



Monitoring violence against children in criminal justice detention: A compendium of international standards and practices



Acknowledgements

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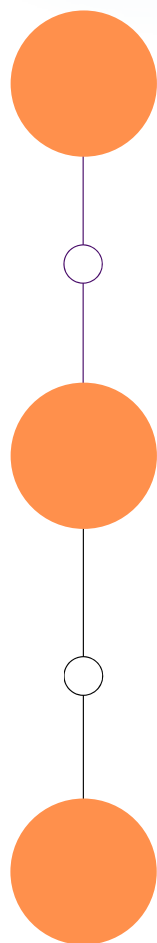


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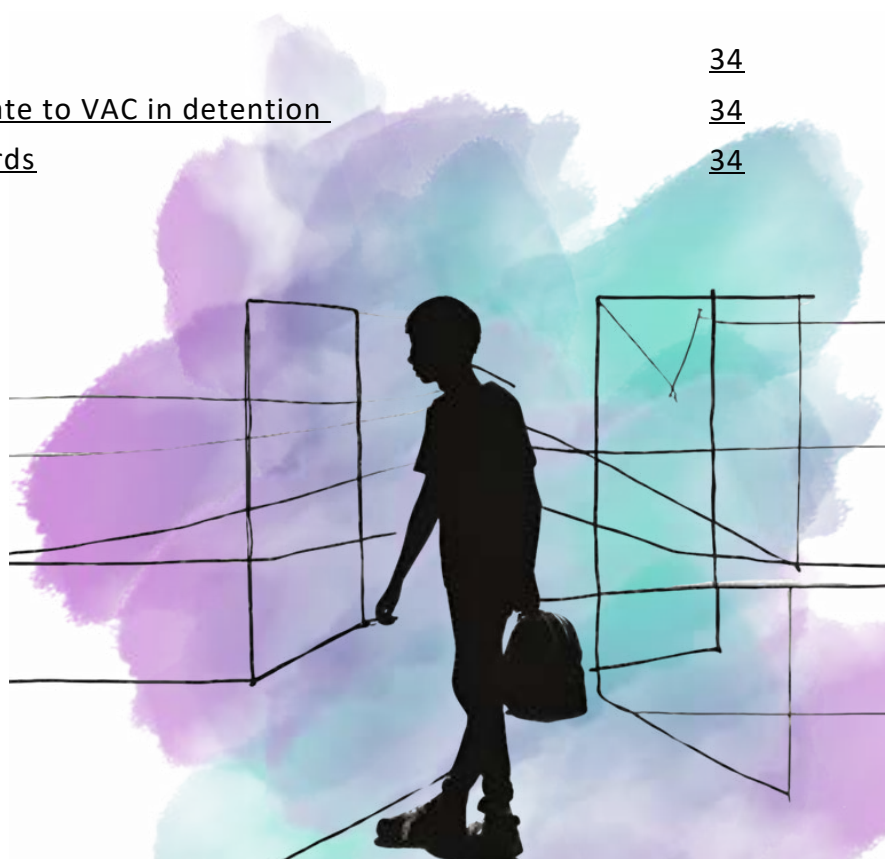


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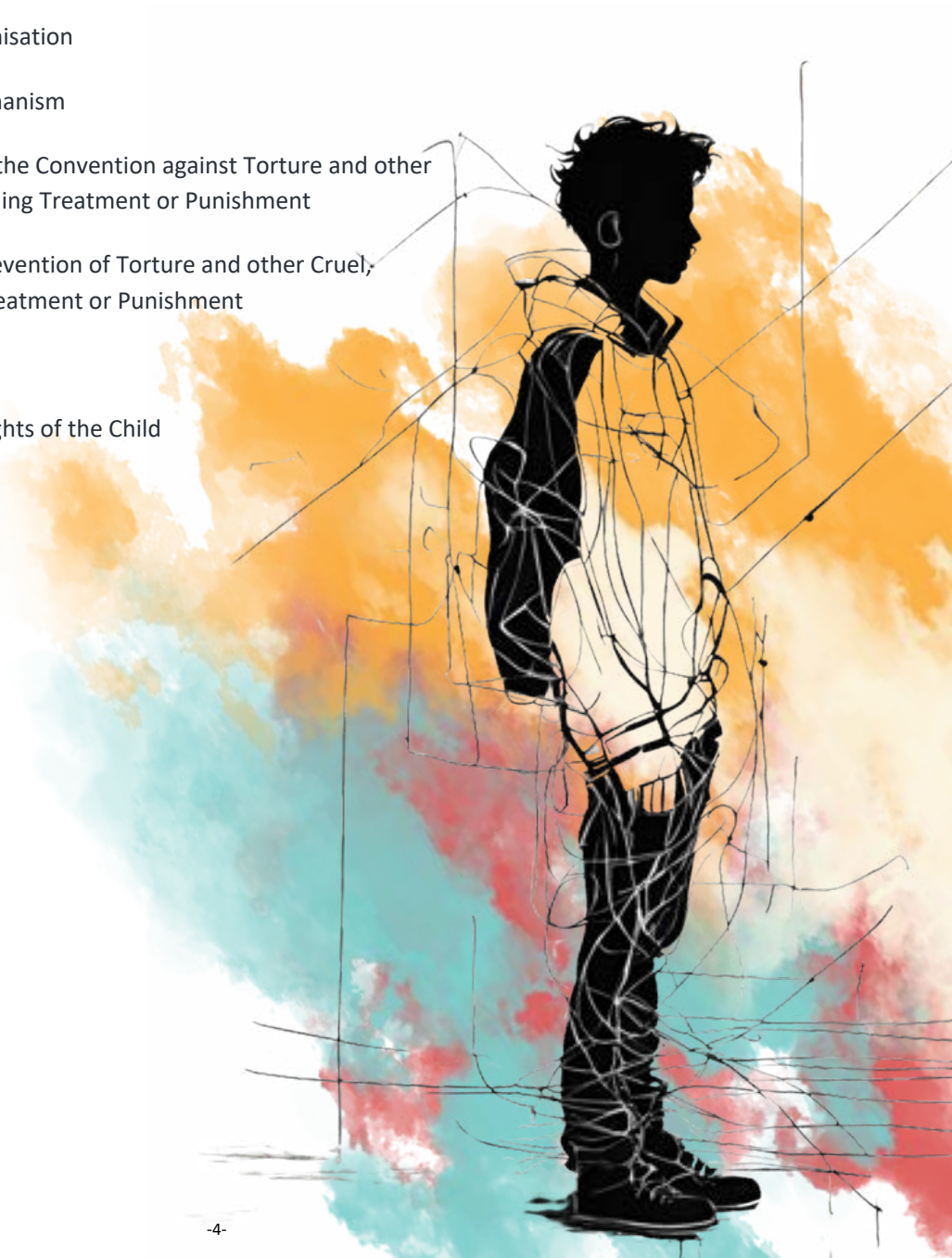


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Acronyms

CoE	Council of Europe
CoM	The Committee of the Ministers to the Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	UN Committee on the Rights of the Child
ECHR	The European Convention on Human Rights
ECtHR	The European Court of Human Rights
EU	European Union
EPR	European Prison Rules
NGO	Non-Governmental Organisation
NPM	National Preventive Mechanism
OPCAT	The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
SPT	The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
UN	United Nations
UNCRC	UN Convention on the Rights of the Child
VAC	Violence against children



Introduction

This compendium was prepared as part of the [Data for Monitoring the Safety of Imprisoned Children \(Data MOSAIC\) project](#) which aims to improve data collection practices that aim to tackle violence against children (VAC) in child detention facilities in Ireland, Bulgaria, Romania and ultimately across Europe. The purpose of this document is to compile relevant international standards and promising practices adopted in the region on protecting children against all forms of violence in detention settings through data collection, monitoring and/or reporting. It is designed to be an easy-to-read resource for various stakeholders, including criminal justice authorities, lawyers, NGOs and other practitioners in the field. Focusing on the United Nations (UN), Council of Europe (CoE) and European Union (EU) systems, the compendium provides a comprehensive selection of the relevant legislative framework, as well as promising practices applied at the national level across the EU. It includes provisions and standards set by legally binding instruments such as Conventions and Treaties as well as guiding or standard-setting documents and reports drafted by human rights mechanisms and initiatives at the international (Section 1) and European (Section 2) levels.

The compendium sets out the most important standards, recommendations and promising practices for protecting children against all forms of violence in detention settings through data collection and monitoring. It includes provisions and standards for safeguarding children from violence in any setting, which also apply in detention, as well as those explicitly focusing on safeguarding children in detention facilities. Given the increased risk of violence in closed settings, [2] standards and measures that minimise the number of children who would spend time in a detention facility are considered preventive measures for VAC.

The documents are listed according to the publishing authority and publication year. In light of the focus on child protection, human rights

documents related to all persons are briefly summarised within the context, and child-specific documents and relevant clauses are listed in detail. Promising practices from countries across the EU have been compiled through inputs of child safeguarding experts and state officials from 25 member states as part of an EU-wide mapping research on the current data collection and monitoring practices on VAC in detention. [3] They are presented throughout the report with the aim of providing practical examples of approaches that can be utilised, enhanced and replicated by other countries in their efforts to improve data collection and monitoring practices within their child justice systems. Due to limitations of the research the list is not intended to be exhaustive.

