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LANZAROTE CONVENTION

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

Replies to the general overview questionnaire

BULGARIA

Replies registered by the Secretariat on 22 August 2014

The answers to the questionnaire are prepared by the State Agency for Child Protection. Ministry of Justice, Ministry of the Interior, Ministry of Hearth, Ministry of Education, the National Institute for Justice, the National Institute for Criminalistics and Criminologics, Ministry of Foreign Affairs contributed to its preparation.

The appendix with extracts of the relevant legislation is also provided.

GENERAL FRAMEWORK

Question 1: Definition of "child"

Does the notion of "child" under your internal law correspond to that set out in **Article 3, letter (a)**, i.e. "any person under the age of 18 years"?

Article 2 of the Child Protection Act (CPA) states a child is any natural person, who has not reached the age of 18. Thus, the definition in the national legislation fully complies with the Convention. A minor is a child up to 14 and a juvenile is a child between 14 and 18 years of age.

- What legislative or other measures have been taken to ensure that when the age of a victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance provided for children are accorded to him or her in accordance with **Article 11, para. 2**?

With the amendments in the CPA from 2013, a right to a protection has a natural person - a victim of violence or exploitation whose age is not identified but a grounded assumption can be made that she/he is a child.

- Please state whether the age for legal sexual activities is below 18 years of age and if so, please specify the age set out in internal law.

Sexual activities under the age of 18 according to the national legislation are possible. Bulgarian Penal Code (PC) contains a provision that criminalizes sexual intercourse with a person under 14 years of age. The Penal Code provides punishment for an action to arouse or satisfy sexual desire without copulation with a person under 14 years of age. Thus, each activity with a child below that age is a crime of general nature and it is a subject of criminal proceeding and severe punishment.

Under the Family Code the minimum age for marriage is 18. Exceptionally, and only after a court decision a person over 16 years can get into wedlock

Question 2: Non-discrimination

Is discrimination, on grounds such as the ones mentioned in the indicative list in **Article 2**, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify. If not, please justify.

The Law on Protection against Discrimination provides the general framework for non-discrimination applicable in all areas. Under the law (Art. 4, para. 1), any direct or indirect discrimination on the grounds of sex, race, nationality, ethnic origin, citizenship, origin, religion or belief, education, opinions, political belonging, personal or public status, disability, age, sexual orientation, marital status, property status, or on any other grounds, established by the law, or by international treaties to which the Republic of Bulgaria is a party, is forbidden. Direct discrimination shall be any less favourable treatment of a person on the grounds, referred to above, than another person is, has been or would be treated under comparable circumstances (Art. 4, para. 2 of the aforesaid Law). Indirect discrimination shall be to put a person, on the grounds referred to above in a less favourable position in comparison with other persons by means of an apparently neutral provision, criterion or practice, unless the

said provision, criterion or practice have objective justification in view of achieving a lawful objective and the means for achieving this objective are appropriate and necessary (Art. 4, para. 3 of the aforesaid Law).

CPA also includes an explicit prohibition for limitation of the rights or privileges grounded on the race, nationality, ethnicity, gender, origin, material status, religion, education and believes or any disabilities (Art. 10 "Right to protection", para. 3 of the Law on protection of the child).

Question 3: Overview of the implementation

Please indicate (without entering into details):
- the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;

Bulgaria has been demonstrating its concern and social position in the fight against sexual exploitation and sexual abuse by taking action on ratification of the Convention of the Council of Europe for the Protection of Children against Sexual Exploitation and Sexual Abuse, signed by the Republic of Bulgaria on 25 October 2007 during the 28th Conference of Ministers of Justice in Lanzarote, Spain.

On 21 September 2011 the Council of Ministers adopted a decision to propose to the Parliament the ratification of the Convention and in October, the National Assembly has ratified this multilateral treaty.

In order to prepare for the ratification of the Convention, Republic of Bulgaria took measures to transpose the internal legislation with the provisions of the Convention.

In 2009, a working group under the Ministry of Justice prepared a draft law for Amendments and Supplements of the Penal Code, based on the prepared by the same group analysis of the compliance of the Lanzarote Convention with the relevant Bulgarian legislation, including the Criminal Code (CC) and Criminal Procedure Code (CPC). The analysis showed that, although internal legislation is at a large extent in line with the standards of the international instrument, there was a need for legislative changes in the Bulgarian legislation, which required the introduction of new offenses for the Bulgarian Criminal Code - e.g. "Corrupting children" under art. 22 of the Convention; criminalizing the intentional use of a services of a child who prostitutes (Article 19, paragraph 1, letter c) of the Convention); crimes related to the participation of children in pornographic activities (Article 21 of the Convention) and others.

Thus, with the adopted amendments to the Criminal Code (CC) by the National Assembly on April 2, 2009 - prom. SG . 27 of 10 April 2009, in Chapter II "offenses against the person," Section VIII "Debauchery" in the Bulgarian legislation were included the established by Lanzarote Convention standards. The following new offenses were introduced - art. 154a) , art. 155b) and Art . 158a) of the Criminal Code (See the Appendix) . Furthermore, in accordance with the relevant articles of the Convention and in particular the provisions of Chapter VI "Substantive Criminal Law" new paragraphs were created or supplemented in the following articles of Section VIII "Debauchery" PC - Art. 149, para. 2, Art. 150, para. 1 and par. 2 (new) art. 151, para. 2 (new) and par. 3, Art. 155a), para. 1, Art. 159, para. 2. Amendments to art. 155a), para. 1 and Art. 159, para. 2 aimed to address cases of abuse via

Internet, but also via different communication and information technologies and devices for creation of pornographic material in which production minors or juveniles take part, as well as to sexual offenses against children and distribution through the Internet or similar means of child pornography.

In general the legislative changes and the transposition in the Bulgarian criminal legislation of the Convention had the main objective to address new forms of criminal offenses against sexual inviolability of minors and juveniles, among which undoubtedly an important place occupies the need of a timely response to the misuse of information and communication technologies and the "demand" of services from children who are engaged in prostitution. Not less important meaning for ensuring the proper psychological and physical development of children has the criminalization of the so-called "Corruption of children", which happens when there is an implementation of the act under the new (at that time) article 155b) of the Criminal Code, without the need for the minor to participate in the activities under the said Article.

Secondly, during a meeting of the Council for Electronic Media (CEM) on 25 October 2011, the Chairpersons of the State Agency for Child Protection and CEM approved the Assessment Criteria for content which is harmful or threatens to harm the physical, mental, moral and / or social development of children. The proposal of the agreement was widely discussed with civil society, citizens and media service providers.

The adopted Assessment Criteria are in compliance with art 14 of the Constitution, art. 27, i.1 of the Directive 2010/13/EC. art 7., i. 2 of the European Convention on Transborder Television, art.10, para. 1 of CPA, art 17, para. 2 and art. 32, para 5 from the Radio and Television Act and the decree 21 of a law case 19/1996 of the Constitutional Court.

Under the Law on Radio and Television CEM, media service providers and SACP annually develop criteria for monitoring of the content of the online materials and their components / audiovisual shows, radio programs, various forms of commercial communications and more elements of program content. The purpose of that action is to protect the rights and interests of children throughout the whole duration of the programs, transmissions and broadcasts and also in IT.

Media service providers are obliged to respect the rights of children as stated in the Child Protection Act and other regulations and in carrying out their activities shall not allow the participation of children in programs that are adverse or may cause harm to a child, and shall be guided by the principles enshrined in Art. 10 of the Radio and Television Act.

The adopted Criteria were appealed to the Supreme Administrative Court, which, however, confirmed their adoption.

Last but not least - as part of the measures to improve the legal framework for protection of children from sexual abuse should be identified the actions undertaken in 2013 for the implementation in the Bulgarian legislation of the provisions of Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and for replacement Council Framework Decision 2004/68/JHA. With that purpose to the Minister of Justice was established a working group with the task to conform the Bulgarian legislation with the provisions of the said Directive and to make concrete proposals for legislative amendments in this regard. In the accomplishment of its task, the working Group

elaborated a Correlation Table of the Directive with the Bulgarian legislation, as well as a draft law for amendment and supplement of the Penal Code. The Draft Law was approved by the Government at its meeting held on December 18, 2013 and on December 19 the latter was sent to the National Assembly. Currently the proposal is approved at first reading and soon it will be considered at second reading by the National Assembly.

The Draft Law for amendment and supplement of the Penal Code addresses all the requirements of the relevant European standards for combating and prosecution of the sexual crimes against children and is in full compliance with them. The Draft Law foresees:

- Safeguarding of the principle that victims of sexual exploitation and sexual abuse should be protected from prosecution or punishment for criminal activities that they have been compelled to commit as a direct consequence;

- The supplement of the legislation with the definition for "pornographic performance";

- Introducing two new qualifying compositions for offenses under article 149, namely in Paragraph 2 - where fornication is committed against a person under 14, which deals with prostitution and para 4 - when the offense was committed against child in a particularly vulnerable position - does not understand the nature and importance of the act - encompassing of the cases in which victims are juveniles who prostitute;

- In terms of crime intercourse with a person under 14 years of age introduces additional qualifying circumstances: when the offense is committed:

  1. using a position of vulnerability or supervision,
  2. in respect of a person under the age of 14, which deals with prostitution,
  3. by two or more persons.

- provides new an aggravated circumstance for rape - raped when not turned 18, and is engaged in prostitution;

- Incriminating of sexual activities with a child if he or she prostitutes and revoking of the requirement for giving or promising benefits. Additional circumstances are supplemented – if the crime is repeated or if the crime is committed by two or more individuals;

- Incriminating of solicitation of a person under 14 years of age to commit fornication, copulation, intercourse, creating pornographic material or to participate in pornographic performance;

- Amendment of the main composition associated with the criminalization of child pornography - Article 155. Legislature criminalizes various forms of provision or collection of information about a person under the age of 18 to contact him for the conduct criminalized as a crime / para 1 /, and engaging in various forms of individual under 14 years of age to commit the acts which are sexual offenses under the Criminal Code;

- More severe punishment for anyone who persuades a person who is under the age of 14 years to participate or to watch real, virtual or simulated sexual intercourses between individuals of the same or different sex, carnal display of human genitals, sodomy, masturbation, sexual sadism or masochism. Supplementary, incriminalized is every of the before mentioned acts if done by force or threat, or by use of a position of vulnerability or supervision, of two or more persons have conspired in advance, or when the act is repeated;

- A new article which criminalizes the solicitation of a juvenile by force or threat, or by use of a position of vulnerability or supervision, to participate in the actual, virtual or simulated sexual activity;

- Incriminating of criminal sexual acts between persons of the same sex, in accordance with Art. 4 steam. 7 and Art. 9 c) - f) of the Directive;

- Amend Art. 158a so that the latter introduces a precise and complete requirements of Art. 4, paragraphs 2 and 3 of the Directive provides for criminal liability in the case of: recruitment, promotion or use of a person under 18 years of age, or group of such persons to participate in pornographic performance; coerce a person under the age of 18 or group of such persons to participate in pornographic performance, the performance of previous acts with a person under 14 years of age and where the above offenses received material benefit. With al. 5 incriminate watching the pornographic performance, which involved a person under the age of 1, in accordance with Art. 4, paragraph 4 of the Directive;

- The creation of new article, which provides for the legal possibility of the perpetrator of the crimes under Art. 149-157 or art. 158a (sexual crimes against children) to be deprived of the right to hold certain public positions, or to be deprived of the right to practice a profession or activity;

- The replacement of the words “internet” and “computer system” with “information or communication technology” in art 159 para 4. Also it is criminalized the knowingly access via information and communication technology to pornographic material, for the creation of which is used a person under 18 years of age or anyone who looks like a juvenile or minor. For the incriminated under Article 159 for offenses relating to distributing child pornography provides an opportunity for the court to impose cumulative / among other penalties / punishment and deprivation of the right of the offender to hold a certain public office and deprivation of the right to exercise a certain profession or activity;

- Proposed change to the wording of Article 188 of the Criminal Code by introducing separate formulations for the acts of soliciting a person under 18 years of age to commit an offense by force or by the use of a position of vulnerability or supervision / para 1 / and solicitation of person under the age of 18, into prostitution through coercion or through the use of a position of vulnerability or supervision. As a qualified composition with increased punishment is criminalized the act of incitement to prostitution of a person under 14 years of age. There is the possibility for these crimes to impose cumulative penalties and disqualification of the offender to hold a certain public office and deprivation of the right to practice a profession or occupation.

The complete text of the Draft Law for amendment and supplement of the Penal Code is provided in the Appendix.

whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;

In 2012 a National plan for the prevention of violence against children was adopted, which covers all forms of violence and unite the efforts of the SACP, ASA, Ministry of Interior, Ministry of Education and Science, Ministry of Justice, MLSP, MH, National commission to combat with juvenile delinquency, National commission for combat trafficking in Human Beings, NSI, NII and non-governmental organizations.

The National plan for the prevention of violence against children is in compliance with the requirements and recommendations of the Council of Europe's Strategy on the Rights of the Child (2012-2015), that supports the adoption and implementation by Member States of integrated national strategies for the protection of children from violence, requiring legislative, policy and institutional reforms and focusing on prevention, and the Lanzarote Convention

The national plan for the prevention of violence against children is in compliance with the activities envisaged within the National Strategy for Children 2008-2018, which aims at achieving higher efficiency of signals of violence against children, introduction of procedures and principles working between partners from different institutions in dealing with cases and the introduction of standardized methods for data gathering.

The main areas of work are:

Operational objective 1: "Increased the effectiveness of measures for the protection of children from violence" foresees some legislative changes in the field of protection of children from violence, providing an effective and accessible system for reporting of cases for children at risk, increasing the efficiency in the implementation of the Coordination Mechanism for referral and care of unaccompanied children and children victims of trafficking returning from abroad and Coordination mechanism for interaction in the case of child victims of violence and interaction in crisis intervention, as well as monitoring and control of the observance of the rights of children victims of violence.

Operational objective 2: "Improved access to the types of services for children in cases of violence and rehabilitation of children and families" foresees timely support to children victims of violence by developing and putting into practice a methodology for working with different types of violence, developing minimum standards for social work in domestic violence cases, the introduction of a differentiated approach to the placement of children in crisis center and developing and putting into practice a methodology for working with different types of violence.

Operational objective 3: "Increased capacity of professionals working with children, reinforcing the capacity of social workers from the Child Protection Directorate "Social Assistance" and improved quality and effectiveness of social work", increased capacity of GPs, medical and non-medical specialists, professionals in the educational, justice and police system.

Cross cut: prevention of the phenomenon of violence against children, aimed at raising public awareness on violence against children by organizing and conducting conferences, seminars, roundtables and media campaigns on violence against children, and the involvement of children in extra-curricular activities to prevent violence.

whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.

Specific guidelines for the implementation of the plan are not developed. There is an ongoing reform of juvenile justice, which is explicitly aiming at making the justice system more child-friendly.

The National Institute for Justice has conducted a series of trainings on child rights and their involvement in judicial proceedings in different formats – centralized, regional and distant.

In 2010 a training on "The rights of child victim in the Bulgarian criminal trial. Necessary changes." was conducted for the first time. It included the issues of the effects of sexual abuse on children and the practical application of special hearing rooms. In 2011, the piloted curriculum was carried out again in the seminar training, which was attended by 52 magistrates (29 judges, 19 prosecutors, 4 investigators) and 5 officers of the Ministry of Interior.

In 2011 the second curriculum on the rights of children was developed and called "Judicial Psychology. Interrogation of juveniles".

The curriculum focuses on the place and role of juveniles in Bulgarian criminal and civil proceedings, the effects of child abuse and European practices on judicial hearing of children. For the period 2011 - 2013 the National Institute of Justice has conducted four trainings under this curriculum, in which 104 magistrates (70 judges, 25 prosecutors, 9 investigators) and 6 officers of the Ministry of Interior were trained.

Within the framework of Program for regional trainings of courts and prosecutor's offices in the country by the National Institute of Justice issues related to child abuse were the subject of discussion in two courses:

- Training on "Sexual crimes. Rights of the child victims in the Bulgarian Criminal Process "(on 9.04.2010) organized by the District Prosecutor's Office Stara Zagora (trained 29 prosecutors);

- Training on "Participation of children in court proceedings" (on 10.05.2013) organized by the District Court of Kyustendil involving 30 judges.

From 2012, the National Institute of Justice is a partner of the Ministry of Justice in the project "Strengthening the legal framework and institutional capacity of the judiciary in the area of juvenile justice" implemented with the financial support of the Bulgarian-Swiss Cooperation Program. The project aims to improve judicial and institutional capacity of the judiciary in the field of juvenile justice and thus to provide procedures in Bulgaria to protect

the interests of children. It is planned to develop training programs and to be conducted regional seminars for judges and prosecutors, lawyers and social workers. Within the project a guidelines on EU standards will be produced as well as and on-line guide in the field of juvenile justice. The Ministry of Justice is committed to the full implementation of the project and the planned project activities.

For the current 2014 academic year the NIJ is planning to organize a course "Forensic Psychology. Interrogation of juveniles" and a remote training on "Proceeding for applying of measures for protection against domestic violence."

In 2012, the Supreme Cassation Prosecutor's Office began to specialize prosecutors who can consider cases, where minors are involved. In the same year the Police Academy started a program for investigating police officers on child-friendly justice and interrogation of children. Institute for Social Activities and Practices has developed guidelines to experts participating in the interrogation of minors witnesses, which includes standards for interviewing. The Convention is taken into consideration while developing the guidelines.

Question 4: Child participation

- Please indicate what steps have been taken to encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children (**Article 9, para. 1**);
- In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (**Article 14, para. 1**).

In its endeavour to encourage child participation, SACP accepted without any observations the draft recommendation of the Committee of Ministers of the Council of Europe to member states on child and youth participation. This served as an impetus for a number of NGOs to initiate advocacy projects seeking modification of the legislation on the individual aspects in spheres such as family life, health and social care, institutional care, child protection, adoption, education, public life, administration, legal procedures, as well as in the implementation of the public policy and democratic decision-making at local, regional, national and international levels. The Child Council to SACP also developed a four-level mechanism for child participation. It is designed to encourage collective child participation in the decision-making processes at school, municipal, regional and national level. Currently the mechanism is being piloted with the cooperation of UNICEF, the Ministry of Education and Science (MES) and the local authorities in three districts in Bulgaria. The project is expected to end up with analysis and recommendations for modifications in the legislation.

When performing their control functions, SACP experts inspect the social, health, educational services for children, incl. for children - victims of sexual exploitation and sexual abuse. During the inspections, the experts must consult children in child-friendly language about their rights. There is also a practice to interview children. After the inspections, a report shall be prepared in which the views of children are taken into consideration. The final outcome of the inspections is suggestions for legislative changes. Follow-up of the scheduled inspection of Crisis Centers in Bulgaria in 2011 was a Methodological guide for the operation of this service. Last year, planned inspections were carried out in maternity wards (early marriages), Social-pedagogical boarding school and behavioural boarding schools (where

children victims of sexual exploitation and/or sexual abuse are placed) and recommendations were given.

In the social services area providers are obliged to create conditions for free expression of views and independent decision-making on the part of the child, according to the Ordinance on the Criteria and the Standards of the Social Services for Children, as well as for participation in the discussion of issues related to the in-house rules and regulations of the specialized institution and to the residential service, while providing an opportunity for unimpeded filing of petitions and complaints by the users and developing a written procedure for protection against violence, abuse and discrimination.

Question 5: Specialised bodies/mechanisms

- Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (**Article 10, para. 2, letter (a)**);

In 2011 Ombudsman of the Republic of Bulgaria and the Commission for Protection against Discrimination acquired the "B" statute in accordance with the Paris Principles. With amendments in the Law on the Ombudsman, published in the "Official Gazette" No. 29 of 10 April 2012 the Ombudsman's authorities have been expanded in terms of children's rights - Ombudsman acquires the power to protect the rights of children in accordance with the legal provisions, as well as to make recommendations and express positions on laws concerning human rights.

State Agency for Child Protection (SACP) is a governmental body for guidance, coordination and control of the state policy for the children. It is the body in charge to coordinate the actions of the line ministries, to initiate a dialogue between them and to safeguards the child's rights.

- Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (**Article 10, para. 2, letter (b)**);

A "Coordination mechanism for interaction in the case of child victims of violence and interaction in crisis intervention" was established. For monitoring purposes, in 2011 the State Agency for Child Protection developed an information card, which is aimed at gathering information on the work of multidisciplinary teams - the existence of rules and procedures, work on cases, the difficulties encountered locally and feedback on necessary conditions to increase the efficiency of the operation and optimization of the interaction.

The information cards are sent and aggregated at the regional level by the Regional "Social Assistance" Directorate, Regional "Police" Directorates and the district administrations, and the SACP summarizes and analyzes the results at national level.

Based on the national data SACP prepares annual report on the implementation of the Coordination Mechanism and makes recommendations for optimization and improvement of

cooperation in dealing with cases of child victims of abuse or risk of violence and interaction in crisis intervention.

The information is disaggregated by type of violence, gender, age, environment (in family, school, etc.) and does not contain any data which may reveal the identity of the child victim.

- Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (**Article 37, para. 1**).

The Research Institute of Forensic Science and Criminology under the Ministry of Interior is responsible for organizing the data gathering and storage related to the identity and to the genetic profile (DNA) of persons convicted as the offences established in accordance with this Convention. The Institute is a national authority under art 37, para. 1 of the Convention.

Interdepartmental working meeting with representatives of the National Investigation Service, Directorate "CIS" – Ministry of Interior and RIFSC clarified the mechanism of collecting information/data and genetic profiles of individuals convicted of sexual exploitation and abuse of children. Every six months RIFSC prepares a written request to NIS for persons convicted of child abuse, as in NIS is the single information system for those individuals. Every individual in the provided list is checked in the National DNA database and for those people who are not registered in the database are required properly designed sets for DNA registration in reference to the ordinance for police registration.

