



SUMMARY

of the First Report of the National Commission for explaining cases of actions against sexual liberty and decency towards a minor under the age of 15



NATIONAL COMMISSION
for explaining cases of actions against
sexual liberty and decency towards
a minor under the age of 15



JULY 2021

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1 KEY EVENTS IN THE ACTIVITY OF THE NATIONAL COMMISSION



2019

- August 30: the Parliament adopts the National Commission Act

2020

- May 15 – July 15: appointment of seven members of the National Commission
- July 24: members of the National Commission take the oath before the Parliament; first session of the National Commission called by the Marshal of the Parliament
- September 4: the ordinance of the Council of Ministers on the Office of the National Commission enters into force
- October 1: appointment of the General Director; starting the organization of the Office of the National Commission
- **November 24: the National Commission starts to receive reports**
- **December 1: the first hearing of a victim**

2021

- **January 20: starting the investigation of closed cases**
- **February 2: meeting with Andrzej Duda, President of the Republic of Poland; submitting draft comprehensive amendments to the criminal law**
- **April 26: draft amendments to the National Commission Act that enhance the empowerment of victims and supplement the procedural provisions regarding the preliminary enquiry are presented to Andrzej Duda, President of the Republic of Poland**
- **June 23: requesting the Holy See to deliver information and documents regarding cases conducted by the Congregation for the Doctrine of the Faith**
- **July 7: the General Prosecutor takes account of the first request of the National Commission for filing an appeal in cassation with the Supreme Court regarding a case that followed a wrong (simplified) trial procedure**

2 ACTIVITY OF THE NATIONAL COMMISSION DESCRIBED IN NUMBERS



246
phone calls answered



514
e-mail reports



38
hearings before the National Commission



349
pending cases



669
volumes of records analyzed as part of the National Commission's own studies



5 500
letters sent



3 BACKGROUND FOR THE APPOINTMENT OF THE NATIONAL COMMISSION

In Poland, the protection of children against sexual abuse has been discussed for many years. The key elements that initiate subsequent debates on that topic primarily include: high-profile cases of detected sexual violence towards minors; draft legislative efforts made from time to time to enhance the legal and criminal protection of children; and media stories that present the situation of people abused in their childhood. In May 2019, following the presentation of one of these movie documentaries, the idea was publicly presented for the first time to appoint a national commission in charge of investigating the cases of criminal sexual abuse of children. The media announced that the

commission's operations will cover all professions whose representatives are likely to come into contact with minors (teachers, trainers, clergy members, representatives of artistic or medical milieus etc.).

It was further specified that the purpose of appointing the national commission would be to avoid any concealment of child abuse.

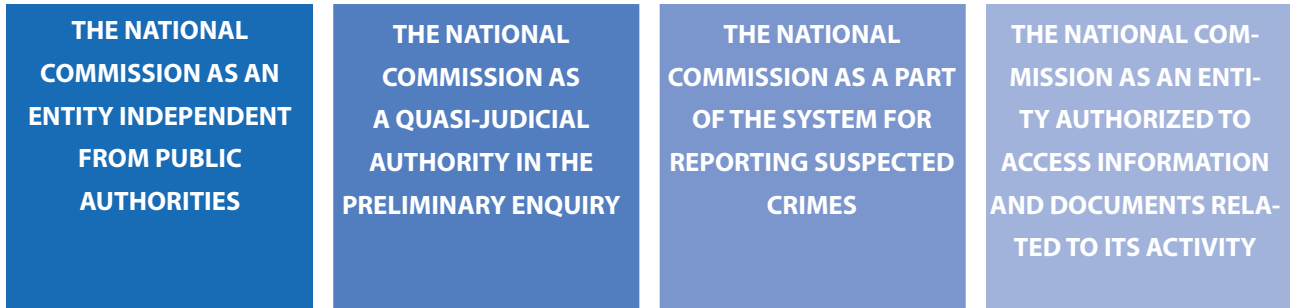
These announcements came true within the next three months, resulting in the adoption of the Act of August 30, 2019 on the National Commission for explaining cases of actions against sexual liberty and decency towards a minor under the age of 15. That legal act established a brand new national institution

with a view in particular to explaining cases of sexual abuse of children under the age of 15 and failures to notify law enforcement authorities of the occurrence of such crimes.

In accordance with the aforesaid Act, the fundamental task of the Commission is to strengthen the mechanisms for counteracting and fighting sexual crimes against minors under the age of 15, to investigate cases where the perpetrators cannot be prosecuted due to expiry of the statute of limitations, to examine this phenomenon on a comprehensive basis, and to take adequate educational and preventive measures.



4 STATUS OF THE NATIONAL COMMISSION



1. The National Commission as an entity independent from public authorities

The purpose of the legal architecture used in the Act is to systemically reinforce the position of the National Commission in responding to activities, if any, taken by other public authorities with a view to restricting its independence. **The Commission's independence is confirmed by the composition of its staff, the way its members are appointed, the term of their office, the strict definition of conditions for their dismissal, and their exemption from liability for activities covered by the role they exercise.** The National Commission is a collegiate body. Pursuant to the National Commission Act, it is composed of seven members, including: three appointed by the Parliament of the Republic of Poland with three-fifths majority in the presence of no less than a half of the statutory number of parliament members; one appointed by the Senate of the Republic of Poland



with three-fifths majority in the presence of no less than a half of the statutory number of senators; one appointed by the President of the Republic of Poland; one appointed by the Prime Minister; and one appointed by the Children's Ombudsman.

2. The National Commission as a quasi-judicial authority in the preliminary enquiry

Before the establishment of the National Commission, persons who suffered sexual abuse as children were totally unable to seek justice if the statute of limitations for these offences had expired. Thanks to the statutory powers vested in it, the National Commission enjoys certain competences that are specific to judicial power. To that extent, the Commission **was given the competence to conduct preliminary enquiries regarding cases in which the statute of limitations expired, and to make the decision to enter the perpetrators to the Register of Sex Offenders.** An entry can be made to the Register provided that the preliminary enquiry found that the offence attributed to the person identified as the perpetrator is among the behaviors towards a minor under the age of 15 referred to in Chapter 25 of the Criminal Code. The decision of the National Commission to make an entry to the Register attributes liability to the person identified as the perpetrator.



