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders;

(f) To make available to the courts, through legislation, a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence, and to rehabilitate the perpetrator, as appropriate;

(g) To review and update sentencing policies and procedures to ensure that the decisions made by the courts in cases involving violent offences against children:

(i) Denounce and deter violence against children;

(ii) Hold offenders accountable, with due regard to their age and level of development, for their acts involving violence against children;

(iii) Promote victim and community safety, including by separating the offender from the victim and, if necessary, from society;

(iv) Allow for the severity of the physical and psychological harm caused to the victim to be taken into consideration, including through the review of victim impact statements;

(v) Take into account the impact on victims and, if affected, their family members, of sentences imposed on perpetrators;

(vi) Provide reparations for harm caused as a result of the violence;

(vii) Promote the rehabilitation of the perpetrator, including by promoting a sense of responsibility in offenders and, where appropriate, reintegrating perpetrators into the community.

X. Strengthening capacity and training of criminal justice professionals

28. Recognizing the responsibility of criminal justice professionals to prevent and respond to violence against children and to protect child victims of violence, as well as the need to facilitate and support this role, Member States are urged:

(a) To take measures and allocate adequate resources to develop the capacity of professionals within the criminal justice system to actively prevent violence against children and to protect and assist child victims of violence;

(b) To enable close cooperation, coordination and collaboration between criminal justice officials and other relevant professionals, especially those from the child protection, social welfare, health and education sectors;

(c) To design and implement child-rights training within police forces and prosecution services that includes information on appropriate ways to deal with all
children, particularly those from marginalized groups and those likely to be subject to discrimination, and to educate police and prosecutors about the stages of child development, the process of identity development, the dynamics and nature of violence against children, the difference between regular peer groups and gangs, and the appropriate management of children who are under the influence of alcohol or drugs;

(d) To design and deliver guidance, information and training to informal justice system actors in order to ensure that their practices, legal interpretation and decisions comply with international human rights standards and effectively protect children against all forms of violence;

(e) To design and implement mandatory cross-cultural, gender and child-sensitivity training modules for criminal justice professionals on the unacceptability of all forms of violence against children and on the harmful impact and consequences on all those who experience such violence;

(f) To ensure that criminal justice professionals receive adequate training and continuing education on all relevant national laws, policies and programmes, as well as international legal instruments;

(g) To promote the development and use of specialized expertise among the police, prosecutors and judges and in other criminal justice agencies, including through the establishment, where possible, of specialized units or personnel and specialized courts or dedicated court time, and to ensure that all police officers, prosecutors, judges and other criminal justice professionals receive regular and institutionalized training to sensitize them to gender- and child-related issues and to build their capacity with regard to responding to violence against children;

(h) To ensure that criminal justice officials and other relevant authorities, are adequately trained, in their respective areas of competence:

(i) To identify and respond appropriately to the specific needs of child victims of violence;

(ii) To receive and treat all child victims of violence respectfully with a view to preventing secondary victimization;

(iii) To handle complaints confidentially;

(iv) To conduct effective investigations of alleged incidents of violence against children;

(v) To interact with child victims in an age-appropriate and child- and gender-sensitive manner;

(vi) To conduct safety assessments and implement risk management measures;

(vii) To enforce protection orders;

(i) To support the development of codes of conduct for criminal justice professionals that prohibit violence against children, including safe complaint and referral procedures, and to encourage relevant professional associations to develop enforceable standards of practice and behaviour.
Part three

Preventing and responding to violence against children within the justice system

XI. Limiting the involvement of children in the justice system

29. Recognizing the importance of avoiding the unnecessary criminalization and penalization of children, Member States are urged:

(a) Not to set the minimum age of criminal responsibility at too low an age, taking into account the emotional, mental and intellectual maturity of children and recognizing that, below a minimum age, children shall be presumed not to have the capacity to infringe the criminal law;

(b) To increase the lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, to continue to increase it to a higher level and to ensure that the responses envisaged and implemented for children under the established age are in strict conformity with the rights of the child as recognized by internal human rights law, with special attention to the right to be free from violence;

(c) To ensure that any conduct not considered a criminal offence or not penalized if committed by an adult is also not considered a criminal offence and not penalized if committed by a child, in order to prevent the child’s stigmatization, victimization and criminalization.