Question 6: National or local coordination, cooperation and partnerships

- Please describe how coordination on a national or local level is ensured between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children. In particular, please provide information on existing or planned coordination between the education sector, the health sector, the social services and the law enforcement and judicial authorities (**Article 10, para. 1**);

In March 2010, on the initiative of the Minister of Labour and Social Policy an Agreement for cooperation and coordination of the work of the regional structure referred to the protection of the child in cases of child victims of violence or at risk of violence and crisis intervention was signed. Parties are the authorities for protection under Article 6 of the Child Protection Act – the Minister of Labour and Social Policy, the Minister of Interior, the Minister of Education and Science, the Minister of Justice, Minister of Foreign Affairs, Minister of Culture, Minister of Health, chairperson of the State Agency for child Protection , the Executive Director of the Agency for Social Assistance, Executive Director of the National Association of Municipalities in the Republic of Bulgaria, and later on the Chief Prosecutor joined the Agreement.

In accordance with the requirements of the CPA (Art. 6) and a decision of the National Council for Child Protection, the SACP as the national authority that coordinates policies and activities for the child, has developed a "Coordination mechanism for interaction in the case of child victims of violence and interaction in crisis intervention" (hereinafter Coordination Mechanism).

Interdepartmental coordination mechanism introduces an interauthotity approach and multidisciplinary teams. The main objective is to bring together the resources and efforts of the partners involved to ensure an effective system of interaction at work in cases of children victims of violence or at risk of violence and in cases that require crisis intervention.

- Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (**Article 10, para. 3**)? If so, please specify how;

The National plan for the prevention of violence against children combines the efforts of various stakeholders – not only governmental institutions, but also non-governmental organizations and private sector. It not only sets goals, but also provides a tool for measuring the achievements and identifying the challenges. As mentioned above a special monitoring mechanism was introduced to observe the implementation of the "Coordination mechanism for interaction in the case of child victims of violence and interaction in crisis intervention".

In addition to it, a working group “Protection against violence” is situated permanently within the National Council for Child Protection. The National Council in an interinstitutional body for coordination and it adopts all national annual action plans for child protection as well as the annual reports before their submission in the Council of Ministers for final approval. Thus, in the last two years the violence is a cross cut of the annual National action plan for child protection and is in the focus of the attention of all institutions.

- Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (**Article 15, para. 2 and Article 16**)?

Please, see the answer of question 3 and 6.

Question 7: International cooperation

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (**Article 38, para. 4**)? Please give examples.

In the midterm Bulgarian program for assistance for development and humanitarian assistance, a respect for human rights, gender equality and combating discrimination, which includes children's rights and protection from sexual exploitation (although not explicitly listed) is highlighted as a priority. So far Bulgaria has not had any specific bilateral projects on the subject, but this does not exclude the development of such projects in the future, in case of mutual interest of the partner countries to which our country provides assistance for development.

PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 8: Education, awareness raising and training

- Which legislative or other measures have been taken to:
  - ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (**Article 6, Explanatory Report, paras. 59-62**). Please also specify whether this information includes the risks of the use of new information and communication technologies (**Article 6, Explanatory Report, para. 63**);

Currently, a new Act on primary and secondary education is being developed. It foresees the inclusion of health education for children from 1st to 12th grade. Health education will include a variety of issues including how children can keep their reproductive health and sex education. So far the biology curriculum for children over 12 years old includes issues related to the sexual health of adolescents in school. NGOs have also developed programs related to sexual education of children. Their specialists come into the schools and teach the children how to practice safe sex and protect themselves from sexually transmitted diseases. The health education becomes a matter of great importance in schools recently.

- encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (**Article 5, para. 1**);

The trainings of professionals working with children and awareness raising campaigns are on-going activities. Every institution within its competences is obliged to promote child rights including through special educational measures. The profound information is included in the third, fourth and fifth consolidated report on the implementation of the UNCRC in Bulgaria.

- ensure that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (**Article 5, para. 2)**

Every year the State Agency for Child Protection prepares a report on the implementation of the Coordination mechanism. All people mentioned above participate in this mechanism. The information is gathered from the regional and local authorities and concerns not only statistics, but also for lessons learnt, challenges faced and feedback for necessity of improvement of the effectiveness and work for the optimization of the interaction.

- Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of sexual exploitation and sexual abuse of children? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (**Article 8, para. 1**);

Such campaigns and initiatives are part of broader campaigns.

As 2014 is the 25th anniversary of the adoption of the UNCRC, plenty of activities are integrated in a campaign called "2014 – a Child Rights Year". Some of the activities are focused on the prevention of all forms of violence – experts from the SACP together with the officers from the Ministry of Interior and employees from the Safe Internet Center have conducted seminars in schools.

In 2013 a big concert was organized on 4th of June where famous among children and young people celebrities participated and expressed key messages against violence. A release from the concert and a tracker were broadcasted via several TV channels with national coverage.

Annually, the Safe Internet Day is celebrated in February. In 2013 for example was organized a youth parliament in the building of the National Assembly. As a result a Charter on on-line rights of the young people was adopted by more than 100 participants (adolescents).

In addition, the Safe Internet Center has developed and published a number of resources aimed at preventing the sexual exploitation and sexual abuse via Internet. Some of these resources are:

- on-line training course on safe internet for adolescents at 3 levels. The third level graduates could conduct peer trainings by themselves;

- training materials for children aged 6-9. "Play and Learn: I am on-line" is a manual elaborated by the EU network INSAFE was translated, published and disseminated via www.dechica.com;

- on-line games developed with the help of the business. Risk Zone game was awarded for the best product in the section "Science and Education" by the Bulgarian Internet Association;

- "Family set for on-line safety" was also adopted in Bulgarian and it is specially focused on pre-school aged children;

- "10 myths for the scary Internet" is a resource for parents.

In 2013 SIC conducted a series of trainings of police officers – inspectors at Child Pedagogic Room all over the country. The methods and the resources of SIC are also presented to all over 300 Local commissions for combating the juvenile delinquency.

- Which legislative or other measures have been taken to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention? If so, please provide details (**Article 8, para. 2, Explanatory Report, para. 66**).

Please, see general measures for implementation, paragraph concerning the media.

Question 9: Recruitment and screening

- Which legislative or other measures have been taken to ensure that the conditions for accessing those professions whose exercise implies regular contact with children, ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children? (**Article 5, para. 3**). Please specify to which professions such measures apply. Please also indicate for how long the criminal record of a person who was convicted for such crimes is kept in your country;

Several legislative acts regulate the conditions under which professionals working with children can occupy a vacancy. In general, the certificate of conviction is an absolute must.

In accordance with the **Ordinance №4/11.05.1993 г. for documents required for labour agreement signing, the necessary documents are** passport or other identity document that is returned immediately; documents for graduated education, qualification, competences, academic title or degree, when required for office or vacancy for which the person is applying; documents for experience, when office or vacancy for which the person is applying to possess such; document for medical examination for initial entry into work after suspension of work under an employment agreement for a period exceeding three months; certificate of conviction when a law or regulation require clear criminal record; permission from the labour inspection if the person is under 16 years of age or aged 16 to 18 years.

The Ordinance for the documents required for becoming a state employee envisaged among others the Certificate for conviction.

The Implementing Regulation on Public Education Act stipulates that no one shall become a teacher or a counsellor, if he or she is sentenced to deprivation of liberty and the decision has entered into force for intentional crime; is deprived from a right to exercise their profession; suffer from diseases and abnormalities that threatens the life or health of children and students identified with an ordinance by the Minister of Education and Science agreed with the Minister of Health.

The Ordinance for criteria and standards for social services for children stipulates that annually, every employee is inspected whether or not he/she was a subject of a pre-court proceeding, and for every employee an inspection has been done to investigate whether or not he or she was a subject of pre-court proceeding, and the data is updated annually.

The Criminal Code provides that the rehabilitation shall delete the conviction and shall revoke for the future the consequences ascribed by laws to the conviction itself, unless otherwise provided in certain aspects by law or decree (art 85).

Article 86

(1) Rehabilitation shall occur de jure in the following cases:

1. Where a person has been sentenced conditionally, provided during the probation period that person has not committed another crime for which he must serve the suspended punishment;

2. (Amended, SG No. 92/2002, effective 1.01.2005 in respect of the punishment of probation - amended, SG No. 26/2004, effective 1.01.2004, SG No. 103/2004) Where a

person has been sentenced to deprivation of liberty for up to three years, or to probation, provided in the course of three years following the expiry of the term of punishment imposed by the sentence or decreased by work or by pardon, no other crime punishable by deprivation of liberty or by more severe punishment has been committed by that person;

3. Where a person has been sentenced, jointly or severally, to a fine, public censure or deprivation of rights, provided in the course of one year following the enforcement of the punishment that person has not committed another crime of general nature, and

4. Where a person has been sentenced as a minor, provided in the course of two years following the serving of the punishment that person has not committed another crime of general nature for which punishment by deprivation of liberty has been imposed on him.

(2) (Amended, SG No. 28/1982) Rehabilitation de jure shall not occur for a crime committed by a person of full age, who has been rehabilitated once.

Article 87

(1) Apart from the cases under the preceding paragraph any sentenced person may be rehabilitated by the court which has issued the sentence as first instance, provided in the course of three years following the expiry of the term of the punishment imposed by the sentence or reduced by work or pardon, he has not committed another crime punishable by deprivation of liberty or more severe punishment:

1. if that person has had good conduct, and

2. if that person has compensated the damages in the case of deliberate crime.

(2) The court may rehabilitate the convict even where he has not compensated the damages, if there are good reasons therefor.

(3) (Amended, SG No. 92/2002, effective 1.01.2005 - amended, SG No. 26/2004, effective 1.01.2004, SG No. 103/2004) Where together with the punishment by deprivation of liberty also punishment by deprivation of rights under Article 37, paragraph 1, sub-paragraphs 6 and 7 or probation has been imposed, the term of such punishment must have expired in order to rule on rehabilitation. Where a fine has been imposed, it must have been paid.

Article 88

Rehabilitation may also be requested by the heirs of the convict after his death, provided he has been entitled to it.

Article 88a
(New, SG No. 28/1982)

(1) (Supplemented, SG No. 89/1986) Where after the serving of the punishment a term has expired equal to that under Article 82, paragraph (1), and the convicted person has not committed new deliberate crime of general nature for punishment by deprivation of liberty is provided, the sentencing and the consequences thereof shall be deleted notwithstanding the provisions of other laws or decrees.

(2) Where the punishment imposed is deprivation of liberty for more than one year and the person has not been exempted from serving it pursuant to Article 66, the term under paragraph (1) may not be less than ten years.

Ordinance № 8/ 26.02.2008 on the functions and organization of the activities of the criminal record bureaus *

FINAL PROVISIONS

§ 2. The Minister of Justice shall inform the General Secretariat of the European Commission the power of art. 47, para. 1 month after the entry into force of that ordinance.

§ 3. This Ordinance transposes the provisions of Council Framework Decision 2009/315/JHA from 26 February 2009 on the organization and content of the exchange of information extracted from criminal records between Member States (OJ, L 93 of 7.04.2009 on) and Council Decision 2009/316/JHA of 6 April 2009 establishing a European information system for criminal records (ECRIS) in application of Art. 11 of Framework Decision 2009/315/JHA (OJ, L 93 of 7.04.2009 on).

§ 4. This Ordinance is issued pursuant to Art. 77, para. 4 of the Judiciary Act and repeals Ordinance № 1 of 2000 on the organization and functioning of the criminal record bureaus (SG. 10th 2000).

- Does the screening of candidates apply to voluntary activities (**Explanatory Report, para. 57**)?

There are provisions in the Youth Act regulating youth volunteering, and they do not contain any requirement for verification of candidates. Currently there is a draft Law on Volunteering, which was submitted to the National Assembly. This bill includes a requirement for the applicant volunteer to provide a Certificate of conviction before signing the contract for volunteering.

The check for criminal record of the volunteers is regulated in the Ordinance on the criteria and standards for social services for children.

Standard 12

The Contractor shall conduct a careful recruitment of staff and volunteers working with children.

Criterion 2: The provider has a written procedure for staff recruitment with criteria for assessing candidates and developed job descriptions that include requirements for education, training, experience and personal qualities.

Criterion 7: The service provider makes periodic attestation of employees, evaluates their professional and personal qualities, provides training, supports and monitors their work.

Question 10: Preventive intervention programmes or measures

- Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (**Article 7, Explanatory Report, para. 64**);

- Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (**Articles 15 to 17**). Please indicate in particular:
  - who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);
  - how the appropriate programme or measure is determined for each person;
  - whether there are specific programmes for young offenders;
  - whether persons have a right to refuse the proposed programme/measures?

The measures are provided in the Implementation of Penal Sanctions and Detention in Custody Act and its Implementing regulation. The relevant provisions are cited below:

I. Implementation of Penal Sanctions and Detention in Custody Act

PART ONE
GENERAL PROVISIONS. SPECIALISED AUTHORITIES IMPLEMENTING PENAL SANCTIONS

Chapter One
GENERAL PROVISIONS

Article 1. This Act regulates the implementation of penal sanctions imposed by the courts through effective judicial acts, as well as the legal status of persons detained in custody according to the procedure established by the Criminal Procedure Code.

Article 2. Implementation of penal sanctions shall seek to achieve the objectives thereof by means of:

1. exercising control over the behaviour of sentenced persons and limiting the possibility of reoffending and of inflicting detriment on society;

2. differentiating and individualising the effect of the implementation of penal sanctions for correction and re-education of sentenced persons depending on the behaviour thereof;

3. ensuring conditions to sustain the physical and mental health of sentenced persons and to respect the rights and dignity thereof;

4. publicity, openness and exercising of independent control over the authorities implementing penal sanctions;

5. interacting with state bodies, governmental organisations, as well as contracting with legal persons.

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Chapter Eight
PLACES OF DEPRIVATION OF LIBERTY

Section I
Establishment and Closure of Places of Deprivation of Liberty. Types

Article 40.

(1) The penal sanction of deprivation of liberty shall be implemented by means of placement of the sentenced persons at designated places of deprivation of liberty and the subjection thereof to correctional intervention.

(2) The correctional intervention shall be implemented through:

1. ensuring conditions to sustain the physical and mental health and to respect the human dignity of the sentenced persons;

2. implementing the restrictions included in the content of the penal sanction;

3. containing the adverse consequences of the effect of the sentence and the harmful influence of the community on the sentenced persons;

4. ensuring conditions for the exercise of the rights of the sentenced persons;

5. organising work, correctional-education, educational, sports and other activities.

Article 41.

(1) The places of implementation of the penal sanction of deprivation of liberty shall be prisons and reformatories.

(2) Closed and open prison hostels may be established with the prisons, and open hostels may be established with the reformatories.

(3) At the prisons, reformatories and prison hostels, implementation of the correctional intervention shall be differentiated in respect of the specific categories of sentenced persons placed thereat.

Article 42.

(1) Persons sentenced to deprivation of liberty by an enforceable sentence shall be placed at prisons, reformatories and prison hostels.

(2) Detention facilities shall be places of deprivation of liberty for placement of persons detained according to the procedure, established by the Criminal Procedure Code.

(3) The persons referred to in the foregoing paragraph (2) may be placed at the prisons, the reformatories and the closed prison hostels according to the procedure, established by this Act.

Section II
Accommodation at Places of Deprivation of Liberty

Article 47.

(1) At the prisons, any newly admitted persons deprived of their liberty shall be accommodated at a reception unit, where they shall remain for a period of not less than 14 days and not more than one month.

(2) Any persons sentenced for the first time to a term of deprivation of liberty not exceeding five years for wilful offences and any persons sentenced for negligent offences shall be accommodated separately from the rest.

(3) (Amended, SG No. 103/2012) Any persons admitted from the detention facilities shall be accommodated at the reception unit of the prison for a period of up to 7 days.

……

Article 54.

(1) (Amended, SG No. 103/2012) Within a period of up to two working days, a personal record shall be opened on each person deprived of his or her liberty, containing documents and particulars related to the admission to the prison and the carrying of the sentence into execution.

(2) The Chief Director of the Chief Directorate of Implementation of Penal Sanctions shall designate the officials who may familiarise themselves with the particulars on the personal record, as well as the procedure and manner for provision and use of the information contained therein.

Article 55.

(1) Newly admitted persons deprived of their liberty shall be obligated to cooperate upon the conduct of a check of cleanliness and hygiene, a medical examination, and a psychological evaluation.

(2) (Supplemented, SG No. 103/2012) Before expiration of the period for stay at the reception unit, an assessment of the risk of recidivism and the risk of damage shall be prepared for each newly admitted person, as well as an assessment of the personality traits, health status and working capacity and **recommendations for future group or individual work**. The said assessment shall be prepared by the relevant social worker, the medical officer of the prison and the psychologist.

(3) (New, SG No. 103/2012) Mandatory psychological evaluation shall be conducted for persons sentenced to life imprisonment or life imprisonment without commutation, for persons sentenced to more than 10 years' deprivation of liberty, as well as convicts who are assessed by the risk assessment system to pose a "very high" or "high" risk of causing damage. In all other cases, evaluation shall be conducted upon request from a social and correctional-education work inspector which states the reasons thereof.

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Section III

Allocation of Persons Deprived of their Liberty to Prisons, Prison Hostels and Reformatories

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Article 58.

(1) Women shall serve custodial sentences at separate prisons and reformatories.

(2) Juveniles deprived of their liberty shall be placed at reformatories, separately for boys and girls.

(3) Foreign nationals deprived of their liberty shall serve the sentence at prisons and prison hostels, designated by order of the Minister of Justice.

Article 59.

(1) Any persons sentenced for the first time to a term of deprivation of liberty not exceeding five years for wilful offences and any persons sentenced for negligent offences shall be placed at open prison hostels,

(2) The court may decree that the sentenced person does not serve the custodial sentence in an open prison hostel where:

1. the said person has gone into hiding from the criminal procedure authorities and has been put on a national wanted list;
2. the said person suffers from alcoholism or narcotic addiction;
3. the said person suffers from disorienting mental illness.

Article 60.

(1) (Amended, SG No. 103/2012) Recidivists and sentenced persons, with the exception of those referred to in Article 59 (1) herein, shall be placed at prisons and closed prison hostels.

…….

Section IV

Transfer of Persons Deprived of their Liberty

Article 62.

(1) Persons deprived of their liberty shall be transferred from one prison to another by order of the Chief Director of the Chief Directorate of Implementation of Penal Sanctions:

1. upon enrolment in training, in courses for attainment of specialist qualifications or for upgrading the qualification: should the person deprived of his or her liberty express such a wish;

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Chapter Nine
LEGAL STATUS OF PERSONS DEPRIVED OF THEIR LIBERTY.
MEANS OF MAINTAINING ORDER AND DISCIPLINE AT PLACES OF DEPRIVATION OF LIBERTY

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Section II
Encouragement Measures and Disciplinary Punishments

Article 98.

(1) For markedly disciplined behaviour, for cooperation exhibited in the performance of social and correctional-education actions, for success achieved in work, sports, morale support activities and other commendable performance, persons deprived of their liberty may be encouraged by:

1. a letter of commendation;
2. striking off or cancellation of a disciplinary punishment as imposed;
3. an additional food parcel;
4. a cash prize or a merchandise award;
5. an extended visit for a period of up to four hours;
6. a visit with relatives outside the prison, prison hostel or reformatory for a period of up to 12 hours;
7. a monthly home leave of up to two days;
8. a home leave of up to five days;
9. use of the annual rest outside the open prison hostels.

.....

Chapter Eleven
SOCIAL AND CORRECTIONAL-EDUCATION WORK

Article 152.

(1) Social and correctional-education work shall be essential tools of resocialisation of persons deprived of their liberty and shall seek to assist the personality change of sentenced persons and the building of skills and abilities for a law-abiding lifestyle in society.

(2) Social and correctional-education work at the places of deprivation of liberty shall include:

1. diagnostic and individual correctional work;
2. (amended, SG No. 103/2012) programmes for intervention, for reduction of the risk of recidivism and of the risk of damage;
3. education, training and qualification of persons deprived of their liberty;
4. creative, cultural and sports pursuits and religious support.

(3) Group and individual social and correctional-education work shall be implemented with persons deprived of their liberty.

Section I
Programmes for Intervention, for Reduction of the Risk of Recidivism and of the Risk of Damage
(Title amended, SG No. 103/2012)

Article 153.

(1) (Amended, SG No. 103/2012) Sentenced persons, accused persons and defendants shall obligatorily be enrolled in a programme for adaptation to the conditions in prisons or reformatories immediately after they have been admitted to them.

(2) The adaptation programme shall be of a duration of up to three months.

(3) Upon implementation of the adaptation programme, the persons deprived of their liberty shall be provided with information in a language which they understand regarding the objectives and forms of social and correctional-education work at the places of deprivation of liberty.

Article 154.

(1) (Amended, SG No. 103/2012) During his or her stay in the reception unit, every sentenced person shall be enrolled in the adaptation programme; an assessment of the risk of recidivism and the risk of damage, as well as an initial report, shall be prepared.

(2) (Amended, SG No. 103/2012) The initial report shall include:

1. (amended, SG No. 103/2012) an assessment of the risk of recidivism and the risk of damage;
2. causative factors of the risk of recidivism;
3. (amended, SG No. 103/2012) a proposal for remedying personality deficiencies and containing the causative factors of the risk of recidivism and the risk of damage.

(3) (New, SG No. 103/2012) Persons with psychiatric and mental problems for whom it is impossible to carry out the diagnostic activities referred to in Paragraph 1 herein shall be subjected to psychiatric or psychological evaluation.