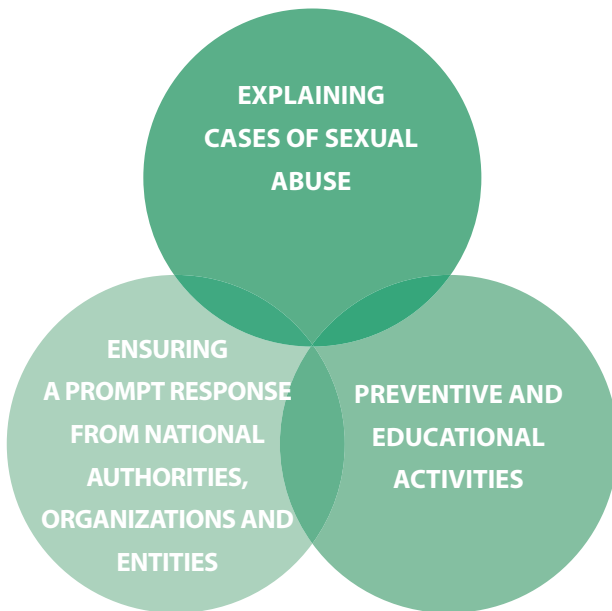
3. The National Commission as a part of the system for reporting suspected crimes

The legislator decided that **reporting a suspected sexual abuse of a minor to the National Commission is equivalent to meeting the legal obligation to notify a law enforcement authority** as defined in Article 240 of the Criminal Code. **Thus, the legislator equated the National Commission with law enforcement authorities.** On the one hand, by conferring similar competences upon it, the legislator made the Commission a body involved in initiating the criminal procedure, whereas on the other, it gave the Commission the authority to monitor the preliminary phase of that procedure. This solution provides support for whistleblowers as they do not have to personally report a suspected crime to the police or to the prosecutors' office. Indeed, the National Commission transfers the report to the prosecutors' office promptly upon receipt thereof.

4. The National Commission as an entity authorized to access information and documents related to its activity

The National Commission's authorizations related to accessing information and documents are provided for in the Act that governs its functioning. One of its fundamental tasks is to examine the way the organizations, entities and other operators respond to explaining cases of child sexual abuse. This activity includes in particular the cooperation between the National Commission and authorities engaged in protecting children and counteracting violence (including sexual violence) against them. At the same time, one of the main duties of the National Commission is to monitor the activities taken by competent authorities, organizations and entities, based on requests and notices. Both **the examination of the way the organizations and entities respond and the monitoring of actions they take require access to documents. Hence, to collaborate in this area, the relevant organizations and entities must provide the National Commission with appropriate documentation.**

5 SCOPE OF ACTIVITY OF THE NATIONAL COMMISSION



1. Explaining cases of sexual abuse

- a. **Conducting preliminary enquiries** in cases where the statute of limitation expired;
- b. **Examining the way the entities respond** to explaining cases of child sexual abuse, including identifying their failure to notify the competent authority of a suspected crime or of a suspected failure to notify of a suspected crime;
- c. **Identifying practical problems** related to prosecuting and punishing sexual abusers;

2. Ensuring a prompt response from national authorities, organizations and entities

- a. **Notifying of suspected cases of criminal sexual abuse** of children or suspected failures to notify thereof;
- b. **Intervening and providing the victims with support in proceedings before national authorities, including participating in criminal proceedings as an auxiliary prosecutor upon consent of the victim or his/her legal guardian;**

- c. **Providing the authorities of organizations and entities with information on suspected cases of criminal sexual abuse of children or suspected criminal failures to notify of a crime in order for them to initiate a procedure, including disciplinary proceedings;**
- d. **Requesting the General Prosecutor to lodge an extraordinary complaint against, or appeal in cassation from, a final judgment closing a case of criminal sexual abuse of children, and to place the ongoing proceedings under special supervision;**
- e. **Monitoring the activities taken by competent authorities, organizations and entities, based on requests and notices.**

3. Preventive and educational activities

- a. **Preparing reports with findings and recommendations for national authorities, organizations and entities;**
- b. **Raising awareness of the problem of child sexual abuse; of the ways of responding to it; and of how to assess the symptoms that could mean the minor is a victim;**
- c. **Submitting requests to take a legislative initiative or to issue or amend other normative acts.**

6 DESCRIPTION OF CHILD SEXUAL ABUSE IN A LEGAL CONTEXT

The Criminal Code penalizes, in particular, the following offences against children that threaten sexual liberty and decency:

Article 197, Section 3, item 2 of the Criminal Code	raping a minor under the age of 15	<p>the perpetrator uses violence, an unlawful threat or contrivance to have a sexual intercourse with a child (intravaginal, oral or anal contact with a sexual organ or object)</p> <p>the perpetrator uses violence, an unlawful threat or contrivance to have a child perform, or make him/her subject to, another sexual activity (this includes touching the victim's genitals – even through underwear or clothes – but also caressing, kissing, touching the breasts, buttocks or thighs)</p> <p>the perpetrator shall be subject to imprisonment for a term of no less than 3 years or, if the act was accompanied by particular cruelty, to imprisonment for a term of no less than 5 years</p>
Article 200, Section 1 of the Criminal Code	sexual intercourse with a minor under the age of 15; or performing another sexual activity against him/her; or having him/her perform, or making him/her subject to, another sexual activity	<p>the perpetrator has a sexual intercourse (see: rape) with a child; or performs another sexual activity against the child; or makes the child subject to another sexual activity</p> <p>the child's consent to be subject to sexual activities is not an attenuating circumstance</p> <p>this is found to be a crime irrespective of the perpetrator's intent, the reasons (e.g. falling in love with the victim) and motives that guided him/her</p> <p>the perpetrator shall be subject to imprisonment for a term of 2 to 12 years</p>
Article 200, Section 3 of the Criminal Code	presenting pornographic content to a minor under the age of 15 or providing him/her with objects of a pornographic nature or disseminating pornographic content in a way that makes it accessible to him/her	<p>presenting pornographic content to a child or providing him/her with objects of a pornographic nature; disseminating pornographic content in a way that makes it accessible to a child</p> <p>showing pornographic content in any form (e.g. pictures, movies), whether publicly or privately (e.g. at the perpetrator's house, by e-mail or MMS, delivering such materials as a gift)</p> <p>the perpetrator shall be subject to imprisonment for a term of up to 3 years</p>
Article 200, Section 4 of the Criminal Code	presenting the performance of a sexual activity to a minor under the age of 15 in order to	<p>the perpetrator presents the performance of a sexual activity to a child in order to sexually satisfy oneself or a third party</p> <p>presenting a sexual activity (e.g. masturbation or a sexual intercourse) as it takes place with the intent to derive sexual</p>