30. Recognizing that an important and highly effective way of reducing the number of children in the justice system is through diversion mechanisms, restorative justice programmes and the use of non-coercive treatment and education programmes as alternative measures to judicial proceedings, as well as the provision of support for families, Member States are urged:

(a) To ensure that diversion to community-based programmes is given due consideration and practised whenever possible and to provide police and other law enforcement officers, prosecutors and judges with options for diverting children away from the justice system, including warning, probation, judicial supervision and community work, to be applied in combination with restorative justice processes;

(b) To foster close cooperation among the justice, child protection, social welfare, health and education sectors, so as to promote the use and enhanced application of alternative measures to judicial proceedings and to detention;

(c) To implement restorative justice programmes for children as alternative measures to judicial proceedings;

(d) To ensure the use of non-coercive treatment, education and assistance programmes as alternative measures to judicial proceedings and the development of alternative non-custodial interventions and effective social reintegration programmes.
XII. Preventing violence associated with law enforcement and prosecution activities

31. Mindful of the fact that police and other security forces can sometimes be responsible for acts of violence against children, Member States are urged:

(a) To prevent violence occurring as a result of law enforcement activities such as crowd control and dispersal and to ensure that law enforcement officials avoid the use of force for the dispersal of assemblies that are unlawful but non-violent;

(b) To prevent abuse of power, arbitrary detention, corruption and extortion by police officers targeting children and their families.

32. Mindful of the fact that arrests and investigations are situations where violence against children can occur, Member States are urged:

(a) To ensure that all arrests are conducted in conformity with the law, to limit the apprehension, arrest and detention of children to situations where these measures are necessary, as a last resort, and to promote and implement alternatives to arrest and detention, including summonses and notices to appear, in cases involving children as alleged perpetrators;

(b) To implement the principle that apprehension or arrest of children must be conducted in a respectful manner that promotes well-being and does not cause harm;

(c) To adopt policies and regulations on the use of force and firearms by law enforcement officials, particularly when children are involved, and prohibit the use of firearms, electric shock weapons and violent methods to apprehend and arrest children and to adopt measures and procedures that carefully limit and guide the use of force and instruments of restraint by the police while apprehending or arresting children;

(d) To require, ensure and monitor police compliance with the obligation to notify parents or caregivers immediately following the apprehension or arrest of a child;

(e) To ensure the presence of a parent, guardian or responsible adult during any interview or interrogation procedure involving a child, and that children may consult freely and in full confidentiality with parents, guardians and legal representatives before being interviewed;

(f) To ensure that children have prompt access to legal aid during police interrogation and while in police detention;

(g) To review, evaluate and update national laws, policies, codes, procedures, programmes and practices to implement policies and strict procedures for searching children with respect to their privacy and dignity, for taking intimate and non-intimate samples from child suspects, and for assessing the age and gender of a child;

(h) To effectively prohibit the use of all forms of violence, including intimidation and threats of violence, strip searches, sleep deprivation and other coercive interrogation methods, in order to obtain information, extract confessions,
coerce a child into acting as an informant or agent for the police, or engage the child in activities against his or her will;

(i) To implement measures to specifically prevent violence related to unlawful practices by the police, including arbitrary arrests and detention and extrajudicial punishment of children for unlawful or unwanted behaviours;

(j) To establish accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation or while in police custody;

(k) To ensure that alleged incidents of violence against children during their contact with the police are independently and promptly investigated and that those alleged to have been implicated in violence against children are removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation;

(l) To take measures to address the risk of violence and protect children during their transport to a court, hospital or other facility, including the risk of violence while being held in court holding cells together with adults.

XIII. Ensuring that deprivation of liberty is only used as a measure of last resort

33. Recognizing that limiting the use of detention as a sentence and encouraging the use of alternatives to detention can help reduce the risk of violence against children within the justice system, Member States are urged:

(a) To deprive children of their liberty only as a measure of last resort and for the shortest period of time possible and to ensure that all sentences imposed on children are determinate and periodically reviewed in order to allow for early release, and that children are not subject to mandatory minimum sentences;

(b) To ensure that children have continued access to government-funded legal aid during all stages of the justice process;

(c) To ensure that children can enforce their right to appeal a sentence and obtain the necessary legal aid to do so;

(d) To promote and implement alternative, community-based and non-custodial measures;

(e) To provide for the possibility of early release and make available aftercare and social reintegration programmes and services;

(f) To facilitate the professional specialization or, at least, specialized training for judges and prosecutors dealing with children alleged as, accused of or recognized as having infringed the law.

XIV. Prohibiting violent, arbitrary or inhumane punishment

34. Recognizing that no child should be subjected to cruel, inhuman or degrading treatment or punishment, Member States are urged:
(a) To review, evaluate and update their national laws to effectively prohibit sentences involving whipping, flogging, caning and other forms of corporal punishment for crimes committed by children;

(b) To review, evaluate and update their national laws to ensure that, under legislation and practice, neither capital punishment nor life imprisonment is imposed for offences committed by persons when they were under 18 years of age.