(4) (New, SG No. 103/2012) Accused persons and defendants who have been placed in a reception unit shall be enrolled in the adaptation programme, and an assessment of the risk of damage shall be prepared for them.

(5) (Renumbered from Paragraph 3, amended, SG No. 103/2012) The rules for assessing the risk of recidivism and the risk of damage shall be endorsed by the Minister of Justice.

Article 155.

(1) The evaluation of the sentenced person shall be modified depending on the behaviour of the person deprived of his or her liberty.

(2) On the basis of the evaluation of the sentenced person, proposals shall be made for:

1. alteration of the regime of service of the sentence;
2. transfer to a prison facility of a lower security type or, respectively, of a higher security type;
3. conditional early release.

Article 156.

(1) (Amended, SG No. 103/2012) After the completion of the adaptation programme, an individual plan for execution of the sentence shall be drawn up for each sentenced person; it shall include intervention activities and programmes for resocialisation of the sentenced person.

(2) The individual plan for execution of the sentence shall be prepared on the basis of:

1 the type and nature of the criminal offence committed;

2. the length of the sentence imposed;
3. (supplemented, SG No. 103/2012) the assessment of the sentenced person and the causative factors of the risk of recidivism and of damage;
4. the initial place assigned by the court for service of the custodial sentence as imposed.

(3) The individual plan for execution of the sentence shall have as an objective:

1. (supplemented, SG No. 103/2012) the enrolment of the sentenced person in programmes and activities for personality change and elimination of the causative factors of the risk of recidivism and of damage;
2. transfer for service of the sentence as imposed to a prison facility of a lower security type;
3. conditional early release.

(4) An annual report on the results of the work under the individual plan for execution of the sentence shall be prepared for each sentenced person.

Article 157.

(1) The specialised programmes for individual and group work shall be implemented by the social and correctional-education work inspectors jointly with the personnel members of the rest of the fields of activity, volunteers and suitably trained outside experts.

(2) The specialised programmes shall have as an objective:

1. to motivate and encourage law-abiding behaviour;
2. to increase the social competence and to build behavioural skills;
3. to overcome dependencies;
4. (repealed, SG No. 103/2012).

(3) Participation of sentenced persons in specialised programmes shall be voluntary. Their co-operation in the resocialisation process shall be encouraged.

(4) The specialised programmes for individual and group work shall be endorsed by the Chief Director of the Chief Directorate of Implementation of Penal Sanctions on a proposal by the Council on Implementation of Penal Sanctions.

Article 157a. (New, SG No. 103/2012)

(1) Before they are released, persons deprived of their liberty shall be enrolled in a specialised programme preparing them for life after release.

(2) The life after release programme shall last between one and three months.

(3) In implementing the programme referred to in Paragraph 1 herein, an action plan shall be drawn up for every sentenced person, listing realistic, practical steps to cope with the conditions of life in society after release.

Article 158.

Individual work with sentenced persons shall include:

1. provision of information regarding the legal and social status and the possibilities to relax the conditions of serving the sentence;
2. assistance to addressing problem situations and building skills to cope with difficulties;
3. referral to and intermediation with outside organisations for solving particular problems;
4. motivation for active participation and cooperation in the preparation for return to life in society after release.

Section II
Education, Training and Qualification of Persons Deprived of their Liberty

Article 159.

(1) Educational, training and qualifying activities, accessible on an equal footing to all persons deprived of their liberty, shall be implemented at the places of deprivation of liberty.

(2) The participation of persons deprived of their liberty in educational, training and qualifying activities shall be taken into consideration in determining the degree of correction and re-education.

Article 160.

(1) (Amended, SG No. 68/2013, effective 2.08.2013) Schools at the places of deprivation of liberty shall be opened, transformed and closed by the Minister of Education and Science on a proposal by the Minister of Justice. The said schools shall carry out the activity thereof according to the state educational requirements.

(2) The school principals and the teachers at the places of deprivation of liberty shall be appointed according to the procedure, established by the Public Education Act.

Article 161.

(1) The curricula and syllabi shall conform to the state educational requirements for education level.

(2) (Amended, SG No. 103/2012, SG No. 68/2013, effective 2.08.2013) The activity of the schools at the places of deprivation of liberty shall be financed by the state budget through the Ministry of Education and Science.

(3) (Amended, SG No. 68/2013, effective 2.08.2013) A completed education level, an acquired qualification in an occupation or part of an occupation shall be certified by a document, endorsed by the Ministry of Education and Science.

(4) (New, SG No. 103/2012) In order to meet the needs of schools at places of deprivation of liberty, the Ministry of Justice shall provide and make available premises of its own.

Article 162.

(1) Persons deprived of their liberty, who have not attained the age of 16 years, shall be subject to compulsory schooling at the schools at the places of deprivation of liberty.

(2) Persons deprived of their liberty, who are not subject to compulsory schooling, may be enrolled in general educational instruction.

(3) The educational, training and qualification activities at the places of deprivation of liberty shall include:

1. general and vocational education;
2. vocational training;
3. literacy and vocational courses;
4. social education.

(4) The activities, covered under Paragraph (3), shall be implemented in the following forms:

1. daytime;
2. evening courses;
3. extramural;
4. individual;
5. self-managed learning.

……..

PART FOUR
IMPLEMENTATION OF DETENTION IN CUSTODY AS PRECAUTIONARY MEASURE TO SECURE PERSON'S APPEARANCE

Article 240. Save insofar as otherwise provided for in this Part, the provisions regarding the persons sentenced to deprivation of liberty shall furthermore apply to the accused and the defendants who are detained in custody as a precautionary measure to secure the appearance thereof.*****

***** Apparent from the provisions of Art. 240 in respect of detainees, with their consent, given the fact that the case is still pending, the latter can be included in programs and measures for intervention.

II. Implementing regulation on the Implementation of Penal Sanctions and Detention in Custody Act

Part one „ General Provisions“

Art. 1. Implementing regulation shall govern the implementation of the Implementation of Penal Sanctions and Detention in Custody Act

Art. 2. Minister of Justice shall exercise overall management and control over the places of imprisonment and probation services through the General Directorate "Execution of Penalties" (GD EP).
.....

Part Two "Structure and powers of the General Directorate "Execution of Penalties"

Art. 3.

(1) General Directorate "Execution of Penalties" is a specialized administrative structure of the Ministry of Justice.

(2) The activities of the General Directorate is related to the execution of penalties imposed by the courts with effective legal acts, as well as implementation of the measure of detention in custody, taken under the Criminal Procedure Code.

(3) The General Directorate "Execution of Penalties" operates under par. 2 in accordance with the standards of management performance.

Art. 7. Powers of GD ES are:
.....
6. Concerning the general **penitentiary social activities and religious support**:
a) provides methodological guidance and controls activities of general penitentiary social activities and religious support to the prisoners;
b) develops methodological guidelines for the needs of practical action in execution of the sentence of imprisonment;
.....
e) provides and supports the organization and implementation of creative, cultural and sports events for understanding of the leisure time by prisoners;
f) prepares comments and opinions, participates in specialized committees in developing the creative, cultural and information, sports and religious activities in prisons, correctional institutions and detentions;
.....
k) organizes and coordinates the interaction with non-governmental organizations in the country and abroad, controls the attraction of volunteers for the implementation of socio-educational and religious activities in places of deprivation of liberty;

8. **Relating to specialized activities with offenders:**
a) provides methodological guidance, monitoring and control of the activities for introducing and implementation of specialized programs to work with offenders;
b) organizes and manages activities for psychological care of deprived from liberty;

c) carries out enforcement activities, and updating the assessment of the offender and sentence planning in accordance with good practice; contributes to their implementation in the work of the prison and probation services;
d) participates in the preparation of quality standards for social work and supervises in this direction;
e) organizes and supervises specialized individual and group work with offenders in prisons, correctional institutions and probation services;
f) implements and monitors the implementation of educational and training programs for persons deprived from liberty and sentenced to probation;
g) supervises the implementation of specialized programs for adaptation and preparation for life in liberty;
h) prepares analyses and develops strategies for developing socio correctional activities with offenders;
i) carries out activities in preparation for the life of freedom and interacting with external institutions and NGOs;
j) establishes projects aimed at development of the penitentiary and probation practices, involves in their implementation;
k) analyses of the state of the prison community and subculture;
.....

Chapter Four
Social work and educational work

Section I
Diagnostics and individual corrective work

Art. 120.

(1) An individual and group diagnostic activities are carried out in the places of deprivation of liberty, including:

1. Case study and evaluation of the risk of relapse and harm;
2. Psychological examination;
3. Socio-psychological study and analysis of prison groups and communities.

(2) The activities referred to in para. 1 are carried out by inspectors in social work and correctional work, probation inspectors inspectors-psychologists and inspectors-pedagogues by approved methods and in interaction with other employees of the prison or correctional institution**.**

Art. 121.

(1) An individual corrective work with the convicted is aimed at informing them about their rights and social status and conditions of the penitentiary.

(2) Individual counselling helps reduce internal tensions and affections to overcome readiness to violence and destructive effects of mediation in conflicts, as well as reducing the risk of suicide and self-harm.

(3) Individual and group programs are implemented to improve critical thinking skills, anger management, adaptation to newly living conditions and conditions in the institution and preparation for life in the wild.

(4) Individual work with convicts is consistent with the assessment of the risk of relapse and harm to them, as well as data from the psycho-diagnostics. It helps to motivate convicted at inclusion in specialized programs impact general and vocational training.

(5) The results of individual corrective work are reflected in current reports on each case.

Art. 122.

(1) The psychological diagnostics shall be express and extended. First, the psychological study of newly detained shall be extended and the subsequent – express ones.

(2) The psychological diagnostics mandatory includes an interview, one complex verbal personal methodology and at least projective one. When deployed psychological study than those fixed methodologies applied by two to five additional according to the characteristics of the respondent.

(3) Individual counselling shall be done by inspector-psychologists. The results of psychological assistance shall be rendered in a written report for each case.

Art. 123.

(1) Social work with prisoners is aimed at individual and group career counselling on problems raised of personal, family, health, property or other nature, relating to the treatment and stay in the penitentiary institution.

(2) Social work aims to support convicted for solving various problematic situations and develops skills to deal with difficulties.

Section II
Impact Programme for reducing the risk of relapse and the risk of significant harm

Art. 124.

(1) The impact programs are a form of professional intervention aimed at changing behaviour and personality of the convicted.

(2) Participation of the deprived from liberty in impact programs is voluntary.

Art. 125.

(1) Deprived from liberty are offered special programs for individual and group work according to the profile of the registered needs, objectives in the individual plan of execution of the sentence and the available resources**.**

(2) The specialized programs include:

1. Description of the methods that will lead to changes in attitudes, skills and behaviour of convicted;
2. Descriptions of each session (class) of the program;
3. Evaluation scale for measuring changes;
4. Guidance on administration and supervision of the program;
5. Feedback Form.

(3) Inspectors social activities and educational work, inspector-psychologists and the inspector on probation in prison or correctional institution conducting specialized programs, shall pass a training course.

(4) Each program for group work starts after the strict selection of participants and is led by two employees, and during its implementation, it obligatory shall be supervised by a third officer. The employees who conduct a specialized program for group work shall be supervised at least once a year.

(5) Each group classes is conducted on the basis of pre-existing plan and is recorded after completion.

(6) Where the specialized group work is with drug-addicted deprived from liberty, the participants in the program shall be placed in separate premises.

(7) Upon completion of the program a report shall be prepared that includes analysis and evaluation of the results for the participants in the specialized group work.

(8) Prisoners who have successfully completed a specialized impact program, shall count their working days in accordance with Art. 178, para. 4 of IPSDCA as 16 hours group classes count for three days imprisonment.

Art. 126. (1) In the reception unit for every new sentenced shall be prepare a risk assessment and recommendations for future work.

(2) An extended psychological examination shall undergo all newcomers regardless of the level of risk of recurrence and the damage that they have.

Art. 127.

(1) For sentenced to a punishment of up to six months deprivation from liberty and for defendants shall be made express psychological conclusion and assessment of risk of harm.

(2) After the decree of final judgment, a risk assessment and extended psychological conclusion shall be prepared with the deprived from liberty presents him/herself to the Committee on distribution.

Art. 128.

(1) Each newly admitted deprived from liberty shall be included in compulsory specialized program for adaptation to the conditions of serving the sentence imposed.

(2) The program under par. 1 the deprived from liberty is informed of their rights and obligations, for legal and administrative procedures in the institution, established rules for contacts with other deprived from liberty, staff and the outside world, for the proposed activities and impact programs.
(3) Within the specialized programs for adaptation the deprived from liberty shall go through a total psycho-diagnostics, risk of relapse and harm, and psychiatric examination.

(4) Based on the diagnostic procedures under par. 3 a plan and an initial report on the implementation of the sentence shall be prepared, where the appropriate activities and programs for individual deprived from liberty are stated as well as the sequence of their deployment.

(5) The activities referred to in para. 3 and 4 shall start in the reception unit and are carried out by inspectors social activities and educational work in terms up to three months of the entering of the deprived from liberty in prison, correctional institution or prison hostel together with Inspector psychologist and / or psychiatrist.

Art. 129.

(1) An individual plan for serving of the sentence is prepared based on the evaluation of the convicted and the socio-correctional work is conducted in accordance with the plan.

(2) The sentence plan shall contain:

1. The description of risk needs / problematic areas on which work will be done;
2. Precise objectives corresponding to the specific needs;
3. Concrete definition of the employment, educational, training, cultural-informational, sports and correction measures to achieve the objectives;
4. The responsible official for conducting the measures;
5. Deadlines for implementing the measures.

(3) The individual plan for execution of the sentence identifies measures for the realization together with other officials in prison, correctional institution or prison hostel and representatives of the self-governed bodies.

(4) For every prisoner a replanning shall be done based on the duration of the sentence and the changes in the course of corrective action.

(5) In cases of very high, high and medium to high risk of harm the original individual planning and replanning of serving the sentence is conducted by the respective inspector social activities and educational work together with other employees and with the convicted.

(6) In the low-risk and medium to low risk the re-planning of the sentence is carried out only with the convicted.

(7) Results from the individual plan to prepare an annual report for each convicted.

Art. 130.

(1) The subsequent risk assessment shall be carried out each year or when in the initial risk assessment are outlined the following problems:

1. Overall risk - high and medium to high risk;
2. Crimes involving the use of violence and coercion;
3. Crimes involving organized criminal activity;
4. Abuse with drugs and / or alcohol abuse;
5. Mental and emotional problems;
6. Dangerous and destructive reactions;
7. Low level of basic social and communication skills.

(2) The subsequent risk assessment beyond that under para. 1 shall be accompanied by justification of proposals and decisions in the Commission on the Executing of Sentences in cases under art. 74, para. 1, item 2, 5, 6 and 7 IPSDCA.

(3) In the subsequent assessment under par. 1 and 2 A thorough study of all the factors shall be conducted, focusing on the changes in the whole risk profile and needs compared to the initial assessment of the convicted.

(4) In the rest cases under Art. 74, para. 1 IPSDCA, proposals for individual convicted before the Commission on the Executing of Sentences shall be justified based on the current penitentiary report including the assessment of changes in behaviour.

Art. 131. The justified proposals to the Commission on the Executing of Sentences for or against on one or more grounds under art. 74, para. 1 of IPSDCA shall be prepared by the inspectors social activities and educational work, responsible for specific prisoners' groups.

Art. 132. For deprived from liberty isolated under art. 120, para. 1 of IPSDCA, a team consisted of inspector social activities and educational work, Inspector psychologist and officer of the guards shall monitor and periodically assess the case, which is recorded as a report.

Implementation of Penal Sanctions and Detention in Custody Act

Chapter Fourteen
SPECIAL PROVISIONS ON IMPLEMENTATION OF PENAL SANCTION OF DEPRIVATION OF LIBERTY IN RESPECT OF JUVENILES

Article 186.

The implementation of the penal sanction of deprivation of liberty in respect of juveniles shall have as a prime objective their re-education and their preparation for return to life in society after release.

Article 187.

(1) Upon admission to a reformatory, juveniles shall be accommodated at a reception unit where they shall remain for a period of not less than 14 days and not more than one month under the observation of an educator, doctor and psychologist.

(2) Those admitted for the first time to the reformatory shall be accommodated separately from the rest.

.....

Article 188.

(Amended, SG No. 68/2013, effective 2.08.2013) An educational board shall be established with each reformatory, whereof the composition, tasks and operation shall be determined by an ordinance of the Minister of Justice and the Minister of Education and Science.

.....

Article 190.

(1) The overall activity comprehended in the resocialisation of juveniles deprived of their liberty shall be conducted in conditions of maximising opportunities for contact of the sentenced persons with the outside environment as a whole, with relatives and persons who exert a good influence thereon, with volunteers and representatives of non-governmental organisations.

.....

(3) The director of the reformatory may:

1. direct the juveniles to contacts with persons and representatives of charitable organisations, who may facilitate the resocialisation thereof;

.....

Article 196.

Save insofar as otherwise provided for in this Chapter, the general provisions shall apply upon implementation of the penal sanction of deprivation of liberty in respect of juveniles.

Implementing regulation on the Implementation of Penal Sanctions and Detention in Custody Act

Chapter seven
Special provisions for the implementation of deprivation of liberty in regard to a juvenile

Art. 195.

Save insofar as otherwise provided for in this Chapter provisions of the preceding chapters of this Regulation shall apply to juveniles.

Art. 196.

(1) The newly juveniles are accepted by the director of the correctional institution, psychologist and physician. They stay in the reception for the duration from 14 days to a month. Juveniles, who enter for the second and subsequent time or from the arrest stay 10 to 14 days. During this time they become aware with the situation and order in the correctional institution, their personality qualities, criminal infestation, education, educational neglect, marital status and causes of crime are examined.

(2) Based on the assessment by the physician and psychologist and a proposal by the inspector after the expiry of the stay in the reception department juveniles are divided into groups, educational classes and jobs.

Art. 197.

Juveniles, who enter for the second and subsequent time, are placed separately from the rest. The insulation is place during work and other common events with the exception of education.

Art. 198.

(1) In mainstream education are included all juveniles who have entered the correctional institution one month before the completion of the first term.

(2) Juveniles, who arrive later are included in the educational process only if they have passed successfully the first term and have not been breaking their studies during the current term for more than two months.

Art. 199.

The composition of the pedagogical council includes the head of the sector "Social activities and educational work", the school principal and inspectors-pedagogues who are employees of GD IPS**.**

……

Art. 202.

Administration of the correctional institution liaises with parents and relatives of juveniless and inspectors Child Pedagogical Room and contributes to the implementation of periodic meetings with them.

Art. 203.

Juveniles undergo a medical examination, including psychiatric at least once at every three months. The results are recorded in the health record.

Art. 204.

Juveniles set of common and strict regime:

1. Stay in premises which are locked at night;

2. Shall have the unlimited right to visitation and the right to one food parcel per month outside their visit;
3. Entitled to two hours spent outdoors;
4. Could use money in an account up to a minimum country wage;
5. Move near the correctional institution with a companion.

Art. 205.

Juveniles placed on light regime:

1. Stay in premises which are locked at night;
2. Shall have the unlimited right to visitation and the right to two food parcels a month out of their visit;
3. Entitled to two hours spent outdoors;
4. Could use money in an account up to a country minimum wage;
5. Move near the correctional institution unaccompanied;
6. Conduct visits in accordance with Art. 192, para. 3 IPSDCA only in the settlement, where the correctional institution is placed.

Art. 206.

Visits lasted 90 minutes and with the permission of the head of the correctional institution in each case - and more. During visiting hours juveniles can receive food, fruits and vegetables out of those envisaged under the regime.

Art. 207.

(1) The following self-governed bodies of deprived from liberty are set in the correctional institutions:

1. Collective Council of 5 to 9 people;
2. Floor Councils of 3 to 5 people.

(2) The Collective Council is led by head of "Social activities and educational work."

(3) Within the Collective council the following sections are established: school, mass cultural and sports, internal order and discipline, sanitary and others. They are led by employees.

Art. 208.

In cases under Art. 195 IPSDCA the Director of GD IPS shall permit to be left in the correctional institution.

Art. 209.

WITH an award under Art. 98, para. 1, point 7 and 8 of IPSDCA may be encouraged juveniles serving sentence in open type prison hostel and placed in a common mode.

Art. 210.

Terms under art. 192, para. 1 and 2 of IPSDCA are calculated in calendar months regardless of respect of working days.

Question 11: Participation of the private sector, the media and civil society

What steps have been taken to encourage:

- the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (**Article 9, para. 2, Explanatory Report, paras. 68-73**);

The Public Council on Safer Internet is a successful form of public-private partnership in the field of protection of children and minors from sexual exploitation and abuse via computer systems. The Council was founded in early 2006 as an advisory body to the National Safer Internet Centre, established and acting under the EC's "Safer Internet" program under the coordination of the "ARC" Fund and is a member of the European network of Safer Internet INSAFE. The Public Council on Safer Internet is to advise and assist the activities of the National Center for Safe Internet, in particular Internet hot line for fighting illegal and harmful content and conduct on the Internet (Web112.net), Bulgarian online safety line for consulting children, parents and teachers on issues of minors online at telephone number 124 123. Members of the Public Council on Safer Internet are state institutions, business associations, large companies in ICT and telecommunications, telecommunication providers and non-governmental organizations that are relevant to the safety of children on the Internet and mobile communications.

A Code of Conduct for Prevention of Trafficking and Sexual Exploitation of Children in Tourism was signed in 2005 and is in force. The Code is a declaration of wilful agreement, destined to orient and regulate the ethical conduct of physical and legal persons directly or indirectly involved in tourist activities, against the sexual exploitation of children in tourism. The Bulgarian Code has been adapted based upon the original "Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism" of ECPAT International, which is supported by UNICEF and the World Tourism Organization. The Bulgarian Code is part of worldwide effort.