2 Special Representative of the Secretary General on Violence Against Children, *Prevention of and responses to violence against children within the justice system*, 2012, p.11.

3 Silvia Randazzo for PRI, 2023, pending publication.



On terminology

Within the scope of this study, detention refers to deprivation of liberty on remand or in relation to the lawful execution of a prison sentence for being in conflict with the law. It does not include standards that are specific to police custody or removal centres. The term child is used to refer to any person under the age of 18. In line with [Article 19 of the UN Convention on the Rights of the Child](#), jurisprudence of the [UN Committee on the Rights of the Child](#), and UNICEF's [International Classification of Violence against Children](#), **violence against children (VAC)** is understood as the following:

VAC is any intentional act that is not agreed upon by a child or groups of children or who is/are not in a position to refuse or agree, and that does not serve a legitimate function, resulting or with a high likelihood of resulting in death, injury or other forms of physical or psychological suffering.

Frequency, severity of the act or the intention of the perpetrator are not prerequisites in defining an act as violent; failure to protect children from harm, including through lack of supervision or emotional support, is considered neglect and a form of violence.

Physical violence refers to any physical act falling within the definition of VAC that may result in injury, physical or psychological harm. It includes corporal punishment and other forms of torture, cruel or degrading treatment, physical forms of bullying, and various acts like hitting, smacking, or pushing.

Psychological violence includes all forms of psychological maltreatment, mental, verbal and non-verbal or emotional abuse, including placement in solitary confinement, isolation or humiliating or degrading conditions while in detention; scaring; threatening; favouritism; conveying feelings of worthlessness or endangerment; neglecting mental, medical health and educational needs; or harming the development of the child.

Sexual Violence refers to either a completed or attempted sexual act against a child that falls within the definition of VAC.

Economic violence, within the context of this study, is understood as forcing children, directly or indirectly, to work whilst in detention. Safeguards against economic violence include the prohibition of mandatory work or provision of economic support, adequate clothing and food.

Institutional violence refers to failures of authorities to protect the rights of children under their care, as a result of their acts or omissions. Within the scope of this study, it includes failure in the duty of care resulting in physical or psychological harm. This includes the lack of sufficient measures to assess, monitor and evaluate activities to prevent violence against children and the neglect of children's best interests and developmental goals, ultimately leading to various forms of harm or violence.

Peer-to-peer violence refers to all forms of violence among children, either on an individual basis or among groups of children, including bullying.

Self-harm refers to harmful acts inflicted by a child towards themselves. It includes eating disorders, substance use and abuse, self-inflicted injuries, suicidal thoughts, attempts and actual suicide.

Other/ external refers to any person outside those previously listed, including families, lawyers, and detained adults where children are held with adults.

1. International framework

a. International standards as they relate to VAC in detention

Several human rights instruments and treaties developed within the UN framework provide for the protection of all persons, including children, in relation to criminal procedures and the execution of sentences. States that have ratified international conventions, treaties and other instruments have agreed to be bound by their provisions, and claims of infringement can be brought before their courts.

The [Universal Declaration of Human Rights](#) recognises the prohibition of discrimination (Article 2), protection against torture, cruel, inhuman and degrading treatment or punishment (Article 5), protection against arbitrary arrest and detention (Article 9), the right to procedural safeguards and the right to an effective remedy (Article 8), right to a fair trial (Article 10), presumption of innocence (Article 11) for all persons, including children.

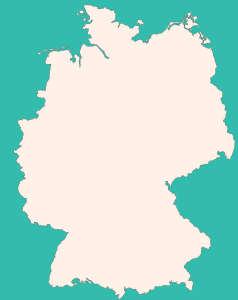
These rights are also protected by the [International Covenant on Civil and Political Rights](#), which introduces state responsibility to consider the special needs of children in contact with the law and to:

- separate accused children and children in detention from adults (Article 10),
- consider the best interest of the child and privacy during judicial proceedings (Article 14),
- protect every child as required by their status as a minor (Article 24).

The [UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) prohibits the intentional infliction of severe pain or suffering (excluding those inherent to the imposition of lawful sanctions) that causes mental or physical harm against a person for, among others, punishment purposes by any person acting in an official capacity. [4][5] In this regard, this Convention requires States to:

Promising practices:

Germany



*Guided by its Youth Courts Act (JGG), Germany recognises the importance of treating juvenile offenders differently from adults. The focus is on educational measures and rehabilitation, ensuring the best interests of the child. A significant development in this legal landscape occurred with the Ruling of the Federal Constitutional Court on the unconstitutionality of the Juvenile Penal System on May 31, 2006 (BVerfG 2 BvR 1673/04). According to this ruling, **efforts are to be directed towards countering the detrimental effects of deprivation of liberty.** The emphasis is on creating "forms of accommodation and care that enable social learning in the community, while also safeguarding detainees from mutual violence." The principles outlined in this ruling have been incorporated into the Penal Codes. Moreover, the ruling underscores the need for a system that continually evolves based on empirical findings.*

4 "act that causes severe pain or suffering, whether physical or mental, that is intentionally inflicted on a person by a public official or a person acting in an official capacity" for such purposes, including "punishing them for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them based on discrimination of any kind". The scope of state responsibility includes the prevention of acts that do not amount to torture if they fall into this description. UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1984, Article 1, 2 and 16.

5 *Id.*, Article 16.

- take “effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”, [6] including recognising torture as a criminal offence, [7]
- ensure prompt and impartial investigation by competent authorities whenever “there is reasonable ground to believe that an act of torture has occurred” [8] or when any individual alleges being subjected to torture, [9] and
- ensure there are means for redress, adequate compensation and full rehabilitation [10] and “education and information regarding the prohibition against torture are fully included in the training of persons who may be involved in the treatment” of any individual subjected to any form of arrest, detention or imprisonment. [11]

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- 6 *Id.*, Article 2.
 - 7 *Id.*, Article 4.
 - 8 *Id.*, Article 12.
 - 9 *Id.*, Article 13.
 - 10 *Id.*, Article 14.
 - 11 *Id.*, Article 10.

Promising practices: *Italy*



In Italy the role of the NPM, the Guarantor of the Rights of Persons Deprived of Personal Liberty, established in 2014, is key in the monitoring, inspecting, mediating, and promoting protection of all persons deprived of their liberty, including children. The Guarantor has a complex structure, including local Guarantors (regional, provincial, and municipal), enhancing intervention and monitoring effectiveness.

They provide independent oversight, ensuring protection for detainees and facilitating communication with external entities, and providing regular publicly available reports.

The organisation Antigone conducts observation through volunteers in adult and children detention facilities. Reports are published regularly, every two years on juvenile institutions. In 2023, the first report on women in Italian detention was published. The monitoring of detention facilities is conducted by an Observatory comprised of volunteers authorised by the Ministry of Justice to conduct visits within the institutions and report their findings through reports freely available on the association's website. Since March 2008, this activity has been expanded to include correctional facilities and reception centres for minors and young adults. In 2017, a dedicated website for information and analysis on the topic of juvenile criminal justice was launched. In addition, Antigone staff is authorised to bring cameras inside juvenile facilities, unlike into adult penal institutions, for capturing footage and conducting interviews with some of the young individuals. The association also has a civic defence office that receives support requests directly from individuals in detention and their families. This activity is open to reports concerning children in criminal detention.



The [Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#) (OPCAT) establishes both an international and a national framework for monitoring places of detention – the Subcommittee on Prevention of Torture (SPT) and National Preventive Mechanisms (NPMs) – based on the idea that regular, independent visits are an important safeguard against abuses, and prevent torture and ill-treatment in closed settings, including child detention facilities.

Composed of 122 rules, [The Standard Minimum Rules for the Treatment of Prisoners](#) (Nelson Mandela Rules), give guidance on all aspects of prison management, from admission and classification to the prohibition of torture, limitation of solitary confinement and training of prison staff. They set out the minimum standards required to ensure that restrictions, discipline measures and sanctions are applied as prescribed by law and with sufficient safeguards to protect the rights of people in prison facilities, including in relation to healthcare, accommodation, personal hygiene, clothing and bedding, and effective complaint mechanisms.

Importantly, the Nelson Mandela Rules require a standardised and confidential prisoner file management system [12], which should be used “to generate reliable data about trends” in the prison population and “create a basis for evidence-based decision making” [13] and “accurate, up-to-date and confidential individual medical files”. [14] The Rules also state that body cavity searches should be avoided and should not be applied to children. [15] Ending all forms of torture and violence against children is also a core element of the [UN Sustainable Development Agenda](#), Goal 16 to promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

b. Child-specific standards

i. UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child, (UNCRC) is the fundamental international document that prohibits all forms of violence against children, requiring States to take all appropriate measures, including in detention settings.

Article 19 of the Convention states that:

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

According to Article 37, States shall ensure that: “(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

12 UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, 2016, Rules 6 and 8.

13 *Id.*, Rule 10.

14 *Id.*, Rule 25.

15 *Id.*, Rule 60.

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (...)"