	sexually satisfy oneself or a third party	<p>satisfaction from this</p> <p>it is not necessary to determine whether the perpetrator or the third party actually satisfied their sexual desires</p> <p>the perpetrator shall be subject to imprisonment for a term of up to 3 years</p>
Article 200, Section 5 of the Criminal Code	advertising or promoting an activity which consists in distributing pornographic content in a way that makes it accessible to a minor under the age of 15	<p>public information or encouragement to use an activity consisting in the distribution of pornographic content, e.g. a pornographic theater, specific television channels, sex shops, specific pornographic magazines etc.</p> <p>publicly offering – for free, at a discounted price or as a prize in a competition etc. – access to an activity consisting in the distribution of pornographic content</p> <p>the perpetrator shall be subject to imprisonment for a term of up to 3 years</p>
Article 200a, Section 1 of the Criminal Code	contacting a minor under the age of 15 through an ICT system or in a telecommunications network in order to commit a crime defined in Article 197, Section 3, item 2 of the Criminal Code or in Article 200 of the Criminal Code and to produce or record pornographic content	<p>the perpetrator establishes a friendly relationship and an emotional bond with a child to make it easier to take advantage of him/her (grooming)</p> <p>contacting a child through an ICT system or the Internet with a view to meeting him/her by misleading him/her (e.g. saying that the victim meets his/her peer); abusing his/her inability to rightly assess the situation (e.g. encouraging to practices the child cannot understand); or threatening him/her (e.g. revealing the existence of the relationship to his/her guardian)</p> <p>the goal is to meet the child in order to rape him/her, have a sexual intercourse with him/her or perform other sexual activities with him/her; or to commit a criminal act of producing or recording pornographic content with a child</p> <p>the perpetrator shall be subject to imprisonment for a term of up to 3 years</p>
Article 200a, Section 2 of the Criminal Code	using an ICT system or a telecommunications network to propose a sexual intercourse to a minor under the age of 15, to perform or be subject to another sexual activity, or to participate to the production or recording of pornographic content, and taking steps to make this proposition a reality	<p>in particular, this includes repeatedly strongly encouraging and urging the child to contact the perpetrator (in addition to repeated sexual propositions), using such expressions as “write back;” “I am waiting;” “why did not you write me?;” “do you feel what we are doing?;” “how do you feel about it?”</p> <p>proposing this kind of behavior to a child while letting him/her consider and negotiate that offer; taking steps to make this proposition a reality means e.g. arranging a meeting with the minor</p> <p>all resources that enable both making and receiving web calls (e.g. a phone or computer with an Internet connection) and phone calls (e.g. a mobile phone conversation)</p>

		the perpetrator shall be subject to a fine, to a restriction of liberty or to imprisonment for a term of up to 2 years
Article 200b of the Criminal Code	promoting or commending pedophilic behaviors	<p>promoting means delivering a public presentation (in a way that allows a larger group of people to get acquainted with the views being presented) with the intent to make people accept child-abusive behaviors</p> <p>commending means presenting child-abusive behaviors so as to glorify them, make them being perceived as sound and worth following or justified</p> <p>the perpetrator shall be subject to a fine, to a restriction of liberty or to imprisonment for a term of up to 2 years</p>

7 DESCRIPTION OF CHILD SEXUAL ABUSE IN A PSYCHOLOGICAL AND SEXOLOGICAL CONTEXT

1. The group of sexual crimes against minors is heterogeneous and characterized by differences in psychological profiles between the perpetrators. **Not every perpetrator of a sexual crime against children can be automatically identified as a person with a pedophilic disorder in the clinical sense.** A pedophilic disorder is a clinical condition which, as such, is diagnosed by a sexologist and must meet several conditions (DSM-5).

Pedophilic behavior should be defined as any activity related to child sexual abuse (touching children close to their sexual organs; downloading child pornography; establishing relationships with children with any online communication tools and engaging them in "erotic" conversations).

a. first, there must be recurrent, intense sexual arousal derived from sexual activities with a child or children before puberty (aged 13 or younger) which persists for no less than six months and is manifested by fantasies, desires and behaviors;

b. second, the sexual desires described above result in significant clinical pain and major difficulties in relations with other people;

a. third, the person concerned is no less than 16 years old and is 5 or more years older than the child or children before puberty.



2. With a certain generalization, there are perpetrators who engage in sexual contacts with children due to them having a pedophilic disorder, as well as perpetrators who behave this way while not suffering from any sexual preference disorders. The literature refers to the former and the latter kind of perpetrators as “preferential” and “non-preferential” perpetrators, respectively.



3. Children differ in how they respond to a sexual abuse experience. The response depends on variables such as the child’s age and mental condition he/she was in before experiencing abuse. It also depends on the characteristics of the perpetrator, such as his/her closeness to the child and variables related to the event itself (e.g. repeatability, penetration, use of force by the perpetrator).

The direct consequences of sexual abuse for the child are as follows:

- emotional disorder and a distorted view of oneself (anxiety, phobias, depression, sense of guilt and embarrassment, anger, hate, excessive control, reduced self-esteem),
- physical disorders and complaints (sleep and eating disorders, unwanted pregnancy),
- sexual disorders (public masturbation, weird sexual behaviors, frequent exhibition of genitals),
- impaired social functioning (leaving home at an early age, running away, having problems at school, committing offences).

Long-term consequences of sexual abuse for the child are as follows:

- emotional disorder and a distorted view of oneself (depression, self-destructive behaviors),
- somatic and antisocial personality disorders (anxiety, tension, nightmares, sleep and eating disorders, various forms of dissociation),
- impaired self-esteem (sense of isolation and alienation, extremely low self-esteem),
- interpersonal disorders (difficulties in contacting both males and females, one’s parents and one’s own children in the adult life; decline in trust to people, anxiety towards one’s spouse and sexual partners; vulnerability to becoming a victim of another sexual assault),
- sexual disorders (e.g. sexual anxiety, sense of guilt, lack of sexual satisfaction, reduced sexual desire, compulsive avoidance of or compulsive quest for sexual contacts, reduced sexual self-esteem, orgasm disorders),
- impaired social functioning (e.g. prostitution).