- the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (**Article 9, para. 3, Explanatory Report, para. 74**);

During a meeting of the Council for Electronic Media (CEM) on 25 October 2011, the Chairpersons of the State Agency for Child Protection and CEM approved the Assessment Criteria for content which is harmful or threatens to harm the physical, mental, moral and / or social development of children. The proposal of the agreement was widely discusses with civil society, citizens and media service providers.

- the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (**Article 9, para. 4, Explanatory Report, para. 75**). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (**Article 27, para. 5, Explanatory Report, para. 193**).

During the design stage of the operative programmes and the defining of measures, the focus is on vulnerable children, particularly – children at risk.

Child at risk is a child:

a) whose parents are dead, unknown, or have been deprived from parental rights/or with limited parental rights, or the child has been left without their care;
b) who has become victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either in or out of his or her family;
c) for whom there is a danger of causing damage to his or her physical, mental, moral, intellectual and social development;
d) who is afflicted with mental or physical disabilities and difficult to treat illnesses;
e) who is at risk of dropping out of school or who has dropped out of school.

Thus ensures the funding is directed for prevention and protection of the children from sexual exploitation and sexual abuse.

May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (Article 27, para. 5, Explanatory Report, para. 193).

According to Bulgarian criminal justice system confiscation is the only punishment and is imposed only in cases provided by law in the Special Part of the Penal Code. For crimes falling within the scope of the Directive 2011/92/EU, this penalty is provided under Art. 159 (child pornography). For all other offenses under Directive 2011/92/EU apply confiscation in favour of the State of finances and benefits of crime under Art. 53 of the Criminal Code. This is a characteristic of the Bulgarian legal system, since the withdrawal of art. 53 of the Penal Code is a separate expressly provided by law institute through which the state takes (i.e. confiscates under international terminology) items, tools, benefits subject to crime or its equivalent if missing or alienated (in this connection, please see in particular Art. 53, para. 2 b)). The existence of this institute is in line with international standards for the seizure and confiscation "Equivalent" on the merits (the outcome thereof). Art. 53 of the CC is an independent ground for denial and do not need to be mentioned in the Articles of the Special Part (which includes Chapter One, Section VIII "Debauchery" and Chapter Four, Section II "Crimes against youth") as it is a provision of general Part of the Criminal Code and in addition to the forfeiture of the state shall apply regardless of criminal responsibility.

Another option for forfeiture to the State of illegally acquired property is under the Law on Forfeiture of the State of illegally acquired property. Regarding the withdrawal of funds and benefits from entities that are enriched or would be enriched by committing any of the offenses established in the Penal Code is applicable to Law on Administrative Violation and Penalties.

Criminal code

Article 53

(1) Notwithstanding the penal responsibility, confiscated in favour of the state shall be:

a) objects belonging to the convict, which were intended or have served for the perpetration of intentional crime;

b) objects belonging to the culprit, which were subject of intentional crime - in the cases expressly provided in the Special Part of this Code.

(2) (New, SG No. 28/1982) Confiscated in favour of the state shall also be:

a) articles that have been subject or means of the crime, the possession of which is forbidden, and

b) objects acquired through the crime, if they do not have to be returned or restored. Where the acquired objects are not available or have been disposed of, an equivalent amount shall be adjudged.

Both normative acts state the term "confiscated in favour of the state" without concretization of the purpose for which the state will use the confiscated belongings and/or funds.

Question 12: Effectiveness of preventive measures and programmes

- Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;

Yes. Please see the monitoring on the National plan against violence.

- Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.

Please, see the information provided while answering questions 4, 10 and 11.

PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN VICTIMS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 13: Reporting suspicion of sexual exploitation or sexual abuse

- Are professionals working in contact with children bound by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Please indicate the criteria or guidelines which allow for the waiving of confidentiality rules (**Article 12, para. 1, Explanatory report, para. 89**);

A Code of Ethics for professionals working with children is applied in Bulgaria. The Code of Ethics presents the standards of conduct for those working with children in the areas of education, health, welfare, justice, home affairs and others.

Confidentiality rules related to the work of various specialists do not restrict a reporting for a child at risk. Moreover, in accordance with the Bulgarian legislation the alerting is not just promoted but a mandatory act.

CPA

Obligation to Report

Article 7.

(1) Persons, who become aware of the existence of a child in need of protection, shall immediately report the case to the Social Assistance Directorate, the State Agency for Child Protection or the Ministry of Internal Affairs.

(2) The same obligation shall be undertaken by all persons, who become aware of the said situation in the course of exercising their profession or occupation, irrespective of them being bound by occupational secret.

(3) If a signal is reported to SACP, its Chairperson shall immediately resend it to the Child Protection Departments under SAD.

(4) .....

(5) Central and regional bodies of the executive authority as well as the specialized institutions for children in view of their official duties shall timely render assistance and provide information to the State Agency for Child Protection and to the Social Assistance Directorates under the conditions and the procedure of the Protection of Personal Data Act.

Similar provision is included in the Criminal Procedure Code, where is stated that citizens have public obligation to signal immediately a pre-trial authority or other authority in cases of being aware of a committed crime of general nature. (art 205)

- Are there any rules encouraging any person who knows about or suspects, in good faith, sexual exploitation and sexual abuse of children to report the facts to the competent authorities? If so, please specify under which conditions and to which authorities (**Article 12, para. 2, Explanatory Report, para. 91**). Please provide examples of good practice.

The obligation to report is regulated under the CPA, art 7. (see above).

The legal ground for this obligation is also foreseen under act 205, para 1 and para 3 of the Penal Procedure Code.

Art. 205.

(1) Where the citizens become acquainted with a crime of general nature, they shall be obligated to notify immediately a body of pre-trial procedure or another state body.

(2) When they learn about committed crime of general nature, the officials shall notify immediately the body of the pre-trial procedure and take the needed measures for keeping the scene and the data of the crime.

(3) In the cases of Para. 1 and 2, the body of the pre-trial procedure shall immediately execute its powers to institute a penal procedure.

Question 14: Helplines

Which legislative or other measures have been taken to encourage and support the setting up of information services, such as telephone or internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity? (**Article 13, Explanatory Report, para. 92**).

National helpline for information, advice and assistance to children (art. 17a, i.17 of the CPA) functions through a call center with a harmonized telephone number 116 111 at the State Agency for Child Protection. Maintenance and operation of the helpline 116 111 is regulated by the Law on Child Protection and its Implementing Regulation.

The National helpline for children under the number 116 111 is with a national coverage and is free of charge for its users. It operates 24/7. The line is aimed at children, their parents, relatives, and to citizens seeking information and assistance on child issues.

In 2006 the "ARC" Fund established a national hotline to combat the spreading of illegal and harmful content in Bulgarian Internet space: http://web112.net. The project is part of the European program Safer Internet (http://europa.eu.int/information_society/activities/sip/index_en.htm). The Bulgarian hotline is a member of the International Association of hotline operators INHOPE: www.inhope.org. Hotlines provide to citizens an opportunity to signal for harmful and illegal content on the Internet. The hotline operations are based on the operating procedures, voted by the Public Council on Safer Internet after consultation with the Ministry of Interior and the IT sector. After review and evaluation of the signals, the signals with high risk are communicated via specially developed channels to MoI for further investigation.

Bulgarian line for online safety has been launched since March 2011 to provide advice to parents and children (124 123 phone and online - through Skype and email).

Question 15: Assistance to victims

- Please indicate which types of assistance described in **Article 14** are provided to victims of sexual exploitation and sexual abuse of children. (**Explanatory Report paras. 93-100**) Please specify:
  - how the assistance is adapted to the victims' age and maturity;

Multidisciplinary teams, created within the Coordination mechanism for interaction at work in cases of children abused or at risk of violence and interaction in crisis intervention, assess signals and plan appropriate action according to the needs of the child.

how due account is taken of the child's views, needs and concerns;

Social workers who work at social services providers assess the child and his/her family. Based on the assessment the social worker prepares an action plan that includes long- and short-term goals, activities for their implementation and protection measures. The action plan is consistent with the child's parents, guardian or custodian, or the person who cares for the child if this act is not controversial with the interests of the child and does not violate his/her rights. The social worker shall organize periodic meetings to review the assessment and implementation of the action plan with all stakeholders. Meetings are held periodically in the light of developments in the case, but at least at every 6 months.

- if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.

If necessary, SADs issue an order for social services to support the families.

- Please specify if and to what extent internal law provides for the possibility of removing (**Article 14, para. 3, Explanatory Report, para. 99**):
  - the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;
  - the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.

The possibility for removing the alleged perpetrator is provided in the Law on protection against Domestic Violence.

Under the said Law domestic violence is any act of physical, mental, emotional, economic or sexual violence, and any attempted such violence, as well as the forcible restriction of individual freedom and of privacy, carried out against individuals who have or have had family or kinship ties or cohabit or dwell in the same home.

If such act has been done by a spouse or former spouse; a person with whom that individual cohabits or has co-habited; a person with whom that individual has a child; an ascendant; a descendant; a person with whom are relatives in the collateral line to the fourth degree, inclusive a person with whom is or was affinity to the third degree; a guardian, a custodian or a foster parent; ascendant or descendant of the person who is in a de facto marital cohabitation; a person whom the parent is or has been a de facto marital cohabitation, the victim has the right to refer to the court to seek protection.

In cases where data exists showing a direct and imminent threat to the life or health of the victim, the latter may file an application with the police authorities of the Ministry of Interior for taking protective measures under the Ministry of Interior Act. If he/she is a child, a signal could be submitted either via SADs, or through help/hotlines.

The measures for protection against domestic violence are:

1. enforcing the perpetrator to refrain from applying domestic violence;
2. removing the perpetrator from the common dwelling-house for a period specified by the court;
3. prohibiting the perpetrator from getting in the vicinity of the home, the place of work, and the places where the victim has his or her social contacts or recreation, on such terms and conditions and for such a period as is specified by the court;
4. temporarily relocating the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at stake, on such terms and conditions and for such a period as is specified by the court, provided that this is not inconsistent with the best interests of the child;
5. placing the respondent under an obligation to attend specialised programmes;
6. advising the victims to attend recovery programmes.

In the context of criminal proceedings protection under the Criminal Procedure Code (CPC) - Art. 67 "Prohibition to approach the victim" and Art. 123 "protection of witnesses." can be applied. Upon a proposal of the prosecutor with the consent of the victim or upon a request of the victim, the respective first-instance Court may prohibit the defendant to approach directly the victim. The prosecutor, the reporting judge or the Court, on the witness's request or with the latter's consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with. The protection of the witness shall be temporary and shall be achieved through:

1. providing personal physical guarding by the bodies of the Ministry of Interior;
2. keeping secret his/her identity.

The Child Protection Act provides the opportunity of placing a child out of his or her family environment, if the child is a victim of violence in the family and there is a danger to her/his physical, mental, moral, intellectual and social development.(art 25 para 4). The placement of a child out of his or her family is a protective measure taken after the exhaustion of all possible measures for protection in family unless in cases where the urgent removal is a necessity.

Grounds for placement out of the family

Article 25.

A child may be placed to live out of his or her family in cases where:

1. the parents have passed away, are unknown or have their parental rights deprived or limited;
2. the parents, guardians or custodians without a valid reason continuously do not provide care for the child;

3. the parents, guardians or custodians are in a position of permanent inability to rear the child;
4. **the child is a victim of violence in the family and is in danger of her/his physical, mental, moral, intellectual and social development;**
5. in cases under art 11 of the Hague Convention from 1996;
6. the parents, guardians or custodians have agreed and refuse to stop his/her participation in a production under the meaning of the Radio and Television Act and with this act a danger for his/her physical, psychological. moral or social development occurs.

(2) The placement of a child out of his or her family shall be a protective measure taken after the exhaustion of all possible measures for protection in family unless in cases where the urgent removal is a necessity.

In addition, Article 37 of the Child Protection Act provides legal possibility to provide police protection to a child by the specialized bodies of the Ministry of Interior, and article 38 specifies the prerequisites for taking any emergency measures. The cases of sexual offences against a child are encompassed in article 38, item 1 - when a child is a subject of crime or there is imminent danger for his/her life or health, as well as when a child is in danger of getting involved in crime.

Article 39 of the Child Protection Act enlists three types of measures for police protection:

- placement in special premises with avoiding contact with persons who may cause harm on him/her if communicated;
- placement in specialized institutions or social services – residential care, and if necessary, provision of guard;
- returning of a child to his/her parents or those who are entrusted with parental functions for him/her.

These measures are taken in accordance with the identified risks for the child and the source of a threat. Police protection endures 48 hours and when it is in force the police immediately inform: the child's parents, guardians, trustees or those who care for the child, the "Social Assistance" Directorate in whose area the protection measure was undertaken, the "Social Assistance" Directorate in which area the child lives; the prosecutor; the Regional Directorate of the Ministry of Interior at the current address of the child.

The Implementing Regulation on the Child Protection Act provides one more opportunity for a separation of a child from his/her circle of trust (family environment where parents and those who care for the child involved in sexual abuse). In these cases, the "Social Assistance" Directorate may take measures for emergency placement outside of the family when there is a danger for life and health of the child. The placement is carried out immediately after receiving the signal by an order of the Director of the "Social Assistance" Directorate (SAD). In cases of emergency placement outside of the family, the inspection of the situation begins immediately and shall be finalized within 10 days of the date of the order issuance. In the case of a signal for sexual abuse of a child, SAD immediately informs the Ministry of Interior and the prosecutor due to their competence in carrying out investigations.

After the completion of the initial inspection regardless of the measure for child protection - police protection or emergency placement outside of the family, the permanent measure for child protection is undertaken and it is approved by the court.

- If internal law does provide for this:
  - are the conditions and duration of such removal to be determined in accordance with the best interests of the child?

Taking protection measures is linked to the development of an action plan and a care plan that are tailored to the needs of the child and his/her best interests. Under Bulgarian law the best interest of the child is the discretion of the wishes and feelings of the child, his/her physical, mental and emotional needs, age, gender, background and other characteristics of the child, the risk of harm caused to the child or are likely to be caused; ability of parents to care for the child; consequences that will effect to the child, other circumstances relating to the child.

- are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (**Article 11, Explanatory Report, paras. 87-88**).

In accordance with the Coordination mechanism for interaction and work in cases of children victims of violence or at risk of violence and interaction in crisis intervention the established teams take actions in cases of children victims of violence

- Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (**Article 38, para. 2, Explanatory Report, paras. 258-259**).

The measures are of a legislative nature. That possibility is provided in the Penal Code itself, since in each case in which a Bulgarian citizen is a victim of a crime abroad, the authorities in Bulgaria can initiate criminal proceedings. Proceeding can be initiated no matter whether the crime was committed abroad against a Bulgarian citizen by a foreigner or by another Bulgarian citizen.

If a crime is committed abroad against a Bulgarian citizen from a foreigner, the penal proceeding is filed in Bulgaria under art 5 of the Penal Code. If a crime is committed abroad against a Bulgarian citizen by another Bulgarian citizen, the penal proceeding is filed in Bulgaria under art 4 para1 of the Penal Code. Please, see below the applicable provisions.

Penal Code
General

Chapter one. OBJECTIVE AND SCOPE OF THE PENAL CODE
*Section II S*cope of the Penal Code

Art. 4.

(1) The Penal Code shall apply for the Bulgarian citizens and for the crimes committed by them abroad.
…….

Art. 5.

The Penal Code shall also apply for foreigners who have committed crime of general nature abroad, affecting the interests of the Republic of Bulgaria or of a Bulgarian citizen.

PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

Question 16: Criminal law offences

- Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;
- Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;
- Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;
- Please also specify whether the age of a child plays a role in determining the gravity of the offence.

In view of the ratification of the Convention of the Council of Europe for Protection of Children from Sexual Exploitation and Sexual Violence (in October 2011), on 2 April 2009 the National Assembly adopted amendments to the Criminal Code. The following new compositions of crimes were introduced with them: conscious use of the services of a juvenile, who prostitutes (Art. 154a), forcing, coercing and making a child who has not turned 14 to attend in any way acts of sexual violence or sexual acts, without even participating in them, the so called "sexual corruption of children" (Art. 155b), the hiring or coercing of individual juveniles or groups of such persons to commit such acts like copulation, fornication, sodomy, masturbation, sexual sadism, masochism or lustful exposition of human genitalia (Art. 158a) of the Criminal Code.

Furthermore, in accordance with the relevant articles of the Convention of the Council of Europe and particularly with the provisions of Chapter VI "Substantive Criminal Law", amendments and additions have been made to Section VIII "Debauchery" of the Criminal Code – Art. 149, paragraph 2 (lewdness over a person under the age 14, carried out through the use of force or threats, by taking advantage of helpless state, or by putting the child in such state, or by using a state of dependency or supervision); Art. 150, paragraph 1 and

paragraph 2; Art. 151, paragraph 2 (sexual intercourse with person at the age of 14, who does not understand the property or the significance of the act).

With the amendments to the Criminal Code of April 2009, the term "pornographic material" has been added to the criminal acts of "harlotry action", "copulation", "sexual intercourse" and "prostitution".

The changes to the Criminal Code of 10 April 2010 envisaged higher sanctions for some particularly rebuked acts against minors and juveniles: criminal harlotry through the use of force or taking advantage of a helpless state or situation of supervision (Art. 150 of the Criminal Code), criminal copulation with a juvenile through the use of a state of dependency or supervision or with a mentally irresponsible person (Art. 151, paragraphs 2 and 3 of the Criminal Code), making a contact with a minor or a juvenile person with the purpose of harlotry actions (Art. 155a of the Criminal Code, coercing a juvenile to participate or observe sex scenes (Art. 155b of the Criminal Code) and torture and neglect of juveniles (Art. 182 and Art. 187 of the Criminal Code).

Sexual Abuse (*Article 18*)

• Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;

Criminal Code, General

Chapter 2 "Crime"
Section II. Preparation and Attempt

……

Art. 18.

(1) The attempt is the started commitment of a deliberate crime whereas the act has not been completed or, though completed, the social dangerous consequences of this crime stipulated by the law or wanted by the perpetrator have not occurred.

.....

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII. „Debauchery"

Article 149

(1) A person who performs an act for the purpose of arousing or satisfying sexual desire, without copulation, with a person under 14 years of age, shall be punished for lewdness by deprivation of liberty for one up to six years.

(2) When the fornication is being done through use of violation or threatening, through making use of the helpless condition of the distressed or through driving the victim to such a

condition by using his/her state of dependency or surveillance, the penalty that the law provides for is imprisonment for a term from two up to eight years.

(3) Where the act under the preceding paragraphs has been done for a second time, the punishment shall be deprivation of liberty from three (3) to ten (10) years.

(4) Lewdness shall be penalized by deprivation of liberty from three (3) to fifteen (15) years:

1. if committed by two or more persons;

……..

(5) Lewdness shall be penalised by deprivation of liberty from five to twenty years:

1. if committed with two or more minors;
2. if a severe bodily injury has been inflicted or a suicide has been attempted;
3. if it constitutes a dangerous recidivism;
4. if it constitutes a particularly grave case.

……

Article 151

(1) A person who has sexual intercourse with a person who has not completed the age of 14 years, insofar as the act does not constitute a crime under Article 152, shall be punished by deprivation of liberty for two to six years.

……

(3) A person who has sexual intercourse with a person who has completed the age of 14 years, who does not understand the essence and meaning of the act, shall be punished by deprivation of liberty for up to five years.

Article 152

(1) A person who has sexual intercourse with a person of the female sex:

1. who is deprived of the possibility of self-defence, and without her consent;
2. by compelling her thereto by force or threat;
3. by reducing her to a state of helplessness shall be punished for rape by deprivation of liberty for two to eight years.

(2) For rape the punishment shall be deprivation of liberty for three to ten years:

1. if the raped woman has not completed eighteen years of age;
2. if she is a relative of descending line;
3. if it was committed for a second time.

(3) For rape the punishment shall be deprivation of liberty for three to fifteen years:

1. if it has been performed by two or more persons;
2. if medium bodily injury has been caused;
3. if an attempt at suicide has followed;
4. if it has been committed in view of forceful involvement in further acts of debauchery or prostitution;

5. if it constitutes a case of dangerous recidivism.

(4) The punishment for rape shall be of ten to twenty years, where:

1. **The victim has not turned fourteen years of age;**
2. Severe bodily injury has been caused;
3. Suicide has ensued;
4. It qualifies as a particularly serious case.

Article 156

(1) A person who abducts another person for the purpose of her being placed at the disposal for acts of debauchery shall be punished by deprivation of liberty for three to ten years and by a fine of up to BGN 1,000.

(2) The punishment shall be deprivation of liberty for five to twelve years, if:

1. **the abducted person is under 18 years of age;**
2. the abducted person has been placed at disposal for acts of debauchery, or
3. the abduction has been carried out for the purpose of placing the person at disposal for acts of debauchery beyond the borders of this country.

(3) The punishment shall be deprivation of liberty from five to fifteen years and a fine of BGN 5,000 to BGN 20,000 where:

1. the act was committed by an individual acting on the orders or in execution of a decision of an organised criminal group;
2. the abducted person was handed over for sexual activities outside the borders of the country;
3. the act constitutes dangerous recidivism.

Article 157

(1) A person who performs sexual intercourse or acts of sexual satisfaction with a person of the same sex, by using for that purpose force or threat, or by taking advantage of a position of dependency or supervision, as well as with a person deprived of the possibility of self-defence, shall be punished by deprivation of liberty for two to eight years.

(2) Where the act under para 1 was committed in respect to a person below the age of 14, the punishment shall be deprivation of liberty of three to twelve years.

(3) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex **below the age of 14,** shall be punished by deprivation of liberty from two to six years.