Promising practices:



Bulgaria

Bulgaria has comprehensive definitions of violence in its legal framework covering physical, mental, economic, and sexual violence, compared to other countries lacking specific and explicit legal provisions addressing violence against children in detention. The Law on Child Protection explicitly articulates a child's right to protection against upbringing methods violating dignity and various forms of violence. The National Statistical Institute supplements this by providing detailed definitions for different manifestations of violence, including physical, mental, economic, sexual violence, domestic violence, and workplace sexual harassment. This holistic approach aims to cover a wide spectrum of potential harms to children.

The Convention also recognises the following rights that protect children from violence and harm in various settings, including detention:

- to consider the best interest of the child in all actions concerning them, including judicial proceedings that they are in conflict with the law, and by all institutions whose work and decisions impact children and the realisation of their rights. In criminal proceedings, this provision means that “the traditional objectives of criminal justice, such as repression or retribution, must give way to rehabilitation and restorative justice objectives” [16]
- to respect the right “to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the best interest of the child”, [17]
- “to assure that children the views of the child being given due weight in accordance with their age and maturity”, particularly in any judicial proceeding affecting them [18] and
- to ensure:
 - the prohibition of discrimination, torture, or other cruel, inhuman or degrading treatment, presumption of innocence,
 - the rights to liberty and protection against arbitrary arrest and detention, including the right to promptly challenge any decision on restricting their liberty to a competent independent and impartial authority, [19]
 - the rights to health, education and to play, leisure and recreational activities are guaranteed, including children in institutions such as detention facilities. [20]

16 UN General Assembly, *Convention on the Rights of the Child*, 1989, Article 3; and UN Committee on the Rights of the Child (CRC), *General comment No. 14 On the right of the child to have his or her best interests taken as a primary consideration (art.3)*, 2013, paras 25-28.

17 UN *Convention on the Rights of the Child*, Article 9.

18 *Id*, Article 12.

19 *Id*, Articles 2 and 37.

20 UN Committee on the Rights of the Child (CRC), *General comment No. 17 On the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art.31)*, 2013, paras 16 and 51.

The Convention establishes the Committee on the Rights of the Child (CRC or Committee) to examine States' implementation of the Convention. [21] [The Optional Protocol to the Convention on the Rights of the Child](#) on a communications procedure, also establishes the right to bring individual applications concerning violation of children's rights under the Convention, including those relevant to VAC in detention, if national mechanisms fail to address the claim effectively.

[CRC General Comment No.2](#) interprets the Convention provisions on State responsibility to establish mechanisms to monitor human rights compliance in detention facilities, including those for children.

"1. Article 4 of the Convention on the Rights of the Child obliges States to "undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention". Independent national human rights institutions (NHRIs) are an important mechanism to promote and ensure the implementation of the Convention, and the Committee on the Rights of the Child considers the establishment of such bodies to fall within the commitment made by States upon ratification to ensure the implementation of the Convention and advance the universal realisation of children's rights. In this regard, the Committee has welcomed the establishment of NHRIs and children's ombudspersons/children's commissioners and similar independent bodies for the promotion and monitoring of the implementation of the Convention in a number of States.

15. NHRIs should be geographically and physically accessible to all children. In the spirit of article 2 of the Convention, they should proactively reach out to all groups of children, in particular the most vulnerable and disadvantaged, such as (but not limited to) children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education.


NHRI legislation should include the right of the institution to have access in conditions of privacy to children in all forms of alternative care and to all institutions that include children.

16. NHRIs have a key role to play in promoting respect for the views of children in all matters affecting them, as articulated in article 12 of the Convention, by Government and throughout society. This general principle should be applied to the establishment, organisation and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. Children's councils, for example, could be created as advisory bodies for NHRIs to facilitate the participation of children in matters of concern to them."

21 UN Convention on the Rights of the Child, Article 43.

Promising practices:

Belgium (Flanders)



*Flanders stands as a promising example for its **multilayered monitoring mechanisms**. The region has different bodies monitoring children in detention centres. Aside from the official governmental body that visits facilities every few years and the Office of the Flemish Children's Rights Commissioner that is authorised to receive complaints from children and start investigations, the Commission for the Monitoring of Youth Care Institutions is responsible for monitoring the rights of children in closed institutions. Each volunteer visits "their" institution on a monthly basis, giving each minor the opportunity to talk about their living situation and file any complaints. The volunteers either proceed with the complaint themselves (for instance, mediate with the staff) or refer to other complaints mechanisms such as the Office of the Flemish Children's Rights Commissioner.*

CRC General Comment No. 13 on Article 19

elaborates on how States should protect children from violence and sets out the fundamental principles for understanding and tackling VAC:

- “No violence against children is justifiable; all violence against children is preventable;

- A child rights-based approach to child caregiving and protection necessitates a shift from viewing children as mere “victims” to recognising and promoting their human dignity, emphasising that every child should be acknowledged, respected, and protected as a rights holder with distinct needs, interests, and privacy.

- Children’s rights to be heard and to have their views given due weight must be respected systematically in all decision-making processes, especially when they are victims of violence, as well as in the development, monitoring and evaluation of all measures of prevention, and their empowerment and participation should be central to child caregiving and protection strategies and programmes;

- Primary prevention, through public health, education, social services and other approaches, of all forms of violence is of paramount importance”; [22]

- “State parties need to establish national standards for child wellbeing, health, and development”, and establish clear legal definitions for various forms of violence to prohibit them universally while promoting international standardisation for easier “data collection and exchange of cross-country experiences”. [23]

- “A broad range of measures cutting across all sectors of government” must be “integrated into sustainable and coordinated government policies” to prevent and respond to all forms of violence effectively. [24]

General Comment No.13 also clarifies the range of interventions required under Article 19(2) to protect children from violence in the detention setting: [25]

- **Prevention:** “Child protection must begin with proactive prevention of all forms of violence (...) as they offer the greatest return in the long term. States have the obligation to adopt all measures

necessary to ensure that adults responsible for the care, guidance and upbringing of children will respect and protect children’s rights.”

- **Identification:** Measures to identify special needs of each child or groups of children, signs or indicators of actual maltreatment are crucial for preventing or intervening in VAC as early as possible. Children should be provided with “as many possibilities as possible to signal emerging problems and particular vigilance must be given for marginalised groups”, especially those who might need alternative methods of communication. Informing all relevant persons who are in contact with them about these assessments is also significantly important.

- **Reporting:** “The Committee strongly recommends that all States develop safe, well-publicised, confidential and accessible support mechanisms for children, their representatives and others to report violence against children.

The establishment of reporting mechanisms includes: (a) providing appropriate information to facilitate the making of complaints; (b) participation in investigations and court proceedings; (c) developing protocols which are appropriate for different circumstances and made widely known to children and the general public; (d) establishing related support services for children and families; and (e) training and providing ongoing support for personnel to receive and advance the information received through reporting systems.”

- **Referral:** “the person receiving the report should have clear guidance and training on when and how to refer the issue to whichever agency is responsible for coordinating the response. (...) Following this, intersectoral referrals may be made by trained professionals and administrators when children are found to be in need of protection (immediate or long-term) and specialised support

22 UN Committee on the Rights of the Child (CRC), *General comment No. 13: The right of the child to freedom from all forms of violence (art. 19)*, 2011, para 3.

23 *Id*, para 18.

24 *Id*, para 39.

25 *Id*, paras 45-57.

services. Professionals working within the child protection system need to be trained in inter-agency cooperation and protocols for collaboration.” Children should be involved and informed about the process.

- Investigations into instances of violence should be conducted by well-trained professionals using a child-sensitive approach to correctly identify and gather evidence for various legal proceedings, all while taking extreme care to avoid causing further harm to the child and with significant consideration of the child's perspective.

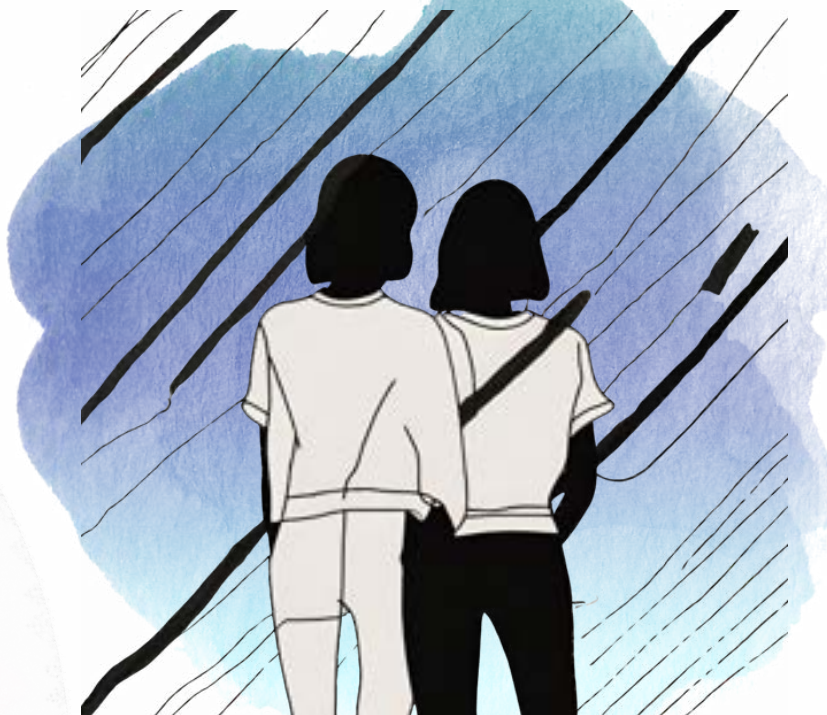
- Treatment, as part of promoting recovery and reintegration for children who have experienced violence, should prioritise the child's views, safety, immediate placement, and long-term well-being. A full range of services like medical, mental health, social, and legal support are necessary upon identifying abuse, including family conferences. “Children who are aggressive towards other children have often been deprived of a caring family and community environment. They must be regarded as victims of their child-rearing conditions” and be provided with measures “to improve their pro-social attitudes, competencies and behaviours.” In cases of self-harm, “interventions should be supportive, not punitive”, recognising it as a result of severe distress often stemming from violence by others.