XV. Preventing and responding to violence against children in places of detention

35. Recognizing that the majority of children deprived of their liberty are in police custody or pre-trial or preventive detention and that those children are often at higher risk of violence, Member States are urged:

(a) To ensure that children in police custody or pre-trial or preventive detention can promptly appear before a court or tribunal to challenge that detention and that they have an opportunity to be heard either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law, in order to obtain a prompt decision on any such action;

(b) To reduce delays in the justice process, expedite trials and other proceedings involving children alleged as, accused of or recognized as having infringed the penal law, and avoid the resulting prolonged or arbitrary detention of children while they await trial or the conclusion of a police investigation;

(c) To ensure the effective oversight and independent monitoring of all cases of police custody or pre-trial or preventive detention of children.

36. Recognizing that, when children must be detained, the conditions of detention themselves can be conducive to various forms of violence against children, Member States are urged:

(a) To ensure that all detention facilities have adopted and implemented child-sensitive policies, procedures and practices, and monitor compliance with them;

(b) To establish a maximum capacity for all places of detention and take concrete and sustained measures to address and reduce overcrowding in such institutions;

(c) To ensure that, in all places of detention, children are separated from adults and girls are separated from boys;

(d) To promote good practices in relation to the protection and safety of children living in custody with an incarcerated parent, including notably consultation with the parents to determine their wishes regarding their child’s care during the period of custody and the provision of special mother-and-child units or, where parents are detained for violation of immigration laws, separate family units;

(e) To facilitate the assessment and classification of children held in detention facilities in order to identify and protect vulnerable children, individualize treatment and other interventions, address gender specific needs and ensure that
there is a sufficient array of facilities to accommodate and adequately protect children of different ages or with differing needs;

(f) To ensure that treatment and support is offered to detained children with special needs, including treatment for mental illness, disabilities, HIV/AIDS and drug addiction, and to address the needs of children at risk of committing suicide or other forms of self-harm;

(g) To promote gender-sensitive interventions and management practices;

(h) To review, update and improve safety and security policies and practices within places of detention to reflect the obligation of the authorities to ensure the safety of children and protect them against all forms of violence, including violence among children;

(i) To prevent all forms of discrimination, ostracism or stigmatization against any detained child, irrespective of his or her race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status, including discrimination based on prejudices towards sexually exploited children, children with disabilities and children living with HIV/AIDS;

(j) To take strict measures to ensure that all alleged incidents of violence, including sexual abuse against children in a place of detention, are immediately reported and independently investigated and, when well-founded, effectively prosecuted.

37. Recognizing also that it is imperative to minimize the risk of violence against children in detention, Member States are urged:

(a) To ensure that children in detention are aware of their rights and can access the mechanisms in place to protect those rights, including access to legal aid;

(b) To prohibit the use of isolation, disciplinary segregation or solitary confinement of children during their detention;

(c) To adopt and implement strict policies guiding the use of force and physical restraints on children during their detention;

(d) To adopt policies prohibiting the carrying and use of weapons by personnel in any facility where children are detained;

(e) To prohibit any form of violence against children in the guise of treatment (e.g., pharmaceutical, electroconvulsive treatment and electric shocks used as “aversion treatment”);

(f) To prohibit and effectively prevent the use of corporal punishment as a disciplinary measure, to adopt clear and transparent disciplinary policies and procedures that encourage the use of positive and educational forms of discipline, and to establish in law the duty of managers and personnel of detention facilities to record, review and monitor every instance where disciplinary measures or punishment are used;

(g) To prohibit any form of violence or threats of violence against children by staff in order to force children to engage in activities against their will;
(h) To ensure the effective supervision and protection of children, as necessary, from violence by other children and adults, including measures to prevent physical bullying and hazing by adults and by other children, and from self-harm;

(i) To prevent violence associated with youth gang activities and racist harassment and violence within places of detention;

(j) To encourage and facilitate, wherever possible and in the best interests of the child, frequent family visits and regular contacts and communication between children and their family, as well as with the outside world, and ensure that disciplinary sanctions for detained children do not include a prohibition of contact with family members;

(k) To prevent violence and abuse against children suffering from mental illness or drug addiction, including measures to protect them from self-harm.

38. Recognizing the importance of preventing violence against children through appropriate staff recruitment, selection, training and supervision, Member States are urged:

(a) To ensure that all personnel working with children in places of detention are qualified, selected on the basis of professional capacity, integrity, ability and personal suitability, sufficiently remunerated, adequately trained and effectively supervised;

(b) To ensure that any person who has been convicted of a criminal offence against a child is not eligible to work in an agency or organization providing services to children and to require agencies and organizations providing services to children to prevent persons who have been convicted of a criminal offence against a child to come into contact with children;

(c) To train all personnel and make them aware of their responsibility to identify early signs of risks of violence and mitigate that risk, to report incidents of violence against children, and to actively protect children against violence in an ethical and child- and gender-sensitive manner.