(4) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex below the age of 14 who does not understand the nature or implications of his/her acts, shall be punished by deprivation of liberty from two to six years.

(5) ……..

- Engaging in sexual activities with a child where
- use is made of coercion, force or threats;
- abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
- abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII. „Debauchery"

Article 149

(1) A person who performs an act for the purpose of arousing or satisfying sexual desire, without copulation, with a person under 14 years of age, shall be punished for lewdness by deprivation of liberty for up one to six years.

(2) When the fornication is being done through use of violation or threatening, through making use of the helpless condition of the distressed or through driving the victim to such a condition by using his/her state of dependency or surveillance, the penalty that the law provides for is imprisonment for a term from two up to eight years.

(3) Where the act under the preceding paragraphs has been done for a second time, the punishment shall be deprivation of liberty from three (3) to ten (10) years.

(4) Lewdness shall be penalized by deprivation of liberty from three (3) to fifteen (15) years:

1. if committed by two or more persons;

……..

(5) Lewdness shall be penalised by deprivation of liberty from five to twenty years:

1. **if committed with two or more minors;**
2. **if a severe bodily injury has been inflicted or a suicide has been attempted;**
3. **if it constitutes a dangerous recidivism;**
4. **if it constitutes a particularly grave case.**

Article 150

(1) An individual that performs particular activity with the purpose to stimulate or satisfy a sexual desire without sexual intercourse through the use of his/her helpless condition or through driving him/her to such a condition or by using his/her state of dependency or surveillance with respect to an individual that has not completed the age of fourteen years is subjected to a penalty of imprisonment for two up to eight years.

(2) In exceptionally grave cases the penalty that is provided is imprisonment for a term from three up to ten years.

Article 151

(1) A person who has sexual intercourse with a person who has not completed the age of 14 years, insofar as the act does not constitute a crime under Article 152, shall be punished by deprivation of liberty for two to six years.

(2) When the criminal act under para1 is done with a minor individual and through the use of the state of dependency or surveillance, the penalty that the law provides is imprisonment for one to five years.

(3) A person who has sexual intercourse with a person who has completed the age of 14 years, who does not understand the essence and meaning of the act, shall be punished by deprivation of liberty for up to five years.

Article 152

(1) A person who has sexual intercourse with a person of the female sex:

1. **who is deprived of the possibility of self-defence, and without her consent;**
2. **by compelling her thereto by force or threat;**
3. **by reducing her to a state of helplessness shall be punished for rape by deprivation of liberty for two to eight years.**

(2) For rape the punishment shall be deprivation of liberty for three to ten years:

1. **if the raped woman has not completed eighteen years of age;**
2. **if she is a relative of descending line;**
3. **if it was committed for a second time.**

(3) For rape the punishment shall be deprivation of liberty for three to fifteen years:

1. **if it has been performed by two or more persons;**
2. **if medium bodily injury has been caused;**
3. **if an attempt at suicide has followed;**
4. **if it has been committed in view of forceful involvement in further acts of debauchery or prostitution;**
5. **if it constitutes a case of dangerous recidivism.**

(4) The punishment for rape shall be of ten to twenty years, where:

1. **The victim has not turned fourteen years of age;**
2. **Severe bodily injury has been caused;**
3. **Suicide has ensued;**
4. **It qualifies as a particularly serious case.**

Article 153

A person who copulates with another, by compulsion using the other's **material** or official dependency upon him, shall be punished by deprivation of liberty for up to three years.

Article 156

(1) A person who abducts another person for the purpose of her being placed at the disposal for acts of debauchery shall be punished by deprivation of liberty for three to ten years and by a fine of up to BGN 1,000.

(2) The punishment shall be deprivation of liberty for five to twelve years, if:

1. the abducted person is under 18 years of age;
2. the abducted person has been placed at disposal for acts of debauchery, or
3. the abduction has been carried out for the purpose of placing the person at disposal for acts of debauchery beyond the borders of this country.

(3) The punishment shall be deprivation of liberty from five to fifteen years and a fine of BGN 5,000 to BGN 20,000 where:

1. the act was committed by an individual acting on the orders or in execution of a decision of an organised criminal group;
2. the abducted person was handed over for sexual activities outside the borders of the country;
3. the act constitutes dangerous recidivism.

Article 157

(1) A person who performs sexual intercourse or acts of sexual satisfaction with a person of the same sex, by using for that purpose force or threat, or **by taking advantage of a position of dependency or supervision, as well as with a person deprived of the possibility of self-defence,** shall be punished by deprivation of liberty for two to eight years.

(2) Where the act under para 1 was committed in respect to a person below the age of 14, the punishment shall be deprivation of liberty of three to twelve years.

(3) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex below the age of 14, shall be punished by deprivation of liberty from two to six years.

(4) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex below the age of 14 **who does not understand the nature or implications of his/her acts**, shall be punished by deprivation of liberty from two to six years.

(5) ……..

Child Prostitution (*Article 19*)

- Recruiting a child into prostitution or causing a child to participate in prostitution;
- Coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
- Having recourse to child prostitution.

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII „Debauchery"

.....

Article 154a

Anyone, who gives or promises a benefit and commits fornication activities or sexual intercourse with a minor individual who is engaged with prostitution is subjected to a penalty of imprisonment for a term up to three years.

Article 155

(1) **A person who persuades an individual to practise prostitution** or acts as procurer or procuress for the performance of indecent touching or copulation, shall be punished by deprivation of liberty of up to three years and by a fine of BGN 1,000 to BGN 3,000.

(2) A person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness shall be punished by deprivation of liberty for up to five years and by a fine of BGN 1,000 to BGN 5,000.

(3) **Where acts under Paragraphs 1 and 2 above have been committed with a venal goal in mind, punishment shall be deprivation of liberty from one to six years and a fine of BGN 5,000 to BGN 15,000.**

(4) A person who persuades or forces another person to using drugs or analogues thereof for the purposes of practising prostitution, to performing copulation, indecent assault, intercourse or any other acts of sexual gratification with a person of the same sex, shall be punished by deprivation of liberty for five to fifteen years and by a fine from BGN 10,000 to BGN 50,000.

(5) **Where the act under Paragraph 1- 4 has been committed**:

1. by an individual acting at the orders or in implementing a decision of an organized criminal group;
2. with regard to a person under 18 years of age or insane person;
3. **with regard to two or more persons;**
4. repeatedly;
5. at the conditions of a dangerous recidivism, the punishment under pars. 1 and 2 shall be deprivation of liberty from two to eight years and a fine from BGN five thousand to fifteen thousand, under par.3 - deprivation of liberty from three to ten years and a fine from BGN ten thousand to twenty five thousand, and under par. 4 - deprivation of liberty from ten to twenty years and a fine from BGN hundred thousand to three thousand.

(6) ……..

Penal Code, Special Provisions

Chapter 4 „Crime against the marriage, family and youth“
Section II. „Crime against the youth“

……

Art. 188.

(1) **Who compels a minor or underage person to commit a crime or to prostitute shall be punished by imprisonment of up to five years and by public reprobation.**

(2) If harmful consequences have occurred for the physical, mental or moral development of the aggrieved, unless the act represents a more serious crime, the punishment shall be imprisonment of one to six years and public reprobation.

Child Pornography (*Article 20*)

- Producing child pornography;
- Offering or making available child pornography;
- Distributing or transmitting child pornography;
- Procuring child pornography for oneself or for another person;
- Possessing child pornography;
- Knowingly obtaining access, through information and communication technologies, to child pornography.

Penal Code, Special Provisions

Chapter 2 “Crimes against the person”
Section VIII. „Debauchery“

……..

Article 159

(1) A person who produces, displays, presents, broadcasts, distributes, sells, rents or otherwise circulates a pornographic material, shall be punished by deprivation of liberty of up to one year and a fine of BGN one thousand (1,000) to three thousand (3,000).

(2) **Anyone who broadcasts pornographic material on the internet or another similar way, is subjected to a penalty of imprisonment for a term of up to two years and a fine from one thousand to three thousand BGN.**

(3) An individual who displays, presents, offers, sells, rents or distributes in another manner a pornographic material to a person who has not turned 16 years of age, shall be punished by deprivation of liberty of up to three years and a fine of up to BGN five thousand (5,000).

(4) Regarding acts under paras. 1-3, where a person who has not turned 18 years of age, or a person who looks like such a person, has been used in the creation of a pornographic material, the punishment shall be deprivation of liberty of up to six years and a fine of up to BGN eight thousand (8,000).

(5) Where acts under paras. 1 - 4 have been committed at the orders or in implementing a decision of an organized criminal group, punishment shall be deprivation of liberty from two to eight years and a fine of up to BGN ten thousand (10,000), the court being also competent to impose confiscation of some or all the possessions of the perpetrator.

(6) A person who possesses or provides for himself or for another person through a computer system or in another manner a pornographic material in whose creation a person who has not turned 18 years of age has been used or a person who looks like such a person, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.

(7) The object of criminal activity shall be expropriated to the benefit of the State, and where it is not found or has been disposed of, its money equivalent shall be awarded.

With regard to item 6 above, it should be explicitly taken into consideration that the Republic of Bulgaria has ratified the Convention by benefitting from the right under Art. 20, paragraph 4 of the Convention, namely not fully to apply art. 20, para 1, i.e. (on knowingly obtaining access through information and communication technologies, to child pornography). It should also be pointed out that with the proposed and currently waiting approval on second reading by the National Assembly Bill on Amendment and Supplement of the Criminal Code (prepared in 2013), the above cited article 159 will be amended - the adoption of a new paragraph. 7 is foreseen, where the knowingly obtaining access through information and communication technologies to pornographic material, for the creation of which is used a person under 18 years of age or anyone who looks such, is criminalized. After the final adoption of the amendments by the National Assembly, the change of the declaration under Art. 20, para. 4 of the Convention is coming.

Participation of a Child in Pornographic Performances (*Article 21*)

- Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
- Coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes
- Knowingly attending pornographic performances involving the participation of children.

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII. „Debauchery"

……..

Article 158a

(1) Anyone, who no matter by what means, recruits or forces particular minors or groups of minors to execute a sexual intercourse, fornication, sodomy, masturbation, sexual sadism, masochism or carnal display of human genitals, is subjected to a penalty of imprisonment for a term up to six years.

(2) In case of obtained property benefits from the committed criminal act under para.1, the penalty is imprisonment for a term of up to eight years and a fine up to ten thousand BGN.

(3) Anyone, who watch sexual intercourses, fornication, sodomy, masturbation, sexual sadism, masochism or carnal display of human genitals in which a person, for whom he knows or supposes that he/she is recruited or forced to participate in under the conditions of para.1,is subjected to a penalty of imprisonment for the term of up to three years.

Corruption of Children (*Article 22*)
The intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate.

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII „Debauchery"

……..

Article 155b

Anyone, who persuades a person who is under the age of 14 years to participate or to watch real, virtual or simulated sexual intercourses between individuals of the same or different sex, carnal display of human genitals, sodomy, masturbation, sexual sadism or masochism, is subjected to a penalty of imprisonment for a term of up to three years or probation.

Solicitation of Children for Sexual Purposes ("grooming") (*Article 23*)
The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age for sexual activities as established by internal law, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting.

Penal Code, Special Provisions

Chapter 2 "Crimes against the person"
Section VIII „Debauchery"

……..

Article 155a

(1) Anyone, who for the purpose of establishing contact with a person who is under the age of eighteen, in order to perform fornication, copulation, sexual intercourse, prostitution or create a pornographic material, provides information about him/her via Internet or another possible way, is subjected to a penalty of imprisonment for one to six years and a fine from five to ten thousand BGN.

(2) The same punishment shall be imposed also on that person, who for the purpose of performing a fornication, copulation or sexual intercourse, establishes a contact with a person who is under 14 years of age, by using information provided in Internet or in another manner.

Aiding or abetting and attempt (*Article 24*)

- Intentionally aiding or abetting the commission of any of the above offences.
- The attempt to commit any of the above offences.

Criminal Code, General

Chapter 2 "Crime"
Section II. Preparation and Attempt

……

Art. 18.

(1) The attempt is the started commitment of a deliberate crime whereas the act has not been completed or, though completed, the social dangerous consequences of this crime stipulated by the law or wanted by the perpetrator have not occurred.

(2) For an attempt the perpetrator shall be punished by the penalty stipulated for the committed crime, taking into consideration the degree of fulfilment of the intention and the reasons for which the crime has remained unfinished.

……

Criminal Code, General

Chapter 2 "Crime"
Section III. Implication

Art. 20.

(1) Accomplices in a deliberate crime are: the perpetrators, the abettors and the accessories.

(2) Perpetrator is the one who participates in the very commitment of the crime.

(3) Abettor is the one who has deliberately persuaded somebody else to commit the crime.

(4) Accessory is the one who has deliberately facilitated the commitment of the crime through advice, explanations, promise to provide assistance after the act, removal of obstacles, providing resources or in any other way.

Art. 21.

(1) All accomplices shall be punished by the penalty stipulated for the committed crime, taking into consideration the nature and the degree of their participation.

(2) The abettor and the accessory shall be responsible only for what they have deliberately abetted or helped the perpetrator.

(3) When due to a definite personal quality or relation of the perpetrator the law proclaims the act as a crime responsible for this crime shall also be the abettor and the accessory for whom these circumstances are not present.

(4) The particular circumstances due to which the law excludes, reduces or increases the punishment for some of the accomplices shall not be taken into consideration regarding the rest of the accomplices with respect of whom these circumstances are not present.

Question 17: Corporate liability

Does your system provide that a legal person may be held liable for an offence established in accordance with **Article 26**? Please specify under which conditions.

Yes, the Bulgarian legislation provides liability of legal persons under the Law on Administrative Violations and Penalties (art 83a). Please, see the Appendix. Responsibility is administrative-penal by nature, as under Bulgarian criminal justice system on entities cannot be impose criminal sanctions (i.e., punishments) due to the principle of personal criminal liability, namely that criminal responsibility is personal, i.e. a punishment may be imposed only on individuals.

Question 18: Sanctions and measures

- Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (**Article 27, Explanatory Report, paras. 182-193**);

Please see the quoted provisions of the Criminal Code regarding the punishment of individuals for crimes committed by them within the scope of the Convention in the Appendix, and the answer of question 17.

- Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (**Article 29, Explanatory Report, paras. 203-208**).

This possibility is explicitly provided for in the Criminal Code of the Republic of Bulgaria – the provision is applied by Bulgarian courts, and examining the practice, the most common cases are within the cooperation with other Member States of the European Union. The legal basis for taking into account final sentences imposed by other countries over the offenses established under the Convention is contained in Art. 8, para. 1 of the Criminal Code: "The sentence of a foreign court for a crime to which the Bulgarian Criminal Code is applicable shall be taken into consideration in the cases specified in an international agreement to which the Republic of Bulgaria is a party."

Since the Convention of the Council of Europe for the protection of children from sexual exploitation and sexual abuse has been ratified by the Republic of Bulgaria and it provides an opportunity to consideration of the final sentences imposed by other countries over the offenses established by it, the Convention falls in the scope of Art. 8, para. 1 of the Penal Code.

Question 19: Jurisdiction

With regard to the offences referred to in question 16, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (**Article 25, Explanatory Report, paras. 165-176**).

Criminal Code, General

Chapter one. "Objective and scope of the penal code"
Section II. Scope of the Criminal Code

……..

Art. 3.

(1) The Penal Code shall apply for every crime committed on the territory of the Republic of Bulgaria.

(2) The issue of the responsibility of foreigners having immunity with respect of the criminal jurisdiction of the Republic of Bulgaria shall be resolved according to the norms of the international law adopted by it.

Art. 4.

(1) The Penal Code shall apply for the Bulgarian citizens and for the crimes committed by them abroad.

.....

Art. 5.

The Penal Code shall also apply for foreigners who have committed crime of general nature abroad, affecting the interests of the Republic of Bulgaria or of a Bulgarian citizen.

Art. 6.

(1) The Penal Code shall also apply regarding foreigners who have committed crime abroad against the peace and mankind, thus affecting the interests of another country or foreign citizens.

(2) The Penal Code shall also apply for other crimes committed by foreigners abroad wherever stipulated by an international agreement party to which is the Republic of Bulgaria.

Question 20: Aggravating Circumstances

Please indicate which of the circumstances referred to in **Article 28**, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (**Explanatory Report, paras. 194-202**).

It is apparent from the provisions of the Criminal Code cited in question 18 that the aggravating circumstances listed in Art. 28 of the Convention in the internal legislation are included within the provisions themselves. According to Art. 56 of the Penal Code: "The circumstances considered by law in defining the respective crime shall not be attenuating and aggravating circumstances." The particular vulnerability of the victim within the meaning of the Convention falls within the wording of the Criminal Code with reference to cases where the offense is a "particularly serious case". The latter is derived from the practice of the courts. The same applies to cases when the crime is not specifically designed as a constitutive element also the following hypotheses - the victim suffers from a physical or mental illness or the offense was committed by a relative.

According to Art. 54, para. 1 of the Criminal Code, the court determines the sentence within the limits prescribed by law for the offense, guided by the provisions of the General Part of this Code, taking into account: the degree of social danger of the offense and the offender, the motives for the offense and other mitigating and aggravating circumstances. In accordance with para. 2 of Art. 54 of the Penal Code also provides that: "(2) mitigating circumstances determine the imposition of a lighter penalty, but aggravating - a more severe punishment."

Question 21: Measures of protection for the child victim

- Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (**Article 31, para. 1, letter (a) and para. 2**). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;

Bulgaria attaches great significance to the opportunity for the opinions and views of children to be heard in judicial and administrative proceedings. That is why the views of each child aged 10 and above are mandatorily heard in case of participation in any administrative or judicial proceedings, which affect his or her rights or interests, and the views of a child under the age of 10 may be heard depending on their development level. Judicial and administrative bodies are obliged to ensure appropriate surrounding for the hearing, to provide the child with the entire necessary information and to warn him or her about the consequences of their participation in the procedure (article15 CPA). The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

The Legal Aid Act and the **Law on Support and Financial Compensation to Crime Victims** are also applicable here.

The provision of legal aid to children is free in all cases and is implemented under the Legal Aid Act.

Legal Aid Act

Chapter three.
TYPE AND SCOPE OF THE LEGAL SUPPORT

Art. 21.

The types of the legal support shall be:

1. consultation with the purpose to achieve a settlement before initiation of court procedures or filing a case;
2. **preparation of documents for filing a case;**
3. **litigation;**
4. litigation in event of detainment under Art.63. Para 1 of the Law of the Ministry of Interior and under art 16a of the Customs Act.

Art. 22.

(1) The legal support under Art. 21, item 1 and 2 is free and shall be provided to:

…….

5. a child at risk under the meaning of the Child Protection Act.

……

7. victims of domestic or sexual violence or victims of trafficking of human beings, who don't have the means and have a will to have legal assistance.

8. individuals seeking for international protection under the Shelter and Refugees Act for whom the legal aid shall not be provided on other legal ground.

……..

Art. 23.

(1) **The system of legal support under Art. 21, item 3 shall cover the cases, whereas ex lege is provided obligatory attorney defence, spare attorney or representation.**

(2) The system of legal support shall cover also the cases whereas the suspected, accused, charged, the defended or the party in a penal, civil or administrative case has not funds to pay attorney, whish to have attorney and the interests of the jurisdiction require so.

Complementary, within the filed penal proceedings for crimes against children in the scope of the Convention, the children enjoy their rights under art 75 of the Criminal Procedure Code, namely rights of the victim, where explicitly is regulated the right to be informed on their rights, as well as to be informed for the progress of the proceeding and so on. Please see below the text of art 75.

Rights of the victim

Art. 75.

In the pre-trial procedure the victim shall have the following rights: to be notified of his/her rights in the penal procedure; to acquire defence of his/her safety and his/her close persons; to be informed about the outcome of the penal procedure; to participate in the procedure as per this Code; to make requests, observations and objections; to appeal the acts which lead to disclosure or suspension of the penal procedure; to have a trustee.

(2) The authority initiating the pre-trial proceedings shall notify the victim immediately, provided that he has supplied an address for summoning in the country.

(3) The victim's rights shall arise upon his/her explicit request to participate in the pre-trial proceedings, indicating an address for summoning in the country.

Law on Support and Financial Compensation to Crime Victims

INFORMING THE CRIME VICTIMS OF THEIR RIGHTS

Art. 6.

(1) The bodies of the Ministry of Interior and the victim support organizations shall notify the victims of:

1. the organizations, the victims can turn to for free psychological help and support, as well as the types of free psychological help and support, which they may receive;
2. their right of legal support, the bodies which they may address in order to exercise this right, the terms and the procedure of providing legal support for free;
3. the bodies, before which may be filed signals for the crime committed, the procedures after filing the signal and the opportunities of action of the victims under the terms and the manner of these procedures;
4. their rights in the penal procedure and the possibilities of participation in it;
5. the bodies they can turn to in order to obtain protection for themselves and their next of kin, the terms and the procedure of obtaining such protection;
6. the bodies they can turn to in order to be granted financial compensation by the state, as well as the terms and the procedure for the receipt thereof;
7. the opportunities for protection of their rights and interests, in case they are foreign citizens, who have become victims of crime on the territory of the Republic of Bulgaria;
8. the opportunities for protection of their rights and interests, if they have become victims of crime on the territory of another state and the bodies they may turn to in such cases.

(2) The notification shall be carried out in writing or verbally in a language understandable to the victims.

(3) Written records shall be drawn up for the notification, which shall be registered at the registry office of the respective body or organization under para 1.

Art. 7.

(1) The National Council for Support and Compensation of Crime Victims, called hereinafter "The National Council", shall:

1. issue and disseminate a booklet in Bulgarian, English, German and French language, in which the information as per Art. 6, para 1 is contained;
2. provide the booklet for free distribution to the bodies and the organisations as per Art. 6, para 1, as well as to medical establishments, the social support services and to other legal entities in contact with crime victims at carrying out their activity.