- Follow-up: Clear responsibility for child welfare, transparent goals, intervention details, deadlines, and review mechanisms must be established, ensuring continuity throughout the process. Swift action, involving the child and relevant stakeholders, is crucial. Follow-up should align with recovery and reintegration (Article 39), periodic treatment review (Article 25), the right to development (Article 6(2)), and educational aims (Article 29).

- Judicial involvement: In all cases, due process must be upheld with a primary focus on protecting the child's best interests. “Child victims of violence should be treated in a child-friendly and sensitive manner, taking into account their personal needs and level of maturity. To combat widespread

impunity, strict application of criminal law procedures is necessary, especially concerning State actors. Disciplinary or administrative proceedings should also address neglectful or inappropriate behaviour by professionals handling cases of child maltreatment. Judicial orders should be employed to secure compensation and rehabilitation for children who have experienced violence in various forms.

- Effective procedures are crucial for enforcing these protective measures and integrated into a systems-building approach. These procedures should encompass inter-sectoral coordination through protocols and memorandums of understanding, systematic data collection and analysis, research agendas, and the development of measurable objectives and indicators related to policies, processes, and outcomes for children and families. “Outcome indicators should focus on the positive development and well-being of children as rights-bearing individuals”, rather than just measuring incidence and prevalence of violence. Additionally, reviews of “child deaths, critical injuries, inquests, and systemic reviews” should be considered to identify the root causes of violence and recommend corrective actions. Collaboration and interdisciplinary work at both national and international levels are essential to enrich the existing knowledge base in child protection.



Promising practices:

Ireland



Ireland has a well-defined legislative framework centred around the Children Act 2001 and the Children First Act 2015. The terms used in these reference documents are `child safeguarding` or `safe from harm`, which bring the **focus on the impact on the child (harm), rather than the act itself** and include neglect, emotional abuse, physical and sexual abuse potentially perpetrated by other children and adults, and self-harm. The low number of detained children, the balanced staff-children ratio and dynamic security enables a comprehensive internal monitoring and reporting system. The only child detention facility of the country, Oberstown, has a detailed incident reporting and monitoring system and a safeguarding procedure that is overseen by the external safeguarding authority, TUSLA. **The presence of two unique positions within the child detention facility: the so-called Designated Liaison Person (DLP) and the Advocacy Officer. Children can raise issues with the DLP directly or through unit staff, as the officer specifically in charge of safeguarding issues, including violent incidents and restrictive practices. The Advocacy Officer meets with children individually and in groups, through regular Campus Council meetings and ad hoc, receives all forms of complaints raised by children and reviews reports of the prior day every morning to proactively identify any issues that should be addressed.**

[CRC General Comment No. 24](#) on child justice strongly emphasises applying broad measures to prevent children from entering the justice system in the first place and sets out recommendations on data collection of disciplinary measures. Some rules and standards set forth are:

“On minimising detention:

- 86. (...) Pretrial detention should not be used except in the most serious cases, and even then only after community placement has been carefully considered. Diversion at the pretrial stage reduces the use of detention, but even where the child is to be tried in the child justice system, non-custodial measures should be carefully targeted to restrict the use of pretrial detention.
- 87. (...) If the child is considered a danger (to himself or herself or others) child protection measures should be applied. Pretrial detention should be subject to regular review and its duration limited by law. All actors in the child justice system should prioritise cases of children in pretrial detention.
- 88. (...) The payment of monetary bail should not be a requirement, as most children cannot pay and because it discriminates against poor and marginalised families.

On the treatment of children and recording requirements:

- 95. (a) Incommunicado detention is not permitted for persons below the age of 18,
- (b) (...) Due regard should be given to their needs for privacy, for sensory stimuli and for opportunities to associate with their peers and to participate in sports, physical exercise, arts and leisure-time activities,
- (f) Restraint or force can be used only when the child poses an imminent threat of injury to himself or herself or others, and only when all other means of control have been exhausted. Restraint should not be used to secure compliance and should never involve deliberate infliction of pain. It is never to be used as a means of punishment. The use of restraint or force, including physical, mechanical and medical or pharmacological restraints, should be under close, direct and continuous control of a medical and/or psychological professional. Staff of the facility should receive training on the applicable standards and members of the staff who use restraint or force in violation of the rules and standards should be punished appropriately. States should record, monitor and evaluate all incidents of

restraint or use of force and ensure that it is reduced to a minimum;

- (g) Any disciplinary measure (...) should not deprive children of their basic rights, such as visits by legal representative, family contact, food, water, clothing, bedding, education, exercise or meaningful daily contact with others;

- (h) Solitary confinement should not be used for a child. Any separation of the child from others should be for the shortest possible time and used only as a measure of last resort for the protection of the child or others. Where it is deemed necessary to hold a child separately, this should be done in the presence or under the close supervision of a suitably trained staff member, and the reasons and duration should be recorded.

Promising practices: Luxemburg



Although solitary confinement should not be used for children according to international standards, having monitoring mechanisms in countries where this rule has not yet been introduced can be viewed as a safeguarding measure.

Luxembourg's NPM requires to be informed of each solitary confinement issued by the CSEE (state body responsible of socio-educational centres, disciplinary home and school) within 24 hours; including with the following information: name, reason of the disciplinary measure, the penalty, etc. In these cases, the Ombudsman can send a control team and interview the child at any moment.

On monitoring, data collection and research:

- 95. (i) Every child should have the right to make requests or complaints, without censorship as to the substance, to the central administration, the judicial authority or any other proper independent authority, and to be informed of the response without delay. Children need to know their rights and to know about and have easy access to request and complaints mechanisms;

- (j) Independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities, in a confidential setting;

- 113. The Committee urges States parties to systematically collect disaggregated data, including on the number and nature of offences committed by children, the use and the average duration of pretrial detention, the number of children dealt with by resorting to measures other than judicial proceedings (diversion), the number of convicted children, the nature of the sanctions imposed on them and the number of children deprived of their liberty.

- 114. The Committee recommends that States parties ensure regular evaluations of their child justice systems, in particular of the effectiveness of the measures taken, and in relation to matters such as discrimination, reintegration and patterns of offending, preferably carried out by independent academic institutions.

- 115. It is important that children are involved in this evaluation and research, in particular those who are or who have previously had contact with the system, and that the evaluation and research are undertaken in line with existing international guidelines on the involvement of children in research."



ii. Other UN standards

The [UN Standard Minimum Rules for the Administration of Juvenile Justice \(The Beijing Rules\)](#) sets out standards for child justice systems, including rules on minimising detention by not setting the minimum age of criminal responsibility too low, using alternatives to detention on remand, and prohibiting corporal punishment. [26]

It also states that:

“26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.

26.2 [Children] in institutions shall receive care, protection and all necessary assistance - social, educational, vocational, psychological, medical and physical - that they may require because of their age, sex, and personality and in the interest of their wholesome development.

30. Research as a basis for planning, policy formulation and evaluation

30.1 Efforts shall be made to organise and promote necessary research as a basis for effective planning and policy formulation.

30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.

30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.”

26 UN General Assembly, *United Nations Standards Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules or RAJJ)*, 1985, Rules 4.1, 13, 17.3, 19.1

Promising practices: Netherlands



The Netherlands demonstrates a commitment to protecting children from violence in detention through its legislative framework. The Youth Act focuses on the principle of detention as a last resort, emphasising rehabilitation. Moreover, the law acknowledges the specific needs and vulnerabilities of detained minors, ensuring their well-being during confinement.

The Netherlands exemplifies a streamlined and efficient data collection process thanks to the digitalisation of reports. The use of digital tools enhances the accuracy and accessibility of information, allowing for realtime reporting and centralised evaluation. This digitalisation contributes to a more responsive and data-driven approach to addressing violence against children in detention.