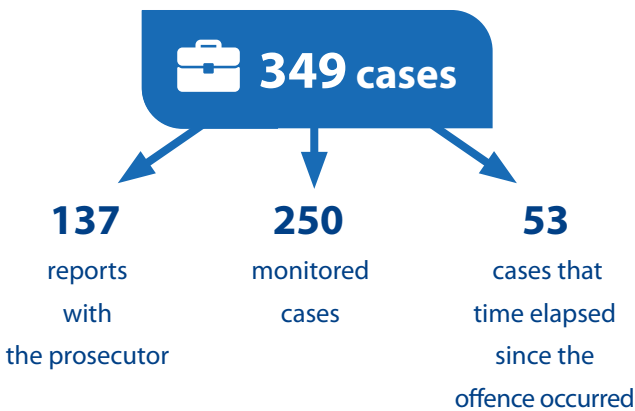
8 SUMMARY OF REPORTS SUBMITTED TO THE NATIONAL COMMISSION

1. Reports submitted to the National Commission

- a. Everyone can report to the National Commission a suspected crime against sexual liberty and decency of a child.
- b. The report can be submitted in writing, orally (to be recorded in minutes) or electronically.
- c. A false report to the National Commission shall give rise to criminal liability.
- d. The National Commission promptly transfers the report to the prosecutors' office.
- e. Then, the National Commission focuses on monitoring the activities taken by the authority in charge of the pre-trial stage.

2. Analysis of reports submitted to the National Commission

- a. In this report period, the National Commission conducted a total of **349 cases (including both those reported to it and those taken on its own initiative).**

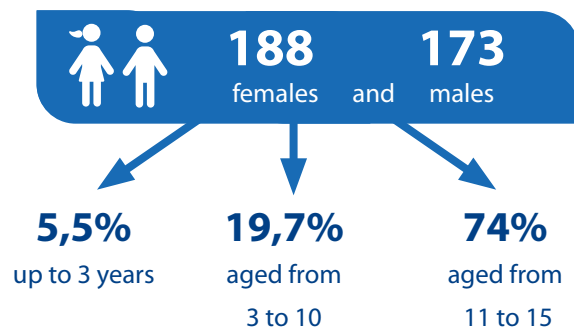


- b. The National Commission **filed 137 reports with the prosecutor**, including 36 related to a suspected failure to notify the competent authority of a suspected criminal sexual abuse of a child under the age of 15.
- c. Also, the National Commission was provided with reports on **cases which had previously been investigated**

stigated by law enforcement authorities and had ended with a refusal to initiate the proceedings or had been withdrawn during the pre-trial stage, as well as on cases for which proceedings were pending. The National Commission is monitoring 250 such cases.

- d. Another group was formed by **cases in which the alleged perpetrator could not be punished due to time elapsed since the offence occurred.** The National Commission is conducting **53** cases which were terminated during the pre-trial or trial stage due to expiry of the statute of limitations.
- e. Cases filed with the National Commission, grouped by criteria:

- The victim criterion

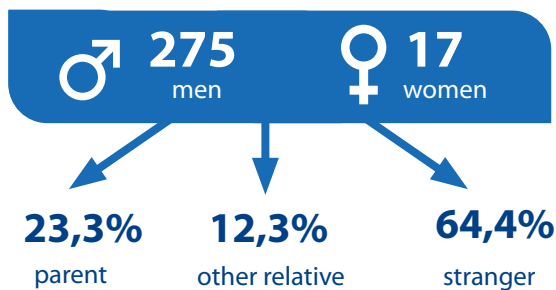


Most of the victims were minor females (188 persons). In some cases, there were 3 victims, for instance. Hence, the number of cases did not always match that of victims. There were 173 male victims identified. In other cases, the child victim's gender was not specified.

In the vast majority of reports (99% of cases), the victims were under the age of 15 when the offence was committed. In the remaining one percent of cases, the minors were aged between 15 and 18 when the crime took place.

The youngest victim was only one year old whereas the oldest was 16 at the time the offence was committed. In 22 cases, the victims were aged up to 3. In 71 cases reported to the National Commission, the victims were between 3 and 10 years old. Other victims were aged from 11 to 15.

- The perpetrator criterion



Men were identified as potential criminals in the vast majority of cases (275 persons, i.e. 96% of all reports). The group of potential perpetrators included 17 women.

A parent (68 cases) or another relative (36 cases) of the victim was identified as the alleged perpetrator in many of the reports. Strangers to victims were indicated as potential perpetrators in 193 cases.

Of the reports pertaining to non-family perpetrators, the largest number (100) of cases were related to clergy members. In nearly one third of cases handled by the National Commission, a clergy member is indicated as a child sexual abuser.

The group of identified child sexual abusers also includes persons which, while not being a relative, are known to the child. In many cases, the potential perpetrator is identified to be someone from the close environment of the child victim, for instance a neighbor, a family friend, a tutor at the educational care facility or boarding school, a trainer at the sports club, a teacher, a care home employee or the mother's partner.

- The criterion of case type

Divorce-related cases (ca. 25% of cases)

So far, practice has shown that ca. 25% of cases reported to the National Commission are related to a family crisis resulting from divorce-related conflicts. In that group, ca. 99% of reports are submitted by mothers accusing their children's fathers of sexual violence.

Cases in which a clergy member is identified as the perpetrator (nearly 30%)

- in 64 cases, a clergy member was indicated as a sexual abuser of a child under the age of 15,
- in 36 cases, a clergy member was indicated to have failed to notify the competent authority of a suspected criminal sexual abuse of a child under the age of 15.

Online offences (ca. 12% of cases)

In this report period, the National Commission was provided with 40 reports on events discovered on the Internet.

Failure to notify the competent authority of a sexual abuse crime (ca. 10%)

The Commission is conducting 36 cases in that area. In the vast majority, suspected crimes were reported by strangers; only in two cases, the reports were filed by the victims.

Cases opened ex officio

In cases opened ex officio – just as in the case of reports regarding suspected sexual abuse crimes or failures to notify thereof the competent authority – **the Commission contacts the competent authorities, usually the prosecutors' office, by submitting a notification or requesting information on pending proceedings regarding the case concerned.**

In this report period, the National Commission conducted 22 cases on its own initiative. The Commission opened these cases based on media information. The vast majority of them are related to offences committed by



clergy members against minors who now are adults.

Participating in a criminal procedure as an auxiliary prosecutor

In this report period, the National Commission was requested six times to join a criminal procedure as an auxiliary prosecutor. The relevant requests were filed by legal representatives of minor victims. In specific cases, upon consent from the victim, the Commission filed a statement with the courts announcing that it acts in the procedure as an auxiliary prosecutor.

Procedures monitored by the National Commission

The Commission's entitlement to undertake monitoring activities is applicable to both the pre-trial and trial stages, at each step, until a final judgment is rendered.

In this report period, **the National Commission found irregularities in 12 cases** (both pending and terminated) and reported them in writing to the National Prosecutors' Office.

The National Commission is monitoring procedures for a total of 250 cases at different stages.