(2) The information contained in the booklet shall be released on the Internet sites of the National Council, the Ministry of Interior, the victim support organizations, as well as the ones referred to in para 1, item 2.

(3) The National Council together with the victim support organizations shall ensure the functioning of permanent free telephone line with unified identification code for the whole State for providing information to the crime victims. The telephone line operator shall inform the bodies of the Ministry of Interior of victims in danger.

(4) The National Council together with the victim support organizations and the bodies of the executive or the local authorities, having powers in the sphere of protection of the crime victims, shall organise public campaigns for providing information to the citizens of their rights as crime victims.

Chapter three.
FORMS OF SUPPORT AND FINANCIAL COMPENSATION TO CRIME VICTIMS

Art. 8.

(1) The forms of support of the crime victims shall be:

1. medical support upon state of emergency following the procedure of the Law of Health;
2. psychological consultation and help;
3. **free legal support;**
4. **practical assistance.**

(2) The persons referred to in Art. 3, para 2 can use the forms of support as per para 1, item 2.

(3) In addition to the above-mentioned forms of support the crime victims shall be entitled to one-time financial compensation under the terms and following the procedure, laid down in this Law.

Art. 9.

(1) The free psychological consultation and help shall be provided by expert – psychologists from the victim support organizations.

(2) The activity under para 1 shall be financed by the Ministry of Justice following a procedure, established by the National Council.

(3) The victim support organizations shall give an account of their activity annually to the National Council.

Art. 10.

The crime victims can receive legal support under the terms and following the procedure of the Law of the Legal Support.

Art. 11.

(1) The victim support organizations and all other legal entities in contact with crime victims at carrying out their activity shall be obliged to render them practical assistance.

(2) The practical assistance shall be expressed in putting at a visible place relevant information boards and other materials concerning the rights of the crime victims under this Law and in the creation of calm and favourable atmosphere when making contact with them.

In addition, it should be pointed out that the website of the State Agency for Child Protection is maintained a special section "Kids" accessible directly from the homepage of the institution that provides a clear and accessible child-friendly information on "sexual abuse" and "sexual exploitation", especially the sections: "How to avoid violence," "Who protects your rights", "Glossary" and "Useful phone numbers and addresses". There is a specialized website with special child-friendly sections available both in Bulgarian and in English: http://www.stopech.sacp.government.bg/?sid=child_eng, where a child also could find useful information. Another source is www.116111.bg which is a direct link to phone counselling.

- Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (**Article 31, para. 1, letter (c)**);

The reform in the system of juvenile justice envisages the construction of specialized premises for child hearings (at the end of 2012 there were 11 hearing rooms, made operational mostly within NGO projects and supported by the state), training of judges, prosecutors, defence attorneys and MoI officers working with children (in 2012 SPOC announced a list of prosecutors, who have undergone specialized training for work with children). Standards for child interrogation were developed – in 2011 and 2012 experts from SACP, SPOC, the Ministry of Justice and the Academy of MoI approved a working version of standards and good practices, simpler and non-traumatic procedures for participation of children in pre-trial and court proceedings. In 2010 a special article was included in the Criminal Procedure Code (CPC), according to which "A juvenile witness, who has been questioned in criminal proceedings, shall be interrogated again only if his testimony cannot be read under the conditions and the procedure as per article 281 or if the new interrogation is crucial for uncovering the truth". Interrogation of a juvenile or minor witness in Bulgaria can take place, where necessary, by videoconference as well. Such actions are taken in regard with the best interests of the child.

As mentioned above, the participation of each child in proceedings affecting his/her rights is explicitly provided in the Child Protection Act - the child shall be entitled, if he/she is over 10 years to participate in any administrative or judicial procedures concerning him/her, and if a child is under 10 years – he/she can be heard, depending on the degree of his/her

maturity. Judicial and administrative authorities have a duty to provide an appropriate environment for the hearing, to provide to the child all the necessary information and to warn him/her of the consequences of participation in the procedure. The above principles are explicitly stipulated under art. 15 of the CPA. In addition, pursuant to art. 15, para. 8 of the same act, the child is entitled to legal aid and appeal in all proceedings affecting his/her rights or interests. Provision of legal aid to children is free in all cases and is implemented under the Legal Aid Act. In the proceedings, the child is supported by parents/guardians/custodians, but the Bulgarian law stipulates explicitly that if the interests of the child and the parents/ guardian/custodian are controversial, then a special representative (an attorney-at law) is appointed for the child. The latter is regulated under art. 101 of the Penal Procedure Code: "art. 101. (1) Where the interests of the juvenile or of the under-aged victim and of the his/her parent, guardian or trustee are in collision, the respective body shall appoint for him/her a special representative – attorney-at-law". Moreover, to ensure that the child victim is given an adequate opportunity to present his/her views and to provide information on the case, following guarantees under art. 107 and art. 140 of the Penal Procedure Code are introduced:

Collection and check of evidence

Art. 107.

(1) The bodies of the pre-trial procedure shall collect evidence ex- officio or by request of the stakeholders

(2) The Court shall collect evidence on requests, made by the parties, and in own initiative – where necessary for revealing the objective truth.

(3) The Court and the bodies of the pre-trial procedure shall collect and check as the evidence, exposing the defendant or aggravate his/her liability, as well as the evidence which acquit the defendant or mitigate his/her liability.

(4) Collection of evinces may not be refused only because the request is not made within the definite period.

(5) All collected evidence shall be subject to a precise check.

Interrogation of a juvenile witness

Art. 140.

(1) A juvenile witness under the age of 14 years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian.

(2) A juvenile witness above the age of 14 years shall be interrogated in the presence of the persons under the Para. 1, if the respective body deems so necessary.

(3) With the permission of the body conducting the interrogation, the persons under Para. 1 may put questions to the witness.

(4) The body conducting the interrogation shall explain the juvenile witness under 14 years of age the necessity to give true testimony, without warning him/her liability.

(5) Interrogation of a juvenile witness under and above the age of 14 in the country may take place if relevant also by videoconference.

- What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (**Article 31, para. 1, letter (d)**);

The court or the administrative body shall order that the hearing of the child shall take place also in the presence of a parent, guardian or other close to the child person who cares for him/her, or other familiar who a child knows, with the exception when this is not in the child's best interest. In every legal case the court or the administrative body shall notify the Social Assistance Directorate at the current address of the child….. The Social Assistance Directorate shall send a representative of its own to the case, who shall express a viewpoint, and if it becomes impossible, he/she shall present a report. The Social Assistance Directorate may represent the child in cases provided for by law.

The **Child Protection Act** stipulates the protection measures in a family environment referred to the Convention as provision of pedagogic, psychological and legal aid to parents and to persons, entrusted with parental functions, concerning problems with child rearing, upbringing and education; referring persons to the appropriate community based social services; consulting the parents or the persons, entrusted with parental functions, on issues of social assistance and services. Assistance, support and services in a family environment shall be rendered by the social assistance directorate upon request of parents, of persons, entrusted with parental functions, of the child, as well as by discretion of the social assistance directorate.

The child victim and his or her family have a right of free legal aid under **the Legal Aid Act**. Please, see the response to Q 21**.**

There is a special protocol for interrogation of a child witness under Art 140 of **Criminal Procedure Code**.

Under the Law on Support and Financial Compensation to Crime Victims, the latter have right to be informed for their rights. The bodies of the Ministry of Interior and the victim support organizations shall notify the victims of:

1. the organizations, the victims can turn to for free psychological help and support, as well as the types of free psychological help and support, which they may receive;
2. their right of legal support, the bodies which they may address in order to exercise this right, the terms and the procedure of providing legal support for free;
3. the bodies, before which may be filed signals for the crime committed, the procedures after filing the signal and the opportunities of action of the victims under the terms and the manner of these procedures;
4. their rights in the penal procedure and the possibilities of participation in it;
5. the bodies they can turn to in order to obtain protection for themselves and their next of kin, the terms and the procedure of obtaining such protection;
6. the bodies they can turn to in order to be granted financial compensation by the state, as well as the terms and the procedure for the receipt thereof;
7. the opportunities for protection of their rights and interests, in case they are foreign citizens, who have become victims of crime on the territory of the Republic of Bulgaria;
8. the opportunities for protection of their rights and interests, if they have become victims of crime on the territory of another state and the bodies they may turn to in such cases.

There are also safeguards for that right: the notification shall be carried out in writing or verbally in a language understandable to the victims, and written records shall be drawn up for the notification, which shall be registered at the registry office of the respective body or organization under para 1.

The forms of support to the crime victims are: medical support upon state of emergency following the procedure of the Law of Health; psychological consultation and help; free legal support; practical assistance. In addition to the above-mentioned forms of support the crime victims shall be entitled to one-time financial compensation.

The National Council for Support and Compensation of Crime Victims ("The National Council") has issued and disseminated a brochure in Bulgarian, English, German and French language. The brochure is available at http://www.compensation.bg/Documents/minp_mv_en.pdf.

The National Council together with the victim support organizations shall ensure the functioning of permanent free telephone line (112) with unified identification code for the whole State for providing information to the crime victims. The telephone line operator informs the bodies of the Ministry of Interior of victims in danger.

- Please describe the measures taken to protect the privacy, the identity and the image of child victims (**Article 31, para. 1, letter (e)**);

Under the **Child Protection Act, art 11a.** any information and data for a child shall not be announced without the consent of his parents or legal representatives except in cases under art 7 para 1. When a protection measure is taken, any information and data for a child shall not be announced without the written statement of the protection body undertaken the measure. When a child has reached 14 years, his/her consent is also required for announcement of information and data.

The art 16 of the CPA referred to the c**onfidentiality of information.**

Article 16.

(1) All information, obtained through administrative or judicial proceedings and concerning a child shall not be disclosed without the parents' consent and without the child's consent where the child has reached the age of 10.

(2) The court may permit the bodies under this Act to use information pursuant to para 1 without the consent of persons under para 1, should it become necessary in view of the child's interests or for purposes of undertaking child protection measures.

(3) Social workers and officials who become aware of personal data when implementing their duties are obliged to keep the legal provisions regarding the protection of personal data as well as to respect the personal dignity.

Another measure for protection of the victim’s privacy and identity is stipulated in the Criminal Procedure Code - setting down of Court session outside the Court premises (art 262) and hearing the case behind closed doors (Art.263) - the hearing of the case or performance of concrete Court procedural actions shall be performed behind closed doors, if is needed for the

keeping the state secret and morality, and a witness of minor age or a juvenile witness having suffered from a crime, may be questioned on camera. The testimony of a witness, given under the same case before a judge on the pre-trial procedure or before another Court body shall be read, where the witness is minor and the defendant and his defender were not present at his questioning (art 281).

Please, see also the answer below.

Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (**Article 31, para. 1, letter (f)**);

In order to provide security to the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation, the State provides several legal options:

1. Criminal-Procedure Code provides a possibility for a prohibition to approach the victim (Art. 67, paras. 1 and 2 of the CPC).

It also envisaged a protection of witness (art 123) The prosecutor, the reporting judge or the Court, on the witness's request or with the latter's consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with. The protection of the witness is temporary and is achieved through providing personal physical guarding by the bodies of the Ministry of Interior; keeping secret his/her identity. The measure for personal physical guarding of ascendants, descendants, brothers or sisters, spouse or persons, that the witness is in particularly close relations with, is also available with their consent or with the consent of their legal representatives. the prosecutor or the reporting judge may propose to include the witness and his/her ascendants, descendants, brother or sisters, spouse or persons, that the witness is in particularly close relations with, into the programme of protection under the conditions and following the order of the Law on Protection of the Persons Threatened in Connection with Criminal Procedure.

2. Under the Law on Protection of Persons Threatened in Connection with Criminal Procedure the threatened persons who are participants in the criminal procedure can receive special protection – witness, private prosecutor, indicter, suspect, incriminated, defendant, accused, expert, witness of investigation; sentenced; persons, directly related to the before mentioned – ascending, descending, brothers, sisters, spouse or persons, with whom they are in particular close relations. The crimes within the scope of the Convention fall into the frames of this legal act.

The programme for protection includes the following measures:

1. personal physical guard;
2. guard of the property;
3. temporary accommodation at safe place;
4. change of the place of living, the working place or the education establishment, or accommodation at another place for serving the penalty;
5. change of the identification.

The processing of personal data of the protected persons under this law is a state secret.

The protection programme may include activities and the provision of social, medical, psychological, legal or financial aid.

The extracts of the Law is provided in the Appendix

Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (**Article 31, para. 1, letter (b)**);

There are not such provisions.

Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (**Article 31, para. 1, letter (g)**);

Measures for avoiding a contact between the victim and the alleged perpetrator within court and law enforcement agency premises:

Criminal Procedure Code

- Prohibition to approach the victim;
- Interrogation by videoconference;
- Protection of the witness by keeping secret of his/her identity;
- Conducting the hearing outside the court premises in specialized facilities for interviewing children;
- Reading in the judicial phase of the criminal process of already (previously) taken witness's testimony to avoid re-appearance in court.

Measures for protection of the best interests of the child victim in cases of contact with the alleged perpetrator within court and law enforcement agency

Child Protection Act

Involvement in proceedings
Article 15.

(1) All cases of administrative or judicial proceedings affecting the rights and interests of a child should provide for an obligatory hearing of the child, provided he or she has reached the age of 10, unless that proves harmful to his or her interests.

(2) In cases where the child has not reached the age of 10, he or she may be given a hearing depending on the level of his or her development. The decision to hear the child shall be substantiated.

(3) Before the child is given a hearing, the court or the administrative body shall:

1. provide the child with the necessary information, which would help him or her form his or her opinion;
2 inform the child about the possible consequences of his or her desire, of the opinion supported by him or her, as well as about all the decisions made by the judicial or administrative body.

(4) The hearing and the consultation of a child shall by all means take place in appropriate surroundings and in the presence of a social worker from the Social Assistance Directorate at the current address of the child and when there is necessity – in the presence of another appropriate specialist.

(5) The court or the administrative body shall order that the hearing of the child shall take place also in the presence of a parent, guardian or other close to the child person, with the exception when this is not in the child's best interest.

(6) In every legal case the court or the administrative body shall notify the Social Assistance Directorate at the current address of the child. The Social Assistance Directorate shall send a representative of its own to the case, who shall express a viewpoint, and if it becomes impossible, he/she shall present a report.

(7) The Social Assistance Directorate may represent the child in cases provided for by law.

(8) The child has a right to legal aid and appeal in all proceedings, affecting his or her rights or interests.

Criminal Procedure Code

Prohibition to approach the victim

Art. 67.

(1) Upon a proposal of the prosecutor with the consent of the victim or upon a request of the victim, the respective first-instance Court may prohibit the defendant to approach directly the victim.

(2) The Court shall immediately hear the proposal or the request in an opened session, hearing the prosecutor, the defendant and the victim. The determination of the Court shall be final.

Interrogation of a juvenile witness

Art. 140.

(1) A juvenile witness under the age of 14 years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian.

(2) A juvenile witness above the age of 14 years shall be interrogated in the presence of the persons under the Para. 1, if the respective body deems so necessary.

(3) With the permission of the body conducting the interrogation, the persons under Para. 1 may put questions to the witness.

(4) The body conducting the interrogation shall explain the juvenile witness under 14 years of age the necessity to give true testimony, without warning him/her liability.

(5) (new – SG 109/08) Interrogation of a juvenile witness under and above the age of 14 in the country may take place if relevant also by videoconference.

Setting Down of Court Session Outside the Court Premises

Art. 262.

Where necessary, the Court session or separate Court actions shall be conducted outside the Court premises.

Hearing the case behind closed doors

Art. 263.

(1) The hearing of the case or performance of concrete Court procedural actions shall be performed behind closed doors, if is needed for the keeping the state secret and morality, as well as in the cases of Art. 123 Para. 2, Item 2.

(2) The provision of the preceding Para. may also be applied where necessary in order to prevent the disclosure of facts of the intimate relations of citizens.

(3) A witness of minor age or a juvenile witness having suffered from a crime, may be questioned in camera.

Interrogation of witnesses

Art. 280 (6) (new – SG 32/10, in force from 28.05.2010)

Minor witnesses that have been questioned during a penal proceeding shall be questioned again only if their testimonies cannot be read out under the conditions and order of Art. 281 or the second questioning is of significant importance for revealing the truth.

Reading the testimony of a witness

Art. 281. (amend. - SG 32/10, in force from 28.05.2010)

(1) The testimony of a witness, given under the same case before a judge on the pre-trial procedure or before another Court body shall be read, where:

6. the witness is minor and the defendant and his defender were not present at his questioning.

Criminal Procedure Code

Protection of witness

Art. 123.

(1) The prosecutor, the reporting judge or the Court, on the witness's request or with the latter's consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with.

(2) The protection of the witness shall be temporary and shall be achieved through:

1. providing personal physical guarding by the bodies of the Ministry of Interior;
2. keeping secret his/her identity.

(3) The measure for personal physical guarding of ascendants, descendants, brothers or sisters, spouse or persons, that the witness is in particularly close relations with, shall be taken with their consent or with the consent of their legal representatives.

(4) The act of the respective body for the protection of a witness shall state:

1. the issuing body;
2. the date, time and place of issuance;
3. the circumstances which necessitate providing measures of protection of the witness;
4. the kind of the taken measures;
5. the person's identification data;
6. the identification number which shall be given to the person whose identity shall be kept in secret;
7. the signatures of the person and the issuing body.

(5) Direct access to the protected witness shall have the respective pre-trial bodies and the Court, and the defender and the trustee- if they have indicated the witness.

(6) The measures to protect the witness shall be lifted on a request of the person with regard to whom they have been taken or where there is no more need to apply them, by an act of the body under Para. 1.

(7) For the protection of life, health or property of the persons under Para. 1 who have given consent thereof, special intelligence means may be used.

(8) Within a thirty-day-period from the measure, taken under Para. 2, the prosecutor or the reporting judge may propose to include the witness and his/her ascendants, descendants, brother or sisters, spouse or persons, that the witness is in particularly close relations with, into the programme of protection under the conditions and following the order of the Law on Protection of the Persons Threatened in Connection with Criminal Procedure.

Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (**Article 31, para. 3**).

1. Several Acts regulate the access to free legal aid. The **Legal Aid Act** describes the procedure for receiving the aid, types of the legal aid and who has access to it. Additionally, in different special laws as the **Law on Protection of the Persons Threatened in Connection with Criminal Procedure** are enlisted other cases for providing free legal aid.

According to the Legal id Act (art 21) the types of legal aid shall be:

1. consultation in view of reaching an agreement out of the court room before the beginning of the judicial proceedings or before submitting a case to the court;
2. **drafting documents necessary for submitting a case;**
3. **representation in court;**
4. representation in cases of detention under art. 70 (1) of the Ministry of Internal Affairs Act and of art 16a of the Customs Act.

Art.22. (1) Legal aid under Art.21, i.1 and 2 shall be provided to:

1. persons who are eligible for receiving social aid monthly allowances under arts 9 and 10 of the Implementation Regulation of the Social Aid Act;
2. individuals and families who qualify for assistance with targeted assistance for heating for the previous or current heating season;
5. persons residing in institutions for provision of social services or use social **services - residential, or use social services unit "Mother and Baby" according to Art. 36 of the Implementing Regulations of the Law on Social Assistance;**
6. **children placed in foster care or with relatives or close under the Child Protection Act;**
7. **child at risk under the Child Protection Act;**
8. persons under Art. 144 of the Family Code and persons under 21 years, in accordance with Regulation (EC) № 4 2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations;
9. **victims of domestic or sexual violence or human trafficking who do not have the means and desire to have legal assistance.**

Art. 23. (1) The legal aid system under art 21, item 3 covers cases where by law mandatory is the provision of legal defence, substitute defender or representation.

The information for the work of the National Legal Aid Bureau is published on the specialized website: http://www.nbpp.government.bg/en/ and is available both in Bulgarian and in English languages. The schedule for counselling with legal experts is also published and updated on monthly basis.

2. Law on Protection of the Persons Threatened in Connection with Criminal Procedure provides the opportunity a child victim of crime under the Convention to be included in the Programme for protection of threatened persons.

3. Law on Support and Financial Compensation to Crime Victims regulates the terms and the procedure for support and financial compensation granted by the state to

victims of crime - Bulgarian citizens or citizens of Member States of the European Union. **Under the terms and following the procedure of this Law, support and financial compensation may also be granted to foreign citizens in the cases, provided for in international agreements, to which the Republic of Bulgaria is a party (**art. 1). The purpose of this Law is the protection of the rights and the lawful interests of crime victims to be acknowledged and guaranteed (art. 2).

Chapter one. GENERAL PROVISIONS

Art. 3.

(1) Under the terms and following the procedure of this Law support may be granted to victims, who have suffered material and non-material damages of crimes, and financial compensation – to victims, who have suffered material damages.

…….

(3) Support and financial compensation may be granted to the persons referred to in para 1 and 2, who have suffered damages from the following crimes: terrorism; deliberate homicide; deliberate serious bodily harm; **sexual molestation and rape, as a result of which serious health damages have been caused**; traffic of people; crimes, committed by an order or in fulfilment of a decision of an organised criminal group, as well as other serious deliberate crimes as a result of which death or serious bodily harm have been caused as corpus delicti consequence.

……

Chapter two. INFORMING THE CRIME VICTIMS OF THEIR RIGHTS

Art. 6.