The Dutch Custodial Institutions Agency separately reports the violence from staff to children and the ones from the staff through the procedure of registration of severe incidents. The following are used for policy and governance purposes:

- *the number of acts of violence juvenile to juvenile*
- *the number of acts of violence juvenile to juvenile with severe injury*
- *the number of acts of violence juvenile to staff*
- *the number of acts of violence juvenile to staff with severe injury*

The [UN Rules for the Protection of Juvenile Deprived of their Liberty \(The Havana Rules\)](#)

incorporates the most comprehensive and detailed set of rules and standards. Underpinned by The Beijing Rules, the Havana Rules set out principles of child justice systems which underpin the proactive prevention measures against VAC:

- The [Havana] Rules should be applied impartially, without discrimination of any kind (...). [27]

- [Children] “deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity”. [28]

The Rules also include various provisions that directly or indirectly contribute to the prevention and documentation of violence. For example, by requiring States to create personal recording systems for each child and collect several data points, such as medical or transfer records and time of entry, it sets procedural standards that are important to document VAC incidents in detention and contribute to ensuring accountability. The relevant standards are the following:

“On children under arrest or awaiting trial

17. (...) Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.

On recording

19. All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorised persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his

or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.

20. No juvenile should be detained in any facility where there is no such register.

21. In every place where juveniles are detained, a complete and secure record of the following information should be kept concerning each juvenile received:

- (a) Information on the identity of the juvenile;
- (b) The fact of and reasons for commitment and the authority therefor;
- (c) The day and hour of admission, transfer and release;
- (d) Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;
- (e) Details of known physical and mental health problems, including drug and alcohol abuse.

27 UN General Assembly, *United Nations Rules for the Protection of Juvenile Deprived of their Liberty (The Havana Rules or RPJDL)*, 1990, Fundamental Perspectives 4.

28 *Id.*, Rule 31.



22. The information on admission, place, transfer and release should be provided without delay to the parents and guardians or closest relative of the juvenile concerned.

23. As soon as possible after reception, full reports and relevant information on the personal situation and circumstances of each juvenile should be drawn up and submitted to the administration.

24. On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organisations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension.

25. All juveniles should be helped to understand (...) their rights and obligations during detention [thoroughly], including authorised methods of seeking information and of making complaints.

26. The transport of juveniles should be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that should in no way subject them to hardship or indignity. Juveniles should not be transferred from one facility to another arbitrarily.

On classification and placement of children

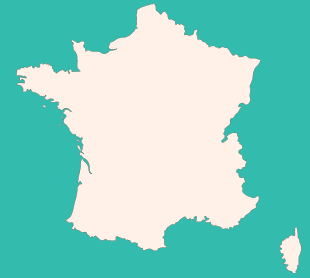
28. The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations.

On physical environment and accommodation

31. Juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

Promising practices:

France



When a child is sentenced to detention, they spend their first two weeks in a special section of the prison where they meet with a doctor, a member of the prison management, and a youth educator. Two grids, about dangerousness and vulnerability, are filled in and, based on the individual's profile, appropriate management and monitoring measures are put in place with input from the multidisciplinary team (supervisors, educator, possibly nursing staff).

32. (...) The design and structure of juvenile detention facilities should be such as to minimise the risk of fire and to ensure safe evacuation from the premises. There should be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the juveniles. Detention facilities should not be located in areas where there are known health or other hazards or risks.

33. Sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas, including individual rooms and group dormitories, in order to ensure the protection of each juvenile. (...)

34. Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.

35. The possession of personal effects is a basic element of the right to privacy and essential to the psychological well-being of the juvenile. The right of every juvenile to possess personal effects and to have adequate storage facilities for them should be fully recognised and respected.(...)

36. To the extent possible juveniles should have the right to use their own clothing. (...)

On working

44. All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

46. Every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release.

On medical care and notification of illness, injury and death

50. Every juvenile has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

52. Any medical officer who has reason to believe that the physical or mental health of a juvenile has been or will be injuriously affected by continued detention, a hunger strike or any condition of detention should report this fact immediately to the director of the detention facility in question and to the independent authority responsible for safeguarding the well-being of the juvenile.

53. A juvenile who is suffering from mental illness should be treated in a specialised institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies, to ensure any necessary continuation of mental health care after release.

55. Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the juvenile concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Juveniles shall never be testees in the experimental use of drugs and treatment. The administration of any drug should always be authorised and carried out by qualified medical personnel.

56. The family or guardian of a juvenile and any other person designated by the juvenile have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. Notification should also be given to the consular authorities of the State of which a foreign juvenile is a citizen.

57. Upon the death of a juvenile during the period of deprivation of liberty, the nearest relative should have the right to inspect the death certificate, see the body and determine the method of disposal of the body. Upon the death of a juvenile in detention, there should be an independent inquiry into the causes of death, the report of which should be made accessible to the nearest relative. This inquiry should also be made when the death of a juvenile occurs within six months from the date of his or her release from the detention facility and there is reason to believe that the death is related to the period of detention.

On physical restraints, the use of force, disciplinary measures and procedures

63. Recourse to instruments of restraint and to force for any purpose should be prohibited, except as set forth in rule 64 below.

64. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

65. The carrying and use of weapons by personnel should be prohibited in any facility where juveniles are detained.

67. All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

On inspection and complaints

73. Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical

environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.

74. After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

Promising practices:

Estonia



*The Prison Committees that are **authorised to monitor juvenile detention facilities always have representatives of NGOs among their members, providing possibility for different NGOs working with children to visit prisons on regular basis, for example is Estonian Union of Child Welfare. This supports greater transparency and richer monitoring of potential VAC in the detention context.***

Promising practices:

Croatia



In line with the relevant law, the juvenile judge is obliged to visit children in pre-trial detention once a week, receive oral and written complaints from them and take the necessary measures to eliminate the identified irregularities. They also review documentation to determine the legality and correctness of the procedures and the achieved success of educational measures. Upon the notification of the juvenile judge, bodies and institutions responsible for professional supervision are obliged to carry out an appropriate check without delay and take measures to eliminate illegality and irregularities, and report this to the court.

75. Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorised representative.

76. Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.

77. Efforts should be made to establish an independent office (ombudsman) to receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

78. Every juvenile should have the right to request assistance from family members, legal counsellors, humanitarian groups or others where possible, in order to make a complaint. Illiterate juveniles should be provided with assistance should they

need to use the services of public or private agencies and organisations which provide legal counsel or which are competent to receive complaints.

Promising practices:

Portugal



*Portugal lacks a specific legal instrument for violence against children in detention. However, the Educational Tutelary Law addresses the confinement of children who commit criminal acts, ensuring their rights are not limited or offended. A Monitoring and Inspection Commission for Educational Centers oversees and reports on the protection of children's rights in confinement. The Monitoring and Inspection Commission for Educational Centres is responsible for ensuring that the rights of children/young people in detention are protected and that no violation of their rights is committed. This commission reports situations to the competent authorities whenever it verifies the violation of the rights of detained children/young people. In addition, it prepares reports that are delivered to the Assembly of the Republic. In order to accomplish this task, the Commission visits the Educational Centres by surprise and **contacts young people directly**. When reporting rights violations, **an attempt is made, whenever possible, to safeguard the child's identity**, except if the violation of rights constitutes a crime, in which case it is necessary to identify the child/young person and communicate the facts to the Public Prosecutor's Office.*

On personnel responsibility and training

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:

- (a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;
- (b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;
- (c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;
- (d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;
- (e) All personnel should respect the right of the juvenile to privacy, and, in particular, should safeguard all confidential matters concerning juveniles or their families learned as a result of their professional capacity;
- (f) All personnel should seek to minimise any differences between life inside and outside the detention facility which tend to lessen due respect for the dignity of juveniles as human beings.”

The [UN Guidelines for the Prevention of Juvenile Delinquency \(The Riyadh Guidelines\)](#) sets the following rules:

“57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the

Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The Ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.

58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be

Promising practices:

Greece



*Greece has **different levels of monitoring mechanisms**: two internal inspection mechanisms, the Children’s Ombudsman Office (NPM established as part of the OPCAT) and the CPT. The Children’s Ombudsman has adopted a modus operandi of inspections, based on the expertise and experience of the investigators, which takes into account the special needs of children in alignment with the UNCRC (contact with family, non-discrimination, education, mental health support, activities, vocational training, family reunification, protection from any form of violence, participation in decision making within prison etc.) Besides drafting comprehensive reports after each visit, the Ombudsman invests in follow-up with the Ministry of Justice – concerning the recommendations identified in the report – and advocate for mechanisms that ensure the accountability of state penitentiary staff when responsible for the exercise of physical and/or mental violence against children in detention as well as for a separate correctional code for children and for consistent training of staff working with children.*

familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system”

The [UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders \(Bangkok Rules\)](#) [29] include standards regarding protecting girls from VAC in the detention setting.

“Rule 25 -

1. Women prisoners who report abuse shall be provided immediate protection, support and counselling, and their claims shall be investigated by competent and independent authorities, with full respect for the principle of confidentiality. Protection measures shall take into account specifically the risks of retaliation.

2. Women prisoners who have been subjected to sexual abuse, and especially those who have become pregnant as a result, shall receive appropriate medical advice and counselling and shall be provided with the requisite physical and mental health care, support and legal aid.

3. In order to monitor the conditions of detention and treatment of women prisoners, inspectorates, visiting or monitoring boards or supervisory bodies shall include women members.

Rule 31 - Clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented.

Rule 36 - Prison authorities shall put in place measures to meet the protection needs of juvenile female prisoners.