Notification of the National Commission of a suspected crime or of a failure to notify the competent authority of a suspected crime

In this report period, **the National Commission submitted two notifications of suspected crimes under Article 240, Section 1 on its own initiative.** In both cases, the notifications filed by the National Commission were related to church authorities concealing information on child sexual abuse by clergy members under their responsibility. The main source of information on factual circumstances were interviews with and materials delivered by the victims.

Requesting the General Prosecutor to lodge an extraordinary complaint against, or appeal in cassation from, a final judgment closing a case of a pedophilic crime

Since November 24, 2020, the National Commission has not been provided with any demand to request the General Prosecutor to use extraordinary judicial remedies, namely an extraordinary complaint or an appeal in cassation.

However, the National Commission filed two requests ex officio for appealing in cassation (to the detriment of a convicted accused) from a final prescriptive judgment rendered in criminal cases under Article 200a Section 1, Article 200a Section 2 and Article 191a Section 1 of the Criminal Code.

9

SUMMARY OF THE NATIONAL COMMISSION'S OWN STUDIES

1. Research on the phenomenon of child sexual abuse in Poland in 2017–2020.

An own study project.

The purpose of this study was to describe the phenomenon of sexual abuse of children under the age of 15 in Poland in 2017–2020 based on an analysis of judicial documents of cases that ended with a final judgment.

Specific goals were defined as investigating the family situation and the mental and physical condition of victims, the profile of perpetrators of these crimes, the characteristics of offences they committed, and the procedural aspects of the participation of minors in criminal procedures.

The analysis covered 345 cases in 245 court proce-



edings. The reason behind the difference between the number of proceedings and the number of cases is that some cases had more than one victim or more than one perpetrator. Data extracted from selected documents was analyzed using a questionnaire with 3 sections. The first section presented the situation of the victim (socio-economic, family and schooling situation); the second section was related to the perpetrator (social, economic and professional situation and psychological characteristics); the third section referred to the characteristics of the offence and of legal aspects of the event (time, place and type of crime).

1. Cases selected to be covered by this study:

- crimes under Chapter 25 of the Criminal Code (Article 197, Section 3, item 2; Articles 199, 200, 200a, 200b, 202, 204)
- perpetrated against a minor under the age of 15

2. Narrowing the scope of cases to criminal procedures which are ended; in which the indictment was filed after July 13, 2017; and which either ended with a final judgment or were withdrawn by the end of 2020

3. The Commission's request for case files to Presidents of Regional and District Courts

4. Randomly selecting the file numbers of cases to be finally covered by the analyses from the whole group of case files received

RESULTS GROUPED BY DEFINED CRITERIA

Victims

The largest part (49%) of victims were children **aged from 13 to 15**, followed by children aged 7 to 12 (41%), children aged 4 to 6 (8%) and those aged up to 3 years (1%). In **93%** of cases, **a girl** was the victim of sexual abuse (a boy in other cases). The largest group (39%) of children lived in **small towns**, 31% lived in rural areas whereas the remaining 30% lived in cities with a population above 50,000. Most (**78%**) of the **children did not present any characteristics of mental disability**. In 125 cases (58%), child victims were raised in homes with **cohabiting parents**; in other 92 cases,

the children's parents lived separately. In 130 cases (a total of 62%), the child who experienced sexual abuse lived in a family **with one or two siblings**. In 209 cases, it was possible to assess the financial standing of the child victim's family, of which 150 (44%) had an **average** socioeconomic situation. A difficult or an extremely difficult financial situation was found in a total of 55 homes, which accounts for only 16% of the sample. One of the key matters related to sexual abuse is to identify the person who noticed that it had occurred. The results of this study show that usually, **children reported the offence themselves** (121 cases, 54%). If the child decided not to disclose this information himself/herself, the symptoms of harassment were usually noticed by the parent (N = 59). Cases of sexual abuse reported by a peer, friend, social assistant or guardian were relatively the least frequent.

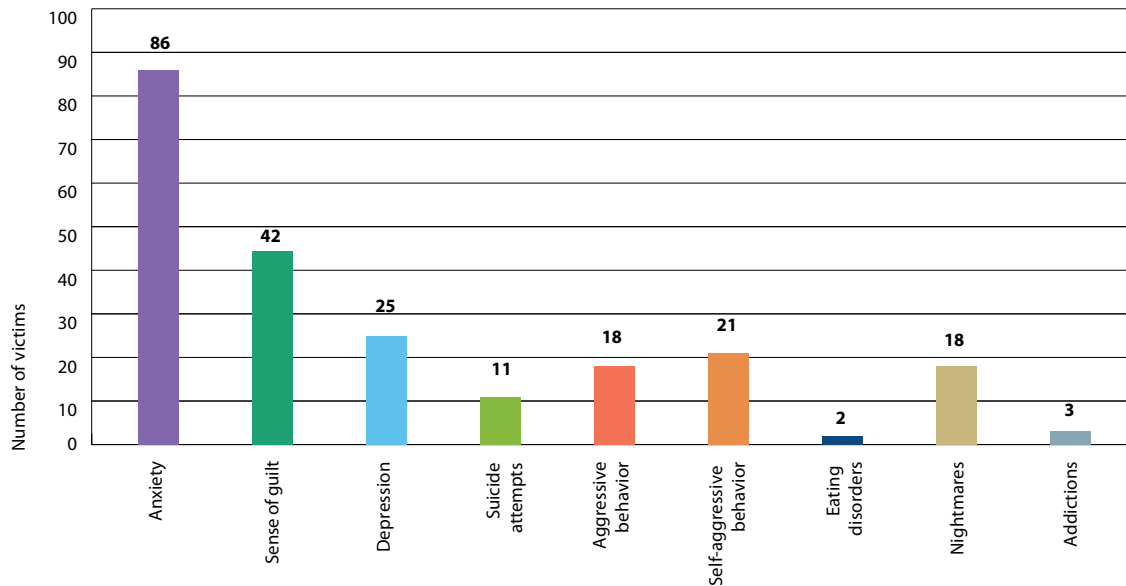
Another area covered by this study was the support provided to sexually abused children at different steps of the procedure. As shown by the results, in as much as 87% of cases, the victim was not represented by a counselor at the pre-trial stage. The children had a counselor in only 3 out of 8 cases.

The moment when the offence is reported is an extremely vulnerable period for the victims. Children who decided to talk about what happened need special safeguards and care to avoid secondary pain and trauma. The analysis of cases suggests that as many as 170 children out of 218 were not covered by psychological care at the pre-trial stage.

Many times, children who suffered criminal sexual abuse must face the consequences of it. The analysis shows that the most frequent mental consequences for the children are **anxiety, sense of guilt** or even **depression**.