(1) The bodies of the Ministry of Interior and the victim support organizations shall notify the victims of:

1. the organizations, the victims can turn to for free psychological help and support, as well as the types of free psychological help and support, which they may receive;
2. **their right of legal support, the bodies which they may address in order to exercise this right, the terms and the procedure of providing legal support for free;**
3. the bodies, before which may be filed signals for the crime committed, the procedures after filing the signal and the opportunities of action of the victims under the terms and the manner of these procedures;
4. their rights in the penal procedure and the possibilities of participation in it;
5. the bodies they can turn to in order to obtain protection for themselves and their next of kin, the terms and the procedure of obtaining such protection;
6. the bodies they can turn to in order to be granted financial compensation by the state, as well as the terms and the procedure for the receipt thereof;
7. the opportunities for protection of their rights and interests, in case they are foreign citizens, who have become victims of crime on the territory of the Republic of Bulgaria;

8. the opportunities for protection of their rights and interests, if they have become victims of crime on the territory of another state and the bodies they may turn to in such cases.

(2) The notification shall be carried out in writing or verbally in a language understandable to the victims.

(3) Written records shall be drawn up for the notification, which shall be registered at the registry office of the respective body or organization under para 1.

Chapter three. FORMS OF SUPPORT AND FINANCIAL COMPENSATION TO CRIME VICTIMS

Art. 8.

(1) The forms of support of the crime victims shall be:

1. medical support upon state of emergency following the procedure of the Law of Health;
2. psychological consultation and help;
3. **free legal support;**
4. **practical assistance.**

(2) The persons referred to in Art. 3, para 2 can use the forms of support as per para 1, item 2.

(3) In addition to the above-mentioned forms of support the crime victims shall be entitled to one-time financial compensation under the terms and following the procedure, laid down in this Law.

Art. 9.

(1) The free psychological consultation and help shall be provided by expert – psychologists from the victim support organizations.

(2) The activity under para 1 shall be financed by the Ministry of Justice following a procedure, established by the National Council.

(3) The victim support organizations shall give an account of their activity annually to the National Council.

Art. 10.

The crime victims can receive legal support under the terms and following the procedure of the Legal Aid Act.

Question 22: Investigations and criminal measures to protect the child victim

What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (**Article 30, para. 2, Explanatory Report, paras. 211-215**);

The detailed explanations of the measures are provided as answers of question 21. Therefore, here the approach is only briefly described and bulleted. It includes:

1. child-friendly interrogation by a trained professional in the presence of a pedagogue or psychologist and if necessary - a parent or a close relative (if it is not in collision with child's best interests) for minors and if appropriate – for juveniles.
2. the opportunity for interrogation via videoconference.
3. the opportunity for a court session behind closed doors or outside of the Court premises.
4. the testimony of a witness given under the same case before a judge on the pre-trial procedure or before another Court body shall be read, where the witness is a minor.
5. the victims of crime are informed for their rights.
6. the children victims of crime under the Convention have an access to free legal aid as well as free social, medical and psychological counselling.
7. avoiding the contacts between the victim and the perpetrator.
8. in cases of sexual abuse at home, there is opportunity for urgent measures, including removal of either perpetrator or the victim.

In 2012, the Supreme Cassation Prosecutor's Office began to specialize prosecutors who can consider cases, where minors are involved. In the same year the Police Academy started a program for investigating police officers on child-friendly justice and interrogation of children. Institute for Social Activities and Practices has developed guidelines to experts participating in the interrogation of minors witnesses, which includes standards for interviewing. The Convention is taken into consideration while developing the guidelines.

1. Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (**Article 32, Explanatory Report, para. 230**);

Offences under all the above cited articles of the Penal Code, which fall within the scope of the Convention, are offenses of a general nature and proceedings for them are initiated ex officio by the competent bodies, and do not depend on the will of the victim to continue or discontinue the proceedings. Once the proceedings for an offence of a general nature are initiated by the competent bodies, the proceedings cannot be terminated upon the request of the victim. From the scope of Art. 161 (Supplementary Provisions) Chapter Two "Crimes against the person" of the Criminal Code (Special Part) where are explicitly mentioned crimes of a private nature (i.e. those where criminal proceedings are instituted upon a complaint of the victim) are excluded offenses under Section VIII "Debauchery", Art. 149-159, inclusive. In terms of art. 188 (coercing a child into prostitution) of the Criminal Code Chapter Four does not provide for a special provision, which means that the latter is also

an offence of a general nature. Please for details, see below for the provision of Art. 161 of the Code relevant to Chapter II of the Code:

Special Provision

Article 161

(1) (Amended, SG No. 28/1982, supplemented, SG No. 89/1986, amended, SG No. 50/1995, SG No. 21/2000, previous Article 161, SG No. 92/2002, amended, SG No. 26/2004) For trivial bodily injury under Article 130 and 131, paragraph (1), sub-paragraphs 3 - 5, for trivial and medium bodily injury under Article 132, for the crimes under Article 144, paragraph (1), Articles 145, 146 - 148a, as well as for bodily injury under Articles 129, 132, 133 and 134, inflicted on a relative of ascending and descending line, a spouse, brother or sister, the penal prosecution shall be instituted on the basis of complaint by the victim.

(2) (New, SG No. 92/2002) Public prosecution criminal proceedings with regard to acts qualifying under art. 133, art. 135, paras. 1, 3, and 4, and under articles 139 - 141 shall be formed upon complaint of the victim to the relevant Prosecution Office and may not be terminated upon his/her request

Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with **Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b**, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (**Article 33, Explanatory Report, paras. 231-232**);

Please see below the applicable to the crimes covered by the Convention prescription periods which fully comply with the provisions of the Convention:

Criminal Code
General Part

Article 80

(1) Penal prosecution shall be excluded by prescription where it has not been instigated in the course of:

1. (Amended, SG No. 31/1990, SG No. 153/1998) twenty years in respect of acts punishable by life imprisonment without substitution or life imprisonment, and 35 years in respect of a murder of two or more persons;
2. fifteen years with respect to acts punishable by deprivation of liberty for more than ten years;
3. ten years with respect to acts punishable by deprivation of liberty for more than three years;
4. (Amended, SG No. 62/1997) five years in respect of acts punishable by deprivation of liberty for more than three years, and
5. (Last amendment, SG No. 26/2009) five years in respect of all remaining cases.

(2) The prescription terms under the preceding paragraph for crimes committed by underage persons shall be determined after taking into consideration the substitution of punishments pursuant to Article 63.

(3) Prescription of prosecution shall commence as from the completion of the crime, in the case of attempt and preparation - as from the day of completion of the last action, and for continuous crimes as well as for crimes in progress - as from the moment of their termination.

Article 81

(1) Prescription shall be interrupted where the beginning or continuation of the penal prosecution depends upon the solution of some preliminary issues with judicial act that has entered into force.

(2) Prescription shall be interrupted by every act of the respective bodies undertaken for the purposes of prosecution, and only in respect of the person against whom the prosecution is directed. After completion of the act, whereby prescription was interrupted, a new prescription term shall commence.

(3) Notwithstanding the termination or interruption of prescription, penal proceedings shall be excluded provided a term has expired which exceeds by one half the term provided under the preceding Article.

* In conjunction with Articles 149-159 of the Penal Code - according to the penalties for each of the crimes of those articles is determined the relevant prescription period under Chapter IX of the General Part of the Penal Code. The penalties for the offences are available in the Appendix.

2. Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (**Article 31, para. 4**). Please also describe under which conditions it is possible;

Yes, such a possibility is legally regulated under the Criminal Procedure Code, as well as the terms and conditions for the appointment of a special representative of the child victim. Please see below the relevant provisions:

Criminal Procedure Code

Special Representative

Art.101.

(1) Where the interests of the juvenile or of the under-aged victim and of the his/her parent, guardian or trustee are in collision, the respective body shall appoint for him/her a special representative – attorney-at-law.

(2) A special representative – attorney-at-law shall also be appointed to the victim, if he/she is incapacitated or of limited capability and his/her interests are in contradiction with the interests of his/her guardian or trustee.

(3) The special representative shall participate in the penal procedure as a trustee.

(4) The provisions of Art.91, Para 3 and Art. 92 shall also apply respectively to the special representative.

Persons who may participate as defenders

Art. 91.

(1) Defender of the defendant may be each person, who exercises the profession of attorney-at-law.

(2) Defender may also be the spouse, a direct descendant of the defendant.

(3) Defender may not be:

1. **who has been or is a defender of another defendant and the defence of the one contradicts the defence of the other;**
2. **who has been representing or giving advice to another defendant, if the defence which is assigned to him/her contradicts the defence of the other defendant;**
3. **who has been representing or giving advice to the opposite party;**
4. **who has been participating in the procedure in another procedural capacity;**
5. **who is a spouse, direct descendent without limitation, collateral relative up to the fourth degree or relative – in law up to the third degree to a judge, juror, prosecutor or a body of investigation on the case.**

Challenging the defender

Art.92.

The persons who may not be defenders shall be obliged to beg themselves to be struck off. If they fail to do that, the respective body shall remove them from participation in the penal procedure ex-officio or upon request of the interested person.

3. Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (Article 31, para. 5). Please specify under which conditions, if so required;

Organizations for assistance of victims may support the victim under the conditions of the Act on Support and Financial Compensation to Victims of Crime (as stated above, in the answers to the relevant questions in this regard). Please see below an extract of the Act:

Chapter three
FORMS OF SUPPORT AND FINANCIAL COMPENSATION TO CRIME VICTIMS

Art. 8.

(1) The forms of support of the crime victims shall be:

1. medical support upon state of emergency following the procedure of the Law of Health;
2. **psychological consultation and help;**
3. **free legal support;**
4. **practical assistance.**

(2) The persons referred to in Art. 3, para 2 can use the forms of support as per para 1, item 2.

(3) In addition to the above-mentioned forms of support the crime victims shall be entitled to one-time financial compensation under the terms and following the procedure, laid down in this Law.

Art. 9.

(1) The free psychological consultation and help shall be provided by expert – psychologists from the victim support organizations.

(2) The activity under para 1 shall be financed by the Ministry of Justice following a procedure, established by the National Council.

(3) The victim support organizations shall give an account of their activity annually to the National Council.

In compliance with the Bulgarian legislation, the organizations for assistance of victims cannot be constituted as a party to criminal proceedings, but can only provide the victim the type of assistance described above, including in the frames of the ongoing criminal proceedings.

4. Please describe under which circumstances the use of covert operations is allowed in relation to the investigation of the offences established in accordance with the Convention (**Article 30, para. 5**);

According to Art. 10c of the Act on Special Intelligence Means (ASIM) "An undercover officer is an officer from the respective authorities under this Act, the Act on the State Agency "National Security", the Defence and the Armed Forces Law or the National Intelligence Service, authorized to establish or maintain contact with a controlled person for the purpose of obtaining or disclosing information about the commitment of a serious intentional offense and the organized criminal activity."

Art 3 of the ASIM stipulates that a special intelligence means such as “undercover investigation” shall be applied “for prevention and detection of serious intentional crimes under Chapter One, Chapter Two, Sections I, II, IV, V, VIII and IX, Chapter V , Sections I - VII, Chapter VI , Sections II - IV, Chapter Eight , Chapter Eight A and Chapter Nine A and Chapter XI, Section I - IV, Chapter Twelve, Chapter Thirteen and Chapter XIV, as well as

crimes under Art. 167, para. 3 and 4, Art. 169d, art. 219, para. 4, second proposal, art. 220, para. 2, Art. 253, Art. 308 par. 2, 3 and 5, second sentence, Art. 321, Art. 321a, Art. 356k and art. 393 of the Special Provision of the Criminal Code."

"Distribution of child pornography" is a criminal offense under Art. 159, para. 4 of the Criminal Code. The foreseen maximum penalty for that crime is "imprisonment for up to six years."

Art. 98, item 7 stipulates that "serious" crime is a crime for which is punishable under the law by imprisonment for more than five years, life imprisonment or life imprisonment without "parole".

Therefore, within the meaning of the Criminal Code offense of "Distribution of child pornography" is a serious crime and for meeting its investigation needs, if necessary, a special investigative means "undercover investigation" can be applied.

5. Please also describe what techniques have been developed for examining material containing pornographic images of children (**Article 30, para. 5**).

The operational bodies use different methods and approaches in identifying pornographic images of children in the virtual space.

They react on the received signals and also use proactive methods for seeking of cases of child sexual exploitation, including technical solutions. If a suspicious content appears, the case is proceeded to the prosecutor's office, The prosecutor requests an expert conclusion for identifying whether the image is of a child or not.

Question 23: Child friendly interviewing and proceedings

On 3 August 2011 the Government of the Republic of Bulgaria adopted a State Policy Concept for Juvenile Justice and on 1 March 2013 a Road Map on the implementation of the Policy Concept for Juvenile Justice was approved. The two documents are consistent with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System, the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, and the recommendations of the Committee's General Comment No. 10 (CRC/C/GC/10) on children's rights in juvenile justice.

The Road map seeks to achieve the following objectives:

1. A comprehensive juvenile justice policy with a special focus on prevention, introduction of measures alternative to the penal ones for legal offences, where possible, and provision of support to children at risk and children victims of abuse or witnesses of crimes.
2. In accordance with international and European standards, the new regulatory framework should ensure full respect for the rights of the child. Legislative amendments are envisaged in this respect (Criminal Code, Criminal Procedure

Code, the Ministry of Interior Act, the Legal Aid Act, etc.), including the drafting of new legislation with respect to children in conflict with the law.

3. The administrative reform of the system dealing with children in conflict with the law should ensure a holistic and multidisciplinary approach and improvement of the efficiency and effectiveness of the policies.
4. Establishing of an operational system of quality and affordable services in family environment and community-based services aimed at prevention, early intervention and support to the child and the family. The objective is to improve the effectiveness of non-punitive enforcement measures.
5. Specialisation is to be provided in the institutional system to deal with juveniles and minors and the capacity of all professionals involved is to be increased.

1. Please describe how interviews (**Article 35**) with child victims are carried out, indicating in particular whether:
   2. they take place without unjustified delay after the facts have been reported to the competent authorities;

Art 22 and Art 203 under the Criminal Procedure Code stipulates the requirements for Hearing and deciding the cases within a reasonable term and obligation to provide lawful and timely investigation. Please, see the appendix for the full text of articles 22 and 203 of the CPC.

3. they take place, where necessary, in premises designed or adapted for this purpose;

Under Art. 15 of the Child Protection Act the judicial and administrative authorities provide the appropriate environment for a child hearing. A social worker from SAD presents the hearing and if needed – other appropriate specialist.

The Criminal Procedure Code provides an opportunity for setting down of court session outside the court premises (Art 262). Please, see the appendix for the full text of Art. 15 of the CPA and Art. 262 of the CPC.

4. they are carried out by professionals trained for this purpose;

There is a special provision in the Criminal Procedure Code (Art 140) for interrogation of a juvenile witness. A minor witness under the age of 14 years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian. A juvenile witness above the age of 14 years shall be interrogated in the presence of the persons under the Para. 1, if the respective body deems so necessary. The body conducting the interrogation shall explain the minor witness under 14 years of age the necessity to give true testimony, without warning him/her liability. Interrogation of a child witness under and above the age of 14 in the country may take place if relevant also by videoconference.

The reform in the juvenile justice system envisages the construction of specialized premises for child hearings (at the end of 2012 there were 11 hearing rooms, made operational mostly under NGO projects and supported by the state), training of judges, prosecutors,

defence attorneys and MoI officers working with children (in 2012 SPOC announced a list of prosecutors, who have undergone specialized training for work with children). Standards for child interrogation were developed – in 2011 and 2012 experts from SACP, SPOC, the Ministry of Justice and the Academy of MoI approved a working version of standards and good practices, simpler and non-traumatic procedures for participation of children in pre-trial and court proceedings.

In the curriculum of the National Institute of Justice each year are planned and respectively conducted trainings on issues related to 1) the fight against sexual abuse, exploitation of children and child pornography, 2) the specific situation of victims of such crimes, 3) the peculiarities of working with them, and 4) the international legal framework of these issues, and more.

The legal basis for the trainings of judges, prosecutors and investigators is provided under the Judiciary System Act. Please, see the Appendix.

5. the same persons are, if possible and where appropriate, conducting all interviews with the child;

Penal Procedure Code

Chapter 3 Pre-trial Proceedings
Section 16 "General Provisions"

Obligation to provide lawful and timely investigation

Art. 203.

(1) The body of investigation shall take all measures to provide timely, lawful and successful conduction of the investigation.

(2) The investigation body shall be obliged in a shortest tern to gather the needed evidence for detection of the objective truth, being guided by the law, the inner conviction and the instructions of the prosecutor.

(3) **In case of change of the competence or other cases of substituting an investigating authority under Art. 52, Para. 1 with another authority, the acts of investigation and the other procedural acts (note – including interrogations) that have been carried out shall preserve their procedural validity.**

*Bodies of investigation are enlisted under art 52 of the Penal-Procedure Code

Art. 52.

Bodies of investigation shall be:

1. the investigators;
2. officers of the Ministry of Interior, appointed at the position of "investigating policeman", investigating agents from the State Agency "National Security", nominated with order by the Chairperson of the Agency and the Customs Agency officers appointed as "investigating customs inspector;
3. the police authorities at the Ministry of Interior and customs bodies at the Customs Agency - in the cases, specified in this Code.

……..

Interrogation of witnesses

Art. 280.

(6) Minor witnesses that have been questioned during a penal proceeding shall be questioned again only if their testimonies cannot be read out under the conditions and order of Art. 281 or the second questioning is of significant importance for revealing the truth.

6. the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;

In 2010 a special article - Art. 280, was included in the Criminal Procedure Code (CPC), according to which "A juvenile witness, who has been questioned in criminal proceedings, shall be interrogated again only if his testimony cannot be read under the conditions and the procedure as per article 281 or if the new interrogation is crucial for uncovering the truth". Interrogation of a juvenile or minor witness in Bulgaria can take place, where necessary, by videoconference as well. Such actions are taken in regard with the best interests of the child.

In case of change of the competence or other cases of substituting an investigating authority with another authority, the acts of investigation and the other procedural acts that have been carried out shall preserve their procedural validity. (Art 203)

7. the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

Both the Criminal Procedure Code and the Child Protection Act contain provisions for interrogation of a child in the presence of an adult. A minor witness under the age of 14 years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian. A juvenile witness above the age of 14 years shall be interrogated in the presence of the persons under the Para. 1 (of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian), if the respective body deems so necessary (CPC). CPA stipulates the obligatory presence of a social worker and other appropriate specialist if needed during the counselling or hearing of a child. The Court or administrative body decrees the hearing to be conducted in the presence of a

parent, guardian/custodian, and other carer or close relative, except the cases where this is not in line with the child's best interests.

The rules described above are regulated under Art. 15, paras. 4 (second sentence) and 5 of the CPA and Art. 140, paras. 1 and 2 of the CPC.

8. Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;

Art 237-241 from the Penal Procedure Code provide for the possibility to audio and videotape an interview of a witness. If the interview is taped in line with the rules laid down in the mentioned articles, the records of the audio and videotaping of the interview is accepted as an evidence.

- Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (**Article 36**).

A minor or juvenile witness a victim of a crime may be heard behind closed doors under Art. 263, para 3. CPC. Interrogation of a child witness may take place if relevant also by videoconference (Art. 140, para. 5).

Appendix

Extracts from the internal legislation. Unofficial translation.

Criminal Code

General Part

Chapter 2 "Offense"
Section II "Preparation and attempt"

Article 18

(1) An attempt shall be the commenced perpetration of intentional crime, whereas the act has not been completed or, although completed, the consequences dangerous to society provided by the law and desired by the perpetrator have not occurred.

(2) For an attempt, the perpetrator shall be punished by the punishment provided for completed crime, with due consideration taken of the degree of implementation of the intent and the reasons because of which the crime remained unaccomplished.

……

Chapter 2 "Offense"
Section III "Complicity"

Article 20

(1) Accomplices in the perpetration of intentional crime shall be: perpetrators, abettors and accessories.

(2) A perpetrator shall be a person who took part in the perpetration itself of the crime.

(3) An abettor shall be a person who intentionally incited another to commit a crime.

(4) An accessory shall be a person who intentionally facilitated the perpetration of a crime through advice, explanations, promises to render assistance after the act, removal of obstacles, supply of means or in any other way.

Article 21

(1) All accomplices shall be punished by the punishment provided for the perpetrated crime, with due consideration of the nature and degree of their participation.

(2) Abettors and accessories shall be held responsible only for what they have intentionally abetted or by what they have assisted the perpetrator.

(3) Where because of certain personal characteristics or attitude of the perpetrator the law treats the perpetrated act as a crime, liable for this crime shall be both the abettor and the accessory with respect of whom such circumstances do not exist.

(4) The special circumstances, due to which the law excludes, reduces or increases the punishment for some of the accomplices, shall not be taken into account for the remaining accomplices with respect to whom such circumstances do not exist.

Section VIII "Debauchery"

Article 149

(1) A person who performs an act for the purpose of arousing or satisfying sexual desire, without copulation, with a person under 14 years of age, shall be punished for lewdness by deprivation of liberty for up one to six years.

(2) When the fornication is being done through use of violation or threatening, through making use of the helpless condition of the distressed or through driving the victim to such a condition by using his/her state of dependency or surveillance, the penalty that the law provides for is imprisonment for a term from two up to eight years.

(3) Where the act under the preceding paragraphs has been done for a second time, the punishment shall be deprivation of liberty from three (3) to ten (10) years.

(4) Lewdness shall be penalized by deprivation of liberty from three (3) to fifteen (15) years:

1. if committed by two or more persons;

……..

(5) Lewdness shall be penalised by deprivation of liberty from five to twenty years:

1. if committed with two or more minors;
2. if a severe bodily injury has been inflicted or a suicide has been attempted;
3. if it constitutes a dangerous recidivism;
4. if it constitutes a particularly grave case.