39. Taking into account the distinctive needs of girls and their vulnerability to gender-based violence, Member States are urged:

(a) To reduce the risk of harassment and violence against girls based on their sexual orientation and gender identity;

(b) To ensure that the gender-based vulnerability of girl offenders is taken into account in decision-making processes;

(c) To ensure that the dignity of girls is respected and protected during personal searches, which shall only be carried out by female staff who have been properly trained in appropriate searching methods and in accordance with established procedures;

(d) To implement alternative screening methods, such as scans, to replace strip searches and invasive body searches in order to avoid the harmful psychological and possible physical impact of such searches;
(e) To adopt and implement clear policies and regulations on the conduct of staff aimed at providing maximum protection for girls deprived of their liberty from any gender-based physical or verbal violence, abuse and sexual harassment.

40. Recognizing the crucial importance of independent monitoring and inspection mechanisms, Members States are urged:

(a) To ensure effective monitoring and regular access to, and inspection of, places of detention and community-based institutions by independent bodies, ombudspersons or members of the judiciary, who are empowered to conduct unannounced visits, conduct interviews with children and staff in private and investigate allegations of violence;

(b) To ensure that national monitoring mechanisms cooperate with international agencies that are legally entitled to visit institutions in which children are deprived of their liberty;

(c) To ensure that all injuries and deaths of children in detention facilities are reported and investigated promptly by an independent monitoring body and that the child’s parents, guardian or closest relatives are informed.

XVI. Detecting, assisting and protecting children who are victims of violence as a result of their involvement with the justice system as alleged or sentenced offenders

41. Given the crucial importance of providing children who report abuse and incidents of violence within the justice system with immediate protection, support and counselling, Member States are urged:

(a) To establish complaint mechanisms for child victims of violence within the justice system that are safe, confidential, effective and easily accessible;

(b) To ensure that children receive clear information, in particular when they first arrive in a place of detention, both orally and in writing, about their rights and relevant procedures, how they can exercise their right to be heard and listened to, effective remedies to address incidents of violence and available services for assistance and support, as well as information for seeking compensation for damages, and that such information is age and culturally appropriate and child- and gender-sensitive;

(c) To protect children who report an abuse, specifically taking into account the risks of retaliation, including removing those allegedly implicated in violence or ill-treatment against children from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation;

(d) To take effective measures to protect children who provide information or act as witnesses in proceedings related to a case of violence within the justice system;

(e) To provide access to fair, prompt and equitable redress mechanisms and accessible procedures for seeking and obtaining compensation for child victims of
violence in the justice system and to ensure that victim compensation schemes are adequately funded.

42. Recognizing the importance of detecting and responding to all incidents of violence against children as a result of their involvement with the justice system as alleged or sentenced offenders, Member States are urged:

   (a) To ensure that standards establishing obligations to report violence against children in the justice system respect children’s rights and are incorporated into the relevant regulations of agencies and rules of conduct, and that all those working with children have clear guidance on reporting requirements and consequences;

   (b) To implement whistle-blower protection measures for staff who report alleged incidents of violence and adopt rules and procedures that protect the identity of professionals and private individuals who bring cases of violence against children to the attention of the competent authorities;

   (c) To ensure effective and independent investigation of all alleged incidents of violence against children involved with the justice system, as alleged or convicted offenders, by competent and independent authorities including medical personnel, with full respect for the principle of confidentiality.

XVII. Strengthening accountability and oversight mechanisms

43. Member States are urged to take all appropriate measures to combat impunity and the tolerance of violence against children within the justice system, including awareness-raising programmes, education and effective prosecution of violent offences committed against children within the justice system.

44. Member States are encouraged to ensure that there is a clear and sustained commitment and obligation at the managerial level in all justice institutions to prevent and address violence against children, including in a child-and gender-sensitive manner.

45. Member States are also urged:

   (a) To promote accountability for incidents of violence against children in the justice system;

   (b) To establish internal and external accountability mechanisms in policing and in places of detention;

   (c) To establish all key elements of an effective accountability system, including independent oversight, monitoring and complaint mechanisms for agencies dealing with children;

   (d) To ensure the timely and effective investigation and prosecution of offences involving violence against children within the justice system;

   (e) To ensure that all public officials who are found to be responsible for violence against children are held accountable through workplace disciplinary measures, termination of employment and criminal justice investigations where appropriate;
(f) To promote transparency and public accountability regarding all measures taken to hold accountable perpetrators of violence and those who are responsible for preventing such violence;

(g) To undertake public investigations into all serious reports of violence against children at any stage of the justice process and to ensure that such investigations are carried out by persons of integrity, adequately funded and completed without delay;

(h) To adopt and implement effective measures to enhance integrity and prevent corruption within the justice system.