What were the mental consequences of sexual abuse found in victims?



The diagram below shows the mental consequences of child sexual abuse.

Sexually abused children experienced anxiety (in 38% of cases), sense of guilt (19%) and depression (11%).

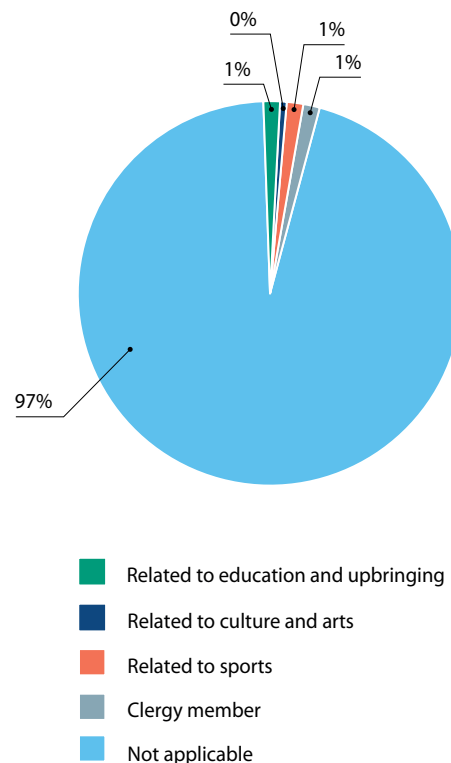
Perpetrator

The vast majority (98%) of convicted perpetrators are men. The average age of the perpetrator when committing the act was 34. The largest group (N = 95) of perpetrators of such offences covered by this study lived in small towns (with a population of up to 50,000) and in rural areas (N = 80). Nearly half (46%) of them had their own children while 174 (63%) were not in a formal relationship. Of the convicted perpetrators, only 1% had a tertiary education; the largest group (35%) consisted of people with a vocational education. When committing the act, the vast majority of perpetrators were economically active, including 101 blue-collar workers. Fifty-five were casual workers. White collars formed the smallest group in this study (N = 19).

Having regard to data retrieved from the literature and to the important role of contacts with children in a professional milieu, the decision was made to analyze the perpetrator's social function at the time of committing

the act. The diagram below presents the percent distribution of perpetrators grouped by social role.

What was the perpetrator's social function?

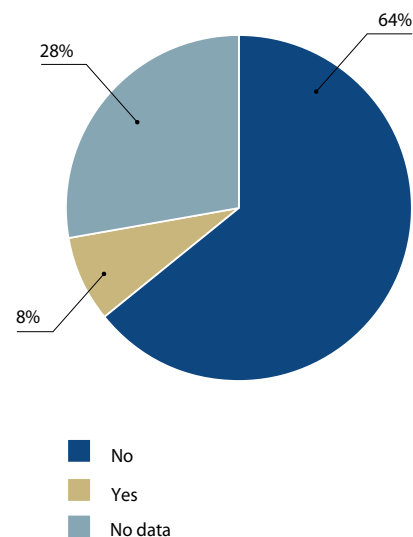


A detailed analysis of results suggests that:

- children to whom pornographic content was presented suffered from depression;
- the exhibition of sexual organs and sexual activities to children coexists with them having nightmares;
- sexually touching non-intimate parts of a child's body is correlated with him/her experiencing anxiety, sense of guilt and depression;
- it was significantly more frequent for children kissed deeply in the mouth by the perpetrator to experience anxiety, sense of guilt and depression; also, they demonstrated aggressive behaviors;
- victims who experienced touching intimate parts of their body (breasts, genitals, buttocks) demonstrated anxiety, sense of guilt, depression, aggressive behavior, self-aggressive behavior (including attempted suicide) and nightmares; touching intimate parts of a child's body results in great mental damage;
- children who experienced masturbation by the perpetrator demonstrate high levels of anxiety, sense of guilt and depression; self-aggressive behavior was more frequent in these victims;
- children who had intercrural and oral sex with the perpetrator experienced anxiety, sense of guilt and depression, made suicide attempts, demonstrated self-aggressive behavior, suffered from nightmares and made more frequent use of psychoactive substances;
- anxiety and sense of guilt coexisted in children who had fingers or objects introduced to their anus or vagina;
- having anal sex with a child is significantly correlated with him/her experiencing anxiety, depression, sense of guilt, self-aggressive behavior and nightmares.

Two of the convicted perpetrators were priests and two other persons were related to sports activities. Most **convicted** sexual criminals (N = 265) did not perform any of the social functions shown in the diagram. According to the literature on the subject, the group of high-functioning perpetrators is larger. **It is suspected that perpetrators with a high economic status usually enjoy impunity**, and the crimes they commit are not discovered or not reported to competent authorities. This can result both from their ability to obtain paid legal assistance and from using paid services related to child abuse (e.g. darknet or child prostitution in other countries).

Based on sexological opinions, it was possible to determine the number of perpetrators experiencing sexual preference disorders in the form of pedophilia. The diagram below shows the distribution of results grouped by whether or not such disorders were present.

Was the perpetrator diagnosed with sexual preference disorders in the form of pedophilia?

The analysis of results suggests that only 29 perpetrators were diagnosed with pedophilic sexual disorders (preferential perpetrators). **The vast majority (N = 220) are people who, while not suffering from these disorders, abused a child as a substitute for a mature partner (substitute perpetrators).**



As part of the above classification, some profiles can be identified that combine certain biological, psychological and social characteristics. As shown by the results of this study, **the group of preferential perpetrators includes: 4% of seducers, 3% of introverts and 1% of sadists, whereas others are substitute perpetrators, most of which experience regressive frustration (38%) and are morally indifferent (31%).**

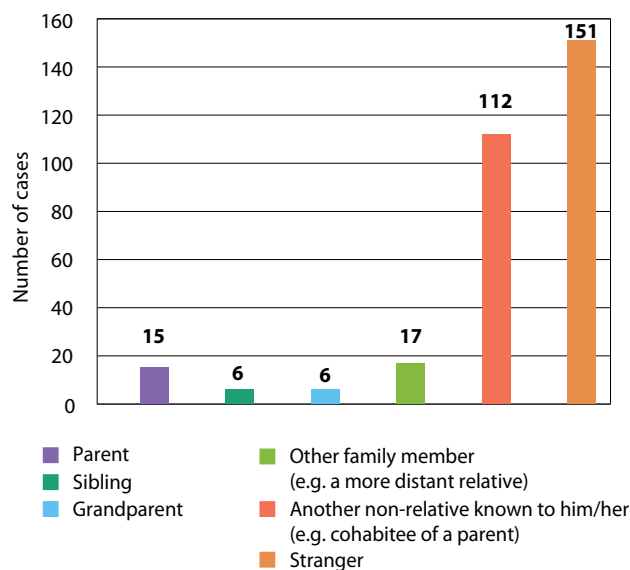
Characteristics of the act

According to the study, the act took place on the Internet in 35.36% of cases. When it comes to direct contacts, sexual abuse usually took place in the perpetrator’s dwelling.

The next step consisted in analyzing the percent of acts committed by persons known to the child, including members of the victim’s closest family.

It was determined that in 156 cases (40%) a bond existed between the victim and the accused (the perpetrator was known to the child). In 102 cases, the perpetrator used that bond in an effort to keep the crime secret. In 40 cases, the victim demonstrated great hostility towards the perpetrator. In 21 cases, the act was committed by a member of the closest family (parent, sibling).

Who was the perpetrator for the victim?



As regards behaviors involving physical contact, the perpetrators usually touched the intimate parts of the victim’s body: breasts, genitals and buttocks (36% of perpetrators). In turn, 10% of perpetrators touched non-intimate parts of the victim’s body; this is the second most frequent activity performed by them. When it comes to contactless behaviors, 26% of perpetrators made sexual propositions, whereas 16% exhibited their sexual organs and presented sexual activities. Three perpetrators (1%) had a sexual intercourse in front of a child.

Court procedures

In matters covered by this analysis, the courts ordered a compensation or a fine for the benefit of the victim only in 32 and 24 cases, respectively. **Damages were awarded in none of the cases analyzed.** In 83% of cases, the court did not order any kind of compensation. A compensation was ordered to be paid only to 20 children (ca. 8% of all cases). The amount of compensation ranged from PLN 200 (2 children) to PLN 80,000 (1 child). In turn, fines for the benefit of the victim varied in the range of PLN 500 (15 children) to PLN 20,000 (2 children). The table below presents a summary of intervals for compensations and fines, and the central (median) value indicating which of the interval’s extremities was closer to the amount of money usually awarded by the courts.

Compensation type	Minimum value (PLN)	Maximum value (PLN)	Median (PLN)
Compensation	200	80 000	5 000
Fine for the benefit of the victim	500	20 000	500
Damages	none	none	none

The smallest fine for the benefit of the victim was ordered in an ICT-based case where the perpetrator made sexual propositions to girl victims and sent them pictures of his naked genitals. In turn, the greatest amount



was awarded for having multiple sexual intercourses with a boy victim, making him subject to other sexual activities (masturbation) and intoxicating him with alcohol.

The most frequent sanction imposed on perpetrators was the **prohibition to contact certain persons**; this accounts for 42% of all sentences. **None of the perpetrators was deprived of his/her public rights.** The prohibition to exercise a specific profession and to occupy a specific position was ordered in a total of 11% of sentences in criminal cases covered by this analysis. Note that only in 12 cases (3.5%), the obligations imposed by the court included placing the perpetrator on an addiction therapy. In cases covered by this analysis, none of the perpetrators was expelled from the dwelling shared with the victim.

Sentence

The sentence for **rape** on a child under the age of 15 was immediate imprisonment **for a term of 3 to 10 years** (Article 197, Section 3, item 2 of the Criminal Code), although the statutory range is 3 to 12 years.

The sentence for sexual intercourses with a child under the age of 15 (Article 200, Section 1 of the Criminal Code) was immediate imprisonment for a term of 2 to 10 years; **imprisonment for a term between 10 and 12 years was not ordered in any case.**

The sentence for presenting, sharing and distributing pornographic content to a child under the age of 15 (Article 200, Section 3 of the Criminal Code) was immediate imprisonment for a term of 4 months to 1 year, **which is far from the statutory upper limit.**

The sentence for storing, owning or accessing pornographic content with a child under the age of 15 (Article 202, Section 4a of the Criminal Code) was immediate imprisonment for a term of 3 months to 2 years. No one was sentenced for a term of between 2 and 5 years.

The sentence for producing, recording or downloading pornographic content with a child under the age of 15 (Article 202, Section 3 of the Criminal Code) was immediate imprisonment for a term of 2 to 3 years, whereas the limit set by the legislator is 12 years.

Usually, the sentence for publicly presenting pornographic content (Article 202, Section 1 of the Criminal Code) was immediate imprisonment for a term of 3 months, although the legislator provided the ability to order imprisonment for a term of up to 2 years.

10 LEGISLATIVE INITIATIVES OF THE NATIONAL COMMISSION

Draft amendments to the criminal law	Draft amendments to the Commission Act
<ol style="list-style-type: none"> 1. preventing all kinds of convictions for sexual crimes against sexual liberty and decency of a minor from being spent; 2. removing the limitation period for crimes against sexual freedom and decency of a minor; 3. removing the condition of double criminality for crimes defined in Chapter 25 if perpetrated against a minor; 4. adding two new crimes: (1) contacting a minor in order to sexually abuse him/her in cyberspace (currently, grooming is only applicable to events taking place in the real world); (2) infringing the minor's sexual privacy in cyberspace, without his/her knowledge or consent, by sharing his/her 	<ol style="list-style-type: none"> 1. empowering the victims, including by granting them the right to file an objection against the way the preliminary enquiry is conducted; and the right to appeal from the National Commission's refusal to make an entry to the Register; 2. increasing the anonymization of the subjects (including whistle-



Projekt zmian prawa karnego	Projekt zmian ustawy o Państwowej Komisji
<p>knowledge or consent, by sharing his/her naked picture in the network in order to sexually satisfy oneself or other people;</p> <p>5. making the crime an aggravated offence based on whether the victim is a minor: sexual abuse of insanity or vulnerability; sexual abuse of a relationship of dependency or a critical situation; coercion of a minor into prostitution; infringement of sexual privacy of a minor;</p> <p>6. making it a crime to coerce a minor into prostitution;</p> <p>7. entering the criterion of the victim being a minor, and the crimes defined in Chapter 25 to:</p> <p>a) the conditional withdrawal of proceedings: prohibiting the conditional withdrawal;</p> <p>b) the conditional suspension of the sentence: restricting this ability to duly justified cases; extending the period on license; imposing compulsory supervision; preventing a conditionally suspended sentence from being spent by operation of law;</p> <p>c) the prohibition on substitute non-custodial measures;</p> <p>d) the prohibition to render mixed/combined sentences;</p> <p>8. increasing the criminal sanctions for crimes which consist in: sexually abusing a relationship of dependency or critical situation; sexually abusing a minor; inducing a minor to engage in sexual activity through electronic means; promoting pedophilia; and publicly presenting pornographic content;</p>	<p>blowers’ data) and of the objects (all information and the preliminary enquiry);</p> <p>3. structural correctness in preventing and combating child sexual abuse;</p> <p>3. proper scheme of the Act;</p> <p>3. making the Act more legible in terms of public perception;</p> <p>3. arranging and unifying the scope of terminology related to the subject matter of the Act</p> <p>3. clarification of the procedure for preliminary enquiries in cases where the statute of limitation expired.</p>