Article 150

(1) An individual that performs particular activity with the purpose to stimulate or satisfy a sexual desire without sexual intercourse through the use of his/her helpless condition or through driving him/her to such a condition or by using his/her state of dependency or surveillance with respect to an individual that has not completed the age of fourteen years is subjected to a penalty of imprisonment for two up to eight years.

(2) In exceptionally grave cases the penalty that is provided is imprisonment for a term from three up to ten years.

Article 151

(1) A person who has sexual intercourse with a person who has not completed the age of 14 years, insofar as the act does not constitute a crime under Article 152, shall be punished by deprivation of liberty for two to six years.

(2) When the criminal act under para1 is done with a minor individual and through the use of the state of dependency or surveillance, the penalty that the law provides is imprisonment for one to five years.

(3) A person who has sexual intercourse with a person who has completed the age of 14 years, who does not understand the essence and meaning of the act, shall be punished by deprivation of liberty for up to five years.

Article 152

(1) A person who has sexual intercourse with a person of the female sex:

1. who is deprived of the possibility of self-defence, and without her consent;
2. by compelling her thereto by force or threat;
3. by reducing her to a state of helplessness shall be punished for rape by deprivation of liberty for two to eight years;

shall be punished for rape by deprivation of liberty for two to eight years.

(2) For rape the punishment shall be deprivation of liberty for three to ten years:

1. if the raped woman has not completed eighteen years of age;
2. if she is a relative of descending line;
3. if it was committed for a second time.

(3) For rape the punishment shall be deprivation of liberty for three to fifteen years:

1. if it has been performed by two or more persons;
2. if medium bodily injury has been caused;
3. if an attempt at suicide has followed;
4. if it has been committed in view of forceful involvement in further acts of debauchery or prostitution;
5. if it constitutes a case of dangerous recidivism.

(4) The punishment for rape shall be of ten to twenty years, where:

1. The victim has not turned fourteen years of age;
2. Severe bodily injury has been caused;
3. Suicide has ensued;
4. It qualifies as a particularly serious case.

Article 153

A person who copulates with another, by compulsion using the other's material or official dependency upon him, shall be punished by deprivation of liberty for up to three years.

Article 154

Sexual intercourse between relatives in ascending and descending line, between brothers and sisters, and between adopters and adopted persons shall be punished by deprivation of liberty for up to three years.

Article 154a

Anyone, who gives or promises a benefit and commit fornication activities or sexual intercourse with a minor individual who is engaged with prostitution is subjected to a penalty of imprisonment for a term up to three years.

Article 155

(1) A person who persuades an individual to practise prostitution or acts as procurer or procuress for the performance of indecent touching or copulation, shall be punished by deprivation of liberty of up to three years and by a fine of BGN 1,000 to BGN 3,000.

(2) A person who systematically places at the disposal of different persons premises for sexual intercourse or for acts of lewdness shall be punished by deprivation of liberty for up to five years and by a fine of BGN 1,000 to BGN 5,000.

(3) Where acts under Paragraphs 1 and 2 above have been committed with a venal goal in mind, punishment shall be deprivation of liberty from one to six years and a fine of BGN 5,000 to BGN 15,000.

(4) A person who persuades or forces another person to using drugs or analogues thereof for the purposes of practising prostitution, to performing copulation, indecent assault, intercourse or any other acts of sexual gratification with a person of the same sex, shall be punished by deprivation of liberty for five to fifteen years and by a fine from BGN 10,000 to BGN 50,000.

(5) Where the act under Paragraph 1- 4 has been committed:

1. by an individual acting at the orders or in implementing a decision of an organized criminal group;
2. with regard to a person under 18 years of age or insane person;
3. with regard to two or more persons;
4. repeatedly;
5. at the conditions of a dangerous recidivism, the punishment under pars. 1 and 2 shall be deprivation of liberty from two to eight years and a fine from BGN five thousand to fifteen thousand, under par.3 - deprivation of liberty from three to ten years and a fine from BGN ten thousand to twenty five thousand, and under par. 4 - deprivation of liberty from ten to twenty years and a fine from BGN hundred thousand to three thousand.

(6) ……..

Article 155a

(1) Anyone, who for the purpose of establishing contact with a person who is under the age of eighteen, in order to perform fornication, copulation, sexual intercourse, prostitution or create a pornographic material, provides information about him/her via Internet or another possible way, is subjected to a penalty of imprisonment for one to six years and a fine from five to ten thousand BGN.

(2) The same punishment shall be imposed also on that person, who for the purpose of performing a fornication, copulation or sexual intercourse, establishes a contact with a person who is under 14 years of age, by using information provided in Internet or in another manner.

Article 155b

Anyone, who persuades a person who is under the age of 14 years to participate or to watch real, virtual or simulated sexual intercourses between individuals of the same or different sex, carnal display of human genitals, sodomy, masturbation, sexual sadism or masochism, is subjected to a penalty of imprisonment for a term of up to three years or probation.

Article 156

(1) A person who abducts another person for the purpose of her being placed at the disposal for acts of debauchery shall be punished by deprivation of liberty for three to ten years and by a fine of up to BGN 1,000.

(2) The punishment shall be deprivation of liberty for five to twelve years, if:

1. the abducted person is under 18 years of age;
2. the abducted person has been placed at disposal for acts of debauchery, or
3. the abduction has been carried out for the purpose of placing the person at disposal for acts of debauchery beyond the borders of this country.

(3) The punishment shall be deprivation of liberty from five to fifteen years and a fine of BGN 5,000 to BGN 20,000 where:

1. the act was committed by an individual acting on the orders or in execution of a decision of an organised criminal group;
2. the abducted person was handed over for sexual activities outside the borders of the country;
3. the act constitutes dangerous recidivism.

Article 157

(1) A person who performs sexual intercourse or acts of sexual satisfaction with a person of the same sex, by using for that purpose force or threat, or by taking advantage of a position of dependency or supervision, as well as with a person deprived of the possibility of self-defence, shall be punished by deprivation of liberty for two to eight years.

(2) Where the act under para 1 was committed in respect to a person below the age of 14, the punishment shall be deprivation of liberty of three to twelve years.

(3) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex below the age of 14, shall be punished by deprivation of liberty from two to six years.

(4) A person who performs sexual intercourse or acts of sexual gratification with a person of the same sex below the age of 14 who does not understand the nature or implications of his/her acts, shall be punished by deprivation of liberty from two to six years.

(5) ……..

Article 158

In the cases of Articles 149 - 151 and 153, the perpetrator shall not be punished, or the imposed punishment shall not be served, if prior to the enforcement of the sentence there follows a marriage between the man and the woman.

Article 158a

(1) Anyone, who no matter by what means, recruits or forces particular minors or groups of minors to execute a sexual intercourse, fornication, sodomy, masturbation, sexual sadism, masochism or carnal display of human genitals, is subjected to a penalty of imprisonment for a term up to six years.

(2) In case of obtained property benefits from the committed criminal act under para. 1, the penalty is imprisonment for a term of up to eight years and a fine up to ten thousand BGN.

(3) Anyone, who watch sexual intercourses, fornication, sodomy, masturbation, sexual sadism, masochism or carnal display of human genitals in which a person, for whom he knows or supposes that he/she is recruited or forced to participate in under the conditions of para.1,is subjected to a penalty of imprisonment for the term of up to three years.

Article 159

(1) A person who produces, displays, presents, broadcasts, distributes, sells, rents or otherwise circulates a pornographic material, shall be punished by deprivation of liberty of up to one year and a fine of BGN one thousand (1,000) to three thousand (3,000).

(2) Anyone who broadcasts pornographic material on the internet or another similar way, is subjected to a penalty of imprisonment for a term of up to two years and a fine from one thousand to three thousand BGN.

(3) An individual who displays, presents, offers, sells, rents or distributes in another manner a pornographic material to a person who has not turned 16 years of age, shall be punished by deprivation of liberty of up to three years and a fine of up to BGN five thousand (5,000).

(4) Regarding acts under paras. 1-3, where a person who has not turned 18 years of age, or a person who looks like such a person, has been used in the creation of a pornographic material, the punishment shall be deprivation of liberty of up to six years and a fine of up to BGN eight thousand (8,000).

(5) Where acts under paras. 1 - 4 have been committed at the orders or in implementing a decision of an organized criminal group, punishment shall be deprivation of liberty from two to eight years and a fine of up to BGN ten thousand (10,000), the court being also competent to impose confiscation of some or all the possessions of the perpetrator.

(6) A person who possesses or provides for himself or for another person through a computer system or in another manner a pornographic material in whose creation a person who has not

turned 18 years of age has been used or a person who looks like such a person, shall be punished by deprivation of liberty of up to one year or a fine of up to BGN two thousand.

(7) The object of criminal activity shall be expropriated to the benefit of the State, and where it is not found or has been disposed of, its money equivalent shall be awarded.

Criminal Procedure Code

Hearing and deciding the cases within a reasonable term

Art. 22.

(1) The Court shall hear the cases within a reasonable term.

(2) The prosecutor and the investigating bodies shall be obliged to provide the conduction of the pre-trial procedure within the terms stipulated by this Code

Obligation to provide lawful and timely investigation

Art. 203.

(1) The body of investigation shall take all measures to provide timely, lawful and successful conduction of the investigation.

(2) The investigation body shall be obliged in a shortest tern to gather the needed evidence for detection of the objective truth, being guided by the law, the inner conviction and the instructions of the prosecutor.

(3) (new – SG 109/08; amend. - SG 32/10, in force from 28.05.2010) In case of change of the competence or other cases of substituting an investigating authority under Art. 52, Para. 1 with another authority, the acts of investigation and the other procedural acts that have been carried out shall preserve their procedural validity.

…….

Chapter 17 „Investigation”

Record of Interrogation

Art.237.

(1) (amend. -SG32/10, in force from 28.05.2010) The record of interrogation shall specify the following data about the interrogated person: full name, date and place of birth, citizenship, nationality, education, family status, occupation, place of work and official position, place of residence, conviction-status, etc., which are of importance for the case. In the cases of Art. 141 and 141a, the identification data shall not be entered in the record.

(2) The reasons and the evidence shall be recorded in the first person singular, possibly word for word.

(3) Where necessary, the questions and the answers shall be recorded separately.

(4) The interrogated person shall certify with his/her signature that his/her evidence have been recorded correctly. In case the record is written down of several pages, the interrogated person shall sign every page.

(5) The interrogated person may, if he/she wishes, state in his/her own hand the explanations or testimony, which he/she has given orally. In such case, the body of investigation may ask additional questions.

Audio-record

Art. 238.

(1) On the request of the interrogated person or on the initiative of the body of Investigation audio-record may be made, which the interrogated person shall be informed of before the commencement of the interrogation.

(2) The audio-record must contain the data specified in Art. 129, Para. 1, and Art. 237.

(3) Audio-record of a part of the interrogation or repeating especially for the audio-record of a part of the interrogation shall not be allowed.

(4) After the completion of the interrogation, the audio-record shall be reproduced in full to the interrogated. The additional explanations and statements shall also be reflected in the audio-record.

(5) The audio-record shall finish with a declaration of the interrogated person that it reflects correctly the given explanations and statements.

Record of interrogation while making audio-record

Art.239.

(1) The body of investigation shall also draw up a record of interrogation where an audio-record is made.

(2) The record shall contain: the basic circumstances of the interrogation, the ruling to make an audio-record; the notifying of the interrogated about the audio-record; notes of the interrogated in connection with the audio-record; the reproduction of the audio-record before the interrogated and the statements of the body of the pre-trial procedure and of the interrogated about the regularity of the audio-record.

(3) The audio-record shall be attached to the record after it is sealed with an note specifying: the body, which has conducted the interrogation, the case, the name of the interrogated and the date of the interrogation. The note shall be signed by the body of investigation and the interrogated person.

(4) The unsealing of the audio-record for the needs of the investigation shall be allowed solely with the permission of the prosecutor and in the presence of the interrogated. During the

hearing of the audio-record the interrogated shall also be present.

(5) After the hearing of the audio-record, it shall be again sealed following the procedure of Para 3.

Interrogation of a juvenile witness

Art.140.

(1) A juvenile witness under the age of 14years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian.

(2) A juvenile witness above the age of 14 years shall be interrogated in the presence of the persons under the Para. 1, if the respective body deems so necessary.

(3) With the permission of the body conducting the interrogation, the persons under Para. 1 may put questions to the witness.

(4) The body conducting the interrogation shall explain the juvenile witness under 14 years of age the necessity to give true testimony, without warning him/her liability.

(5) (new – SG109/08) Interrogation of a juvenile witness under and above the age of 14 in the country may take place if relevant also by videoconference.

Video-record

Art. 240.

The provisions of Articles 237-239 shall apply to videotaping accordingly.

Audio-record and video-record at other actions of the investigation

Art.241.

Audio-record and video-record may also be made during of the investigation actions subject to the provisions of Articles 237-239.

Law on Protection of Persons Threatened in Connection with Criminal Procedure

Chapter one.
GENERAL PROVISIONS

Art. 1.

This law shall provide the conditions and the order for ensuring special protection on behalf of the state to persons, threatened in connection with criminal procedure, and to persons, directly related to them when they cannot be protected with the means, provided in the Penal Procedure Code.

Art. 2.

The objective of this law shall be to support the fight with the grave intentional crimes and with the organised crime by ensuring the safety of the persons, whose evidence, explanations or information are of essential importance for the criminal procedure.

Art. 3.

Special protection under this law can receive the following threatened persons:
1. participants in the criminal procedure – witness, private prosecutor, indicter, suspect, incriminated, defendant, accused, expert, witness of investigation;
2. sentenced;
3. persons, directly related to the persons of items 1 and 2 – ascending, descending, brothers, sisters, spouse or persons, with whom they are in particular close relations.

Art. 4.

The threatened persons can get special protection when the evidence, the explanations or the information of the persons of art. 3, items 1 and 2 ensure proofs of essential importance in criminal procedures for grave intentional unqualified crimes of chapter one, two, chapter six – art. 242, para 2, 3 and 4, chapter eight – section IV, chapter eleven – art. 330, 333, 354a, and chapter fourteen of the Penal Code and of all crimes, committed upon instruction or in fulfilment of decision of an organised criminal group.

Chapter two.
Section I.
Essence of the Programme for protection of threatened persons and kinds of protection

Art. 5.

(1) The Programme for protection of threatened persons, called hereinafter "Programme for protection", shall be a complex of measures, undertaken by defined state bodies with regard to persons, received status of protected persons under this law.

(2) The measures under the Programme for protection shall be obligatory for all state bodies and officials as well as all corporate bodies and individuals.

Art. 6.

(1) The programme for protection shall include the following measures:
1. personal physical guard;
2. guard of the property;
3. temporary accommodation at safe place;
4. change of the place of living, the working place or the education establishment, or accommodation at another place for serving the penalty;
5. change of the identification.

(2) The measures of para 1 can be applied together or separately, temporary – till the reasons for their application exist, or permanently.

(3) With the measures of para 1, items 1 – 4 may also be applied temporary prohibition for conceding the personal data of the protected person to third persons.

(4) The measure of para 1, item 5 shall be applied only as exceptional measure when the protection cannot be ensured through some of the other measures.

(5) (new - SG. 66 of 2008, effective 26.09.2008) The processing of personal data of the protected persons under this law is a state secret.

(6) (prev. 5 - SG. 66 of 2008, effective 26.09.2008) protection program may include activities and the provision of social, medical, psychological, legal or financial aid.

Art. 7.

(1) The physical guard of a protected person shall be activity for protection of the bodily security from unlawful infringements and it can be day and night, for defined hours or for defined cases.

……

Art. 8.

The guard of the property shall be activity for its physical protection from unlawful infringements.

Art. 9.

The temporary accommodation at safe place shall be immediate movement of the protected person for a short period of time to another address, different from the permanent place of living.

Art. 10.

The change of the place of living, the working place or the education establishment, or the accommodation at another place for serving the penalty shall be applied till the dropping of the threat of art. 1.

.....

Art. 12.

(1) The application of the measure of art. 6, para 1, item 5 shall not exempt the protected person from the obligations to the state or to third persons.

(2) (rev)

(3) At full change of the identity shall be issued new identification document in which the personal data cannot be identical with other's personal data.

(4) The full change of the identity can be implemented also through change of external physical marks of the protected person.

Administrative Violations and Sanctions

Chapter Four
ADMINISTRATIVE PENAL SANCTIONS IN REGARD TO LEGAL PERSONS AND SOLE PRORPRIETORS

…….

Article 83a

(1) A legal person, which has enriched itself or would enrich itself from a crime under Articles 108a, 109, 110 (preparations for terrorism), Articles 142-143a, **art 152, para 3, i 4, art 153, art 154 a, 155, 155a, 156, 158a, 159-159d**, art 162, para. 1 and 2, art. 172a - 174 209-212a, 213a, 214 , 215, 225c, 242, 250, 252, 253, 254, 254b, 256, 257, 278c – 278d , 280, 283, 301-307, art. 307b, 307c, 307d, art. 308, para. 3, 319a-319f, 320-321a, 327, 352, 352a, 353b – 353f, 354a – 354c, 356k and 419 of the Criminal Code , as well as from all crimes, committed under orders of or for implementation of a decision of an organized criminal group, when they have been committed by:

1. an individual, authorized to formulate the will of the legal person;
2. an individual, representing the legal person;
3. an individual, elected to a control or supervisory body of the legal person, or
4. a worker or an employee, to whom the legal person has assigned a certain task, when the crime was committed during or in connection with the performance of this task, shall be punishable by a property sanction of up to BGN 1,000,000, but not less than the equivalent of the benefit, where the same is of a property nature; where the benefit is no of a property nature or its amount cannot be established, the sanction shall be from BGN 5,000 to 100,000.

(2) The property sanction shall also be imposed on the legal person in the cases, when the persons under paragraph 1, items 1, 2 and 3 have abetted or assisted the commission of the above acts, as well as when the said acts were stopped at the stage of attempt.

(3) The property sanction shall be imposed regardless of the materialization of the criminal responsibility of the perpetrator of the criminal act under paragraph 1.

(4) The benefit or its equivalent shall be confiscated in favour of the state, if not subject to return or restitution, or forfeiture under the procedure of the Criminal Code.

(5) Property sanctions under paragraph 1 shall not be imposed on states, state bodies and local self-government bodies, as well as on international organizations.

Judiciary System Act

Chapter eleven. National Institute of Justice

Article 249

(1) The National Institute of Justice shall carry out:

1. **Mandatory inception training of the prospective junior judges and junior prosecutors**
2. **Operations for maintaining and improving the qualifications of judges, prosecutors and investigating magistrates,** of state enforcement agents, recordation judges, clerks of court, of the inspectors at the Inspectorate with the Minister of Justice and of other officers of the Ministry of Justice.

(2) A training and information centre shall be set up with the National Institute of Justice, organising distance learning, researching and studying jurisprudence, including the practice in the administration of justice, for training needs.

Article 250

The National Institute of Justice shall be a legal person seated in Sofia.

Article 257

(1) National Institute of Justice training curriculas shall be endorsed by the management board at the proposal of the Director.

(2) Programmes and operations for improvement of the qualifications of state enforcement agents, recordation judges, clerks of court, of inspectors at the Inspectorate with the Minister of Justice and of the other officers of the Ministry of Justice shall be coordinated with the Minister of Justice.

Article 258

(1) The training course under art 249. para. 1, i 1 shall endure 9 months and shall start in September of the respective year.

…….

(2) At the end of the training the prospective junior judges and junior prosecutors shall sit for a written and oral practical examination that shall be marked by the 6 grade scale.

Article 258a.

The Supreme Judicial Council appoints the candidates who have successfully passed the training under art 249, para 1 to a position for which they have been approved with the decree under art 186, para 7.

Article 259

Upon initial appointment to a position with the judicial system bodies, during their first year following entry in office, judges, prosecutors and investigating magistrates shall undergo a mandatory course for the improvement of qualifications.

Draft Law for amendment and supplement of the Criminal Code

§ 1 of the draft law proposes an amendment of Art. 16a, as the new par. 2 introduces the requirement of Art. 14 of the Directive, to ensure the principle "not to prosecute or impose penalties on child victims of sexual abuse and sexual exploitation for their involvement in criminal activities, which they have been compelled to commit as a direct consequence of being subjected to any of the acts" – i.e. from being subjects to any of the acts referred to in Article 4, paragraphs 2, 3, 5 and 6 and 5, paragraph 6 of the Directive. Having in mind the requirement to align the waiver of prosecution or the imposition of penalties to the victim with the basic principles of the national legal system of the Member State, the matter that is the subject of the settlement is proposed to be covered in art. 16a with a new paragraph. 2, as it relates directly to a hypothesis that introduces guilt exclusive circumstance. The proposed wording of Art. 16a, para. 2 is in full compliance with the principle established by Art. 16a of the current Penal Code (PC) (by which an analogous obligation resulting from Art. 8 of Directive 2011/36/EU to combat human trafficking is introduced). It should be noted that the introduction of this guilt exclusive circumstance will void the criminal responsibility for the act committed by the indirect actor who has exercised influence through coercion in regard to children, victims of crimes under Art. 158a art. 155, Art. 156, Art. 188, para. 2 or children used in the process of preparation of pornographic materials.

§ 2, item 2 and 3 suggest an amendment of Art. 93, where item 28 "Pornographic material" is amended and a new item 29 "pornographic performance" is created as these changes are directly related to the transposition of Directive 2011/92/EU. Thus, it provides a legal definition of pornographic material in full compliance with Art. 2, letter c) of the Directive and introduces a definition of "pornographic performance", according to art. 2, letter e) of the same.

§ 4 proposes amendment of Art. 149, para. 2 (which acquires new version) created by the need under the requirement of Art. 4 para. 7 of the Directive - namely when fornication has been committed against a person under the age of 14, and the latter is involved in prostitution. In addition, