

Tackling child sexual abuse from a child-rights perspective: The Basque Ombudsman's new Guidelines for responding to cases of child sexual abuse and exploitation in the Basque Country

The Guidelines

The main objective of the Guidelines is to ensure an effective response to cases of child sexual abuse or exploitation, which includes the protection of the victim and appropriate reparation in all cases. Their focus is placed on the collaboration between the different institutions intervening in child protection (health system, social services, judges, lawyers and prosecutors). The Guidelines aim at ensuring the smooth transit of the victim between the different systems and at making sure that one actor does not hinder the action of the others.

The Guidelines take a decided child-rights approach and make clear that children are rights holders and subjects of rights. In line with the United Nations Convention on the Rights of the Child, the Guidelines regard child sexual abuse and exploitation as forms of violence and severe ill-treatment of children.

The two leading principles of the Guidelines are:

1. A focus on preventing and mitigating re-victimisation, by following the principles of least-intrusive intervention, celerity and specialisation, and by avoiding unnecessarily repetitive investigative steps.
2. Access to rehabilitation with a view to providing prompt and effective reparation for the damage caused. This principle requires universal access to treatment and services, as well as ensuring that all actors involved strive for an immediate access to rehabilitation treatment without unjustified delays.

Following these leading principles, the specific guidelines detail each actor's duties and functions, the sequence in which they should intervene and their timing. The guidelines are grouped in three stages: detection, intervention and treatment.

The Basque Ombudsman's recommendations

The Guidelines document contains a series of recommendations from the Basque Ombudsman, addressed to the different services and authorities involved:

- Each one of them should effectively apply the Guidelines in their respective field of competence.
- The authorities and services involved should disseminate the Guidelines and put in place all actions and reforms as required, so that every procedure and action is in line with the Guidelines and includes the measures provided by them.
- Training and specialisation of all professionals involved should be promoted, including those active in the private sector. Training must take a human rights, gender and child rights perspective.
- The services and authorities involved should follow up on, and evaluate the implementation of the Guidelines' measures and make amendments and

improvements as appropriate. These should be communicated to the Basque Ombudsman in order to enable updating of the Guidelines.

Social services in particular are urged to ensure access to public treatment to every child victim of sexual abuse or exploitation, regardless of the ability of the victim's family to provide protection. Judges, lawyers and prosecutors are invited to integrate the Guidelines into their procedures.

Background

The Basque Ombudsman has led the drafting of the Guidelines since 2019. After several years expressing concern at the response provided by the competent authorities to victims of child sexual abuse, the Basque Ombudsman seized the initiative to draft a protocol to mitigate one of the main deficiencies identified: the un-coordinated and fragmented response of the different systems intervening, which resulted in the absence of shared guidelines and well-defined itineraries for the victims within a response that was supposed to be integrated and coherent.

The Guidelines' objectives and approach are very much in line with other current initiatives, such as the Bill for an Act on comprehensive protection of children and young persons from violence, which is being discussed in the Spanish Parliament. They are also in line with the Barnahus model, which appears to be part of the Basque Government Department for Equality, Justice and Social Policy main acting lines.

The Guidelines formulate shared objectives and approaches. They represent an agreement on how to work in a coordinated way and reflect the consensus of the stakeholders involved. Thus, they can be seen as a first step in the right direction and as an effective instrument in the pursuit of a more ambitious response to child sexual abuse and exploitation, which will require further development.