11 MEETINGS BETWEEN THE NATIONAL COMMISSION AND EXTERNAL PARTIES

- December 1: starting the series of meetings with experts in the protection of minors against sexual violence. Father Isakowicz-Zaleski is the first guest.
- December 14: meeting with representatives of the “Hurt in the Church” initiative whose activity includes organizing support groups for people harmed in childhood.
- December 21: meeting with the Child Protection Center team – father Adam Żak, Ph.D., S.J. and Ewa Kusz.
- January 22: meeting with professor father Andrzej Kobyliński who investigates the phenomenon of sexual abuse and the way Polish and international institutions respond to it.
- January 21: meeting held with the State Prosecutor Bogdan Święczkowski and representatives of the National Prosecutors’ Office to establish collaboration in



explaining cases of sexual abuse of minors.

- January 27: establishing collaboration with the Police Headquarters; meeting held with the Chief General Inspector Jarosław Szymczyk, Ph.D., and General Inspector Paweł Dobrodziej to discuss the protection of children on the Internet and other topics.
- March 12: meeting with representatives of the Ecclesiastical Foundation of Saint Joseph—father Grzegorz Strzelczyk, Marta Titaniec and father Piotr Studnicki.
- April 8: sending a letter to 56 sexology experts asking them for recommendations on how to combat child sexual abuse and help the victims and people at risk.
- April 9: meeting held with representatives of the Ministry of Health to explain the situation of the National Center for the Therapy of Antisocial Personality Disorders in Gostynin and discuss other topics.
- April 15-21: sending questions to hospitals' psychiatric wards and to psychiatric patients' ombudsmen asking them to evaluate the existing principles for

handling and working with sexual crime victims admitted as patients to children and youth psychiatric wards, and to deliver statistical data.

- May 10: meeting held with the Polish Episcopate's Team (headed by archbishop Wojciech Polak) in charge of contacts with the National Commission in order to provide the Commission with the documentation of procedures related to cases of suspected sexual abuse of a child by a clergy member.
- May 31: meeting with representatives of the "We Give Children Strength" foundation, Renata Szredzińska, Marta Skierkowska and attorney Katarzyna Katana; establishing collaboration, including in the area of promoting standards for child protection against sexual violence;
- June 17: meeting held with Marzena Machałek, Deputy Minister of Education and Science, to discuss preventive measures taken as part of formal education;

12 SPEECHES AND REQUESTS DELIVERED BY THE NATIONAL COMMISSION

- February 10: the National Commission joined for the first time a criminal procedure before the court as an auxiliary prosecutor.
- 22 lutego - 29 marca: requesting all dioceses, archdioceses and the Military Ordinariate of Poland to provide information on criminal and administrative trials, and to send documents related to cases of suspected sexual abuse of a child by a clergy member.
- May 7: the Commission's request to leaders of Polish churches (the Orthodox Church, the Greek Catholic Church, the Evangelical Reformed Church, the Lutheran Church, the Pentecostal Church and the Congregation of Jehovah's Witnesses) for statistical data and information on how their communities deal with cases of sexual abuse of minors.

13 RECOMMENDATIONS OF THE NATIONAL COMMISSION

FOR SYSTEMIC CHANGES	FOR PROCEDURAL CHANGES	FOR PREVENTIVE MEASURES	FOR THE QUALITY OF SPECIALIZED CARE	ON HOW TO DEAL WITH THE PERPETRATORS
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**Recommendations for systemic changes**

- a. A systemic enhancement of protection for the rights of minor victims of sexual violence by introducing the amendments to Criminal Law proposed by the National Commission.
- b. An amendment to the National Commission Act designed to clarify the procedure of the preliminary enquiry, to empower the victim and to structure the terminology.

Recommendations for procedural changes

- a. Article 240 of the Criminal Code shall also apply to acts that have been perpetrated before July 13, 2017 and continue to be perpetrated from July 13, 2017.
- b. Giving priority to criminal cases related to sexual violence against children.
- c. Introducing the institution of child's attorney for minor victims.
- d. A prompt request by the prosecutor to appoint an attorney ad litem for a minor victim.
- e. The prosecutor's request to appoint an attorney ad litem for the minor victim shall be examined by the guardianship court within three days.
- f. Every district court shall have an up-to-date list of attorneys and legal counsels who demonstrate adequate psychological and social skills and an extraordinary knowledge of cases involving children.
- g. The principle that a child victim of a sexual abuse crime shall attend only one hearing needs to be effectively complied with by trial authorities.
- h. The obligation to have an expert assess whether the minor can participate in a rehearing.
- i. Investigations related to sexual violence against children shall only be conducted by adequately trained judges.
- j. Indicating the gender of the judge and of the expert psychologist who participate in the hearing of a minor victim (it should be other than the perpetrator's gender);
- k. Introducing information targeted at minor victims and minor witnesses to prepare them for participating in court proceedings (based on existing mate-

rials developed by NGOs);

- l. Extending the instructions for the victim with a provision that upon his/her prior written consent, he/she may be represented in the criminal proceedings by the National Commission as an auxiliary prosecutor;
- m. Compulsory sexological and psychiatric evaluation of child sexual offenders;
- n. Placing addicted perpetrators on addiction therapy sessions by court order.

Recommendations for preventive measures

- a. Making rural areas and small towns covered by measures taken to increase social awareness of child sexual abuse.
- b. Combating sexual abuse of children in higher-risk places.
- c. Including the potential perpetrators of sexual crimes in the target category for preventive measures.

Recommendations for the quality of specialized care

- a. Unifying the standards for the costs of obtaining a specialization in sexology.
- b. Establishing and financing a rapid intervention path which ensures priority in accessing psychological care is given to children suspected of being sexual abuse victims.
- c. Supplementing the core curriculum of the Ministry of Education and Science with matters related to preventing sexual abuse.

Recommendations on how to deal with the perpetrators

Introducing therapeutic measures as part of post-penitentiary care for discharged prisoners previously sentenced for crimes against sexual freedom and decency of a minor under the age of 15.

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