Rule 38 - Juvenile female prisoners shall have access to age and gender-specific programmes and services, such as counselling for sexual abuse or violence. They shall receive education on women’s health care and have regular access to gynaecologists, similar to adult female prisoners.

Rule 65 - Institutionalisation of children in conflict with the law shall be avoided to the maximum extent possible. The gender-based vulnerability of juvenile female offenders shall be taken into account in decision-making.”

[UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice](#) provide a list of strategies that criminal justice systems can implement in order to end VAC. Some of these standards and recommendations that relate to detention settings include:

Comprehensive prevention plan (12-17): A strategic approach based on an understanding of the factors that give rise to VAC should be undertaken which addresses the risks of violence to which children are exposed. It is necessary to identify the specific vulnerabilities and risks faced by children in different situations and to adopt proactive measures to reduce those risks and take appropriate actions to support and protect all children from violence, including those among children.

Vulnerable children: The list of vulnerable groups may vary depending on the situation or the local context. Civil society organisations, researchers and other professionals can play an important role in identifying and understanding the specific risks that different groups of children may be facing. [30]

29 For detailed information please see: [UN Bangkok Rules - Penal Reform International](#).

30 United Nations Office on Drugs and Crime, [Elimination of Violence against Children: A New Tool for Policymakers, Criminal Justice Officials and Practitioners](#), p.8.

Promising practices:

Bulgaria



Defining vulnerability and vulnerable groups is difficult as it can be dynamic. In one children detention facility in Bulgaria, psychologists work to identify who or which groups of children might be more vulnerable at a given time by regularly reviewing the well-being of children in their care and considering specific factors that might leave them vulnerable. According to this assessment, they provide closer care and support.

Knowledge-based approach (18): Strategies to eliminate VAC should be implemented through knowledge-based measures, programmes and interventions. Their success should be monitored through various data forms, including programme evaluators, surveys, performance indicators and monitoring mechanisms to ensure their effectiveness and that decision-makers have a solid knowledge base.

Therefore, promoting and funding research, systematic data collection, analysis, and dissemination is crucial, as is engaging civil society, the academic community, and criminal justice agencies in a data-informed constructive dialogue. [31]

Preventing and responding to violence in places of detention (37-42): Prevention of overcrowding; adequate oversight; separation of children and adults, boys and girls, and vulnerable children from others; adopting and implementing child-sensitive policies, procedures and practices and strictly monitoring compliance with them are essential in tackling violence from staff and among peers.

“Most importantly, a comprehensive strategy to address violence against children in places of detention must include measures to ensure that all alleged incidents of violence, including sexual abuse of children in a place of detention, are immediately reported and independently, promptly and effectively investigated by appropriate authorities and, when founded, effectively prosecuted”. [32]

31 United Nations Office on Drugs and Crime, [Elimination of Violence against Children: A New Tool for Policymakers, Criminal Justice Officials and Practitioners](#), p.9

32 *Id*, p.15

Promising practices:

Croatia



Croatia is among the countries that monitor peer-to-peer violence incidents in detention. The Law on Juvenile Courts, Protocol on Procedures in the Case of Violence Among Children and Young People specifically defines violence among children and young people as “any intentional physical or psychological violent behavior directed towards children and young people by their peers, done with the aim of injuring, and which, regardless of the setting in which it takes place, can take different shape, weight, intensity and time duration and which includes repetition of the same pattern and maintains an unequal power relationship (stronger against weaker, or group versus individual)”. Although this is selected as a promising practice, the fact that the legal definition is focused on the intention of the children applying the violence hinders monitoring of incidents that may cause harm to children even if unintended.

Detecting, assisting and protecting child victims of violence in justice systems (43):

Safe, confidential, effective and easily accessible complaint mechanisms should be in place. Further, they must be accompanied by counselling and support services, and should be reviewed and tested. In order to protect children who report abuse, “those allegedly implicated in violence against or ill-treatment of children” should be removed from “any position of power, whether direct or indirect, over complainants, witnesses, their families and those conducting the investigation”. [33]

Legal obligations and relevant facility-level regulations and clear procedures for criminal justice personnel to report incidents and suspected incidents must be introduced since in reality, children might refrain from reporting abusers for various reasons. These personnel should also be protected from retaliation.

Accountability and oversight mechanisms (45-47):

Accountability should be promoted through strengthening internal and external oversight mechanisms, including those at the national level, effective investigation and prosecution of all incidents of violence and consistent application of disciplinary measures against officials responsible for violence. Any tolerance of violence should be challenged through these measures or raising awareness or educational programmes. [34]

[Annual and thematic reports](#) of the Special Representative of the Secretary-General on Violence Against Children provide a detailed analysis of different VAC phenomenon, including those in detention settings and different approaches to tackling violence, using or interpreting existing standards. [The 2018 report on protecting children from bullying](#) reiterates that States should “conduct research and consolidate data to inform effective and sustainable interventions [on bullying]; and, above all, to engage children in all these efforts in order to learn from their experiences and promote lasting change that safeguards their rights”. [35]

[Safeguarding the rights of girls in the criminal justice system](#)

also provides standards and measures that States should adopt to ensure the safety of girls in detention, including trainings of the staff, accommodation and healthcare measures.

The [UN Global Study on Children Deprived of Liberty](#) exposes the scale of the detention of children as well as its root causes, conditions and impacts. It also sets out a range of recommendations for States to prevent and reduce deprivation of liberty for children. These include:

“102. If detention is unavoidable under the particular circumstances of a case, it shall be applied only for the shortest appropriate period of time. States have an obligation to apply child-friendly conditions, without any discrimination. Children shall not be exposed to neglect, violence, sexual abuse or exploitation, ill-treatment, torture and inhuman conditions of detention. States should ensure that children have access to essential services aimed at their rehabilitation and reintegration into society, including education, vocational training, family contacts, sports and recreation, adequate nutrition, housing and health care. Health services in detention shall be of a standard equivalent to that available in the community at large.

106. States are strongly encouraged to establish an appropriate system of data collection at the national level, involving all relevant ministries and other State agencies, coordinated by a focal point. Whenever possible, data on children should be obtained directly from them in accordance with the principle of informed consent and self-identification. When necessary, such information should be supplemented by data concerning their parents or primary caregivers.”

33 *Id.*, p.17.

34 *Id.*, p. 19.

35 UN Special Representative of the Secretary-General on Violence Against Children *Report on protecting children from bullying*, 2018, para 7.

2. European framework

a. Council of Europe

i. Standards as they relate to VAC in detention

The [European Convention on Human Rights \(ECHR\)](#) is the fundamental human rights document of the Council of Europe (CoE) and protects the rights of children in all 46 member States. It enshrines the right to life (Article 2), the prohibition of torture (Article 3), the prohibition of slavery and forced labour (Article 4), the right to liberty and security (Article 5), the right to a fair trial (Article 6), the right to effective remedy and prohibition of discrimination (Article 14), among other rights.

[The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) establishes the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) to visit places of detention across CoE Member States, including those holding children, and assess how detained persons are treated in order to strengthen their protection from torture and inhuman or degrading treatment or punishment.

Through its [country visit](#) and [annual reports](#) the CPT portrays the conditions in child detention facilities across the CoE while reiterating and elaborating minimum standards that member States should apply to protect children against ill-treatment.

The [European Prison Rules \(EPR\)](#), adopted by the [Committee of Ministers of the Council of Europe](#) sets the minimum standards for the treatment of people deprived of their liberty in prisons in CoE countries. In exceptional cases where children are accommodated with adults, for example if they are with a parent or if they would be isolated if placed in a child facility, it requires Member States:

“35.1 (...) to ensure that, in addition to services available to all prisoners, children at the facility

have access to the social, psychological and educational services, religious care and recreational programmes or equivalents to them that are available to children in the community.

35.2 Every prisoner who is a child and is subject to compulsory education shall have access to such education.

35.3 Additional assistance shall be provided to children who are released from prison.”

ii. Child-specific standards

The CoE has developed a limited number of legally binding instruments on children. Among these, the [Convention on Protection of Children against Sexual Exploitation and Sexual Abuse](#) requires Member States to adopt specific legislation, including the



criminalisation of sexual violence acts, and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The Committee of the Ministers of the Council of Europe (CoM), the decision-making body of the CoE composed of Foreign Ministers of Member States, has adopted several recommendations in relation to the treatment and safeguarding of children during detention:

[Recommendation No R \(79\) 17 of the Committee of Ministers of Member States concerning the protection of children against violence](#) recommends that states take a range of legislative, policy and practical measures, including raising social awareness, training of relevant staff, and conducting research on VAC.

[Recommendation Rec\(2003\)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice](#) includes recommendations on adopting a more strategic approach and prioritising monitoring, evaluation and dissemination of information on the detention of children.

[The European Rules for juvenile offenders subject to sanctions and measures \(ERJO\)](#), adopted by the CoM, is the most comprehensive instrument for the treatment of children in detention setting across Europe, introducing a set of standards similar to the UN. Following are a selection of the most relevant provisions:

“Basic principles:

1. Juvenile offenders subject to sanctions or measures shall be treated with respect for their human rights.
5. The imposition and implementation of sanctions or measures shall be based on the best interests of the juvenile offenders, limited by the gravity of the offences committed (principle of proportionality) and take account of their age, physical and mental well-being, development, capacities and personal circumstances (principle of individualisation) as ascertained when necessary by psychological, psychiatric or social inquiry reports.
8. Sanctions or measures shall not be implemented

in a manner that aggravates their afflictive character or poses an undue risk of physical or mental harm.

10. Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention.

Promising practices: Poland

Poland's legal framework ensures the protection of children's rights, emphasising the right to demand child protection against violence. The 2022 Act on the Support and Rehabilitation of Minors is significant in preventing violence against minors, establishing the right of minors to be protected against physical and psychological violence. The criminal liability system allows for custodial sentences on minors, but the court's primary consideration is to educate the offender.

11. Sanctions or measures shall be imposed and implemented without discrimination on any ground such as sex, race, colour, language, religion, sexual orientation, political or other opinion, national or social origin, association with a national minority, property, birth or other status (principle of non-discrimination).

16. The juvenile's right to privacy shall be fully respected at all stages of the proceedings. The identity of juveniles and confidential information about them and their families shall not be conveyed to anyone who is not authorised by law to receive it.

20. The execution of any sanction or measure shall be subjected to regular government inspection and independent monitoring.

Deprivation of liberty

52.1. As juveniles deprived of their liberty are highly vulnerable, the authorities shall protect their

physical and mental integrity and foster their well-being.

52.2. Particular care shall be taken of the needs of juveniles who have experienced physical, mental or sexual abuse.

53.2. Such institutions shall provide conditions with the least restrictive security and control arrangements necessary to protect juveniles from harming themselves, staff, others or the wider community.

56. Juveniles deprived of liberty shall be sent to institutions with the least restrictive level of security to hold them safely.

57. Juveniles who are suffering from mental illness and who are to be deprived of their liberty shall be held in mental health institutions

Placement

60. Male and female juveniles shall normally be held in separate institutions or units within an institution. (...) Even where male and female juveniles are held separately, they shall be allowed to participate jointly in organised activities.

Promising practices:

Romania



The criteria regarding vulnerability and the protection measures of vulnerable prisoners are provided in the criminal enforcement legislation: sexual orientation, gender identity, disabilities, mental disorders, ethnicity, HIV/AIDS infection, committing crimes against children or against sexual integrity and freedom, special socio-family situation, lack of support from the support environment, socioeconomic status diminished or socioeconomic situation well above the average, among others. Persons deprived of liberty classified as vulnerable benefit from protection measures that aim to consider their vulnerabilities and protect their rights, such as individual accommodation within detention facilities, escorting by experienced staff, prompt revision of complaints or carrying out specific educational and psychosocial activities.

Admission

62.2. At admission, the following details shall be recorded immediately concerning each juvenile:

(...)

e. any visible injuries and allegations of prior ill-treatment;

f. any information and any report about the juvenile's past and his or her educational and welfare needs; and

g. subject to the requirements of medical confidentiality, any information about the juvenile's risk of selfharm or a health condition that is relevant to the physical and mental well-being of the juvenile or to that of others.

62.6. As soon as possible after admission:

a. the juvenile shall be interviewed and a first psychological, educational and social report identifying any factors relevant to the specific type and level of care and intervention shall be made;

(...)

d. the views of the juvenile shall be taken into account when developing such programmes.

63.1. The accommodation provided for juveniles, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, (...)

64. There shall be regular, unobtrusive supervision by staff of all accommodation, particularly during the night in order to ensure the protection of each juvenile. There shall also be an effective alarm system that can be used in case of emergencies.

Hygiene

65.2. Juveniles shall have ready access to sanitary facilities that are hygienic and respect privacy.

66.2. Juveniles who do not have sufficient suitable clothing of their own shall be provided with such clothing by the institution.

66.3 Suitable clothing is clothing that is not degrading or humiliating and is adequate for the climate and does not pose a risk to security or safety.

67. Every juvenile shall be provided with a separate bed and separate and appropriate bedding, which

shall be kept in good order and changed often enough to ensure its cleanliness.

Health

70.2. Special policies shall be developed and implemented to prevent suicide and self-harm by juveniles, particularly during their initial detention, segregation and other recognised high-risk periods.

72.1. Medical interventions, including the use of medication, shall be made only on medical grounds and not for purposes of maintaining good order or as a form of punishment. The same ethical principles and principles of consent governing medical interventions in free society shall be applied. A record shall be kept of any medical treatment or any drugs administered.

Use of force, physical restraint and weapons

90.1. Staff shall not use force against juveniles except, as a last resort, in self-defence or in cases of attempted escape, physical resistance to a lawful order, direct risk of self-harm, harm to others or serious damage to property.

90.2. The amount of force used shall be the minimum necessary and be applied for the shortest time necessary.

90.3. Staff who deal directly with juveniles shall be trained in techniques that enable the minimal use of force in the restraint of aggressive behaviour.

90.4. There shall be detailed procedures concerning the use of force, including stipulations on: the various types of force that may be used; the circumstances in which each type of force may be used; the members of staff who are entitled to use different types of force; the level of authority required before any force is used; the reports that must be completed once force has been used; and the process for reviewing the above reports.

91.1. Handcuffs or restraint jackets shall not be used except when less intensive forms of the use of force have failed. Handcuffs may also be used if essential as a precaution against violent behaviour or escape during a transfer. They shall be removed when a juvenile appears before a judicial or administrative authority unless that authority

decides otherwise.91.2. Instruments of restraint shall not be applied for any longer time than is strictly necessary. The use of chains and irons shall be prohibited.

91.3. The manner of use of instruments of restraint shall be specified in national law.

91.4. Isolation in a calming down cell as a means of temporary restraint shall only be used exceptionally and only for a few hours and in any case shall not exceed twenty-four hours. A medical practitioner shall be informed of such isolation and given immediate access to the juvenile concerned.

92. Staff in institutions in which juveniles are deprived of their liberty shall not be allowed to carry weapons unless an operational emergency so requires. The carrying and use of lethal weapons in welfare and mental health institutions is prohibited.

93.1. If in very exceptional cases a particular juvenile needs to be separated from the others for security or safety reasons, this shall be decided by the competent authority on the basis of clear procedures laid down in national law, specifying the nature of the separation, its maximum duration and the grounds on which it may be imposed.

93.2 Such separation shall be subject to regular review. (...)



Discipline and punishment

94.1. Disciplinary procedures shall be mechanisms of last resort. Restorative conflict resolution and educational interaction with the aim of norm validation shall be given priority over formal disciplinary hearings and punishments.

Promising practices:

Estonia



When it comes to facility-level data monitoring on VAC incidents, if a case of violence has been reported, the institution informs the police and further action is taken in accordance with the law. Work is in progress to establish a homogenous way to respond to violence that is targeted to the specific vulnerabilities of a child. Currently, all institutions have their own system for notifications and solutions. Usually, upon learning of an incident of violence, the different parties to the conflict are first separated and then a conversation is conducted with both parties. The parties will not be allowed to meet until the more precise circumstances are determined (in the case of proceedings, until the end of the proceedings; conciliation proceedings are also possible).

95.3. Solitary confinement in a punishment cell shall not be imposed on juveniles.

95.4. Segregation for disciplinary purposes shall only be imposed in exceptional cases where other sanctions would not be effective. Such segregation shall be for a specified period of time, which shall be as short as possible. The regime during such segregation shall provide appropriate human contact, grant access to reading material and offer at least one hour of outdoor exercise every day if the weather permits.

95.5. A medical practitioner shall be informed of such segregation and given access to the juvenile concerned.

Pre-trial detention

112. Such juveniles [those in pre-trial detention] shall not be compelled to work or take part in any interventions or activities which juveniles in the community cannot be compelled to undertake.

Inspection and monitoring

125. Institutions in which juveniles are deprived of their liberty and authorities implementing community sanctions and measures shall be inspected regularly by a governmental agency in order to assess whether they are operating in accordance with the requirements of national and international law, and the provisions of these rules.

126.2. In such independent monitoring particular attention shall be paid to the use of force, restraints, disciplinary punishments and other particularly restrictive forms of treatment.

126.3. All instances of death or serious injury of juveniles shall be investigated promptly, vigorously and independently.

126.4. Such independent monitoring bodies shall be encouraged to co-operate with those international agencies that are legally entitled to visit institutions in which juveniles are deprived of liberty.”

The [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice \(GCFJ\)](#) provide a comprehensive set of standards on the treatment of children in child justice systems, including measures to minimise the number of children entering the system.

[Recommendation CM/Rec\(2023\)8 of the Committee of Ministers to Member States on strengthening reporting systems on violence against children](#) is the most recent and comprehensive document within the CoE framework providing a set of recommendations for states specifically on data collection, reporting, follow-up and monitoring of VAC.

It adopts the following standards and recommendations:

“Legal and policy-based obligations to report

7. Member States should ensure that national legal frameworks effectively protect children from violence, prevent and combat violence against children and include a clear definition and prohibition of all forms of violence against children in all settings.

Creating a favourable context for reporting violence against children

12. Member States should encourage and support professionals to report violence against children, including by removing barriers that professionals could encounter when reporting.

20. Member States should promote and implement measures aimed at raising awareness among children and the general public about the risks and prevalence of violence, its harmful effects, the importance of reporting violence or suspicion of violence and about the easily accessible and child-friendly means, including child-friendly complaint mechanisms, to signal any violence and receive support, through hotlines or helplines for example.

Effective reporting procedures

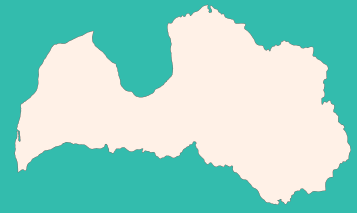
21. Member States should clearly define an obligation to report for professionals or establish a mandatory code for specific professions, as an essential element of their child protection and reporting systems, which should be firmly anchored in legal and policy frameworks.

22. In order to protect effectively children against violence, comprehensive reporting systems, comprising the steps of identification, reporting, referral, processing and follow-up, should be integrated into multidisciplinary child protection systems based on interagency co-operation.

23. In order to effectively implement legal or policy-based obligations to report violence against children, member States should ensure, as appropriate in the national legal context, that all institutions or organisations whose activities involve regular contact with children create an enabling environment for professionals to report any concerns or suspicion of violence (...)

Promising practices:

Latvia



Monitoring and control of prisoners takes place around the clock, i.e. officials of prisons carry out numerical checks of prisoners, check the cells, the visual appearance of prisoners, thus monitoring the actions of prisoners, the situation in cells, the state of health of prisoners etc. On the other hand, in a situation where a violent or illegal behaviour occurs, the event is reported to the medical department of the prison, as well as to the officials authorised to initiate investigation, including a criminal proceeding. In case physical violence against a prisoner is observed, the Internal Security Bureau is informed.

The following are recorded in these reports:

- *type of violence;*
- *a description of the detected signs of violence;*
- *the date on which the violence was detected;*
- *the period during which the violence was committed;*
- *the place where the violence was committed;*
- *the address of the place where the violence was committed;*
- *description of the relationship between the victim and the perpetrator of violence;*
- *an indication that characterises the reliability of the information source and the directness of its approach to information.*

Despite this system, Latvia has not developed a comprehensive data collection mechanism on VAC incidents at the state level.

24. National laws or policies, and related mechanisms and tools, should indicate in a clear and concrete manner the threshold for initiating a report on concerns or suspicion of violence against children, that is when there are reasonable grounds for believing that a child is a victim of violence.

25. Reporting protocols should indicate the authorities, agencies or services responsible and involved at national, regional or local levels for receiving and processing reports of violence against children; clearly define their responsibilities and encourage interagency co-operation and information sharing, with due regard to data protection obligations and in accordance with national law. (...)

26. Member States should ensure, as appropriate in the national legal context, that institutions and organisations develop and implement solid reporting mechanisms, which include regular provision of high-quality training to all professionals concerned, in order to make sure that reports are processed in an appropriate and timely manner.

27. Member States should ensure that national reporting systems pay special attention to children in vulnerable situations who are at a heightened risk of experiencing violence.

28. Children involved in an incident of violence and affected by possible reports to be made, should be informed about the functioning of the reporting system in a child-friendly manner. Child victims should be heard and informed by qualified professionals as early as possible, in the light of their specific case, age, maturity, evolving capacities and special needs.

29. Reporting systems should encourage cross-sectoral and interagency co-operation to ensure identification, reporting, responding and follow-up of cases of violence against children by sharing information through clear protocols, including waivers of confidentiality rules and professional secrecy where appropriate, as well as through contact points and the development of integrated databases.

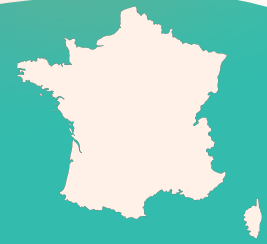
30. Authorities managing reports should share information between agencies about current and previous concerns in cases where a child has moved within or between States.

Responding to reports on violence against children and follow-up

33. Following reports on violence, child protection

Promising practices:

France



*In the event of violence, the prison officer reports and documents it digitally (either through an incident report or a professional report) which is archived in the prisoner's digital file. These documents are collected and help to characterise the events (physical and/or verbal violence) and to inform the judicial authorities. The Department of Judicial Protection of Youth (partner in the care of incarcerated minors) is also notified of the facts. **The reported incidents are monitored daily by the central administration, which centralises the most serious incidents, including violence against detained children.** Annually, a summary and analysis of the reported incidents is conducted. This analysis allows the identification of areas of improvement for the institution to address.*

systems should allow for rapid and co-ordinated interventions and the provision of services, if needed. The reception of the report should be acknowledged to the notifying professional.

34. Member States should provide a child-friendly and safe environment to investigate and assess cases of suspected or reported violence against children or involving children; they should support co-ordination and co-operation between law enforcement and social services, including child protection services, guarantee appropriate and effective interventions in assisting child victims, and provide them with psychosocial support as needed.

35. Member States should offer support services that families may access on a voluntary basis; services should be provided on a mandatory basis only if a need for this has been formally established by the child protection system.

36. Children who commit violence themselves should have their rights upheld at all times and should receive support that is appropriate to their developmental needs within the juvenile justice system or by child protection services.

Data collection and monitoring

37. Comprehensive databases and interoperable systems for information sharing between relevant agencies, regions and countries should be developed, with due respect for the applicable data protection regulations and other relevant domestic legislation.

38. Member States should encourage research on reporting violence against children and develop mechanisms for data collection on the prevalence of violence, on reported cases of violence and on the reasons for non-reporting by adults and children, for the purpose of observing and evaluating the phenomenon of violence against children, of monitoring the effectiveness of national reporting systems in place and of designing targeted interventions.

39. Member States should set up accountability mechanisms, applying to institutions, organisations and individual professionals, so that the functioning of a reporting system is regularly kept under review and monitored by competent bodies, which should publish their findings and make recommendations to improve its functioning.

VIII. Media and communications

40. Information about laws, policies and practices linked to reporting systems for professionals should be available and accessible in the public domain; the development of child-friendly versions of these laws and policies, or at least communication about them in child-friendly language, should be promoted, in particular in the environments where children spend considerable time.”

Other CoE sources that may be relevant to the topic include:

- [European Convention on the Exercise of Children's Rights;](#)
- [Recommendation No. R \(97\) 12 on staff concerned with the implementation of sanctions or measures;](#)
- [Recommendation Rec\(2005\)5 on the rights of children living in residential institutions;](#)
- [Recommendation Rec\(2003\)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice;](#)
- [Recommendation CM/Rec\(2009\)10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence](#)
- [Recommendation CM/Rec\(2016\)7 adopted by the Committee of Ministers of the Council of Europe](#)
- [Strategy for the Rights of the Child \(2022-2027\)](#)
- [European Committee on Crime Problems, Council for Penological Co-operation, Report on Violence in Juvenile Justice Facilities](#)



b. European Union

i. Standards as they relate to VAC in detention

Aside from recognising the same rights as ECHR, the [Charter of Fundamental Rights of the Europe](#) enshrines the right to education (Article 14), cultural religious and linguistic diversity (Article 22), and the rights of the child, including:

- protection and provision of care as necessary for their well-being, right to be heard,
- prioritisation of the best interest of the child and
- maintaining relationship and direct contact with family (Article 24).

Promising practices:

Finland



*Finland's legislative framework prioritises the best interests of the child, aligning with international conventions. The **Criminal Code**, in conjunction with the **Child Welfare Act**, emphasises a rehabilitative approach. The **Act on the Implementation of Educational Responsibility in the Criminal Sanctions System** contributes to the protection of children by addressing their specific needs during detention.*

Several directives, including [Directive 2010/64/EU on the right to interpretation and translation](#) and [Directive 2013/48/EU on the right to access to lawyers and rights in the context of deprivation of liberty](#), establish safeguards for the protection of the right to a fair trial and ensure fair and non-discriminative access to justice of all, including children.

[Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime](#) is also applicable for children who

are subjected to violence in detention.

ii. Child-specific standards

[Directive \(EU\) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings](#) ensures the procedural safeguards of children are respected throughout the criminal proceedings, which is important to minimise the number of children in detention facilities.

[EU Guidelines for the Promotion and Protection of the Rights of the Child, 2017](#), recommends that member states use alternatives to imprisonment for children, which is the initial step in preventing VAC in detention, as mentioned previously.

[Handbook on the European law on the rights of the child](#), produced by the Fundamental Rights Agency, illustrates how European law and case law accommodate the specific interests and needs of children, and how each issue is regulated under EU law, including the Charter of Fundamental Rights of the European Union, as well as under CoE instruments like the European Convention on Human Rights and the European Social Charter.





MORE ABOUT US

Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. We work to promote criminal justice systems that uphold human rights for all and do no harm. We run practical human rights programmes and support reforms that make criminal justice fair and effective. Our primary objectives are to secure trials that are impartial, sentencing practices that are proportionate and promote social rehabilitation, and humane conditions of detention where alternatives to imprisonment are not possible. We work through country missions, regional hubs, remote coordination, and through partners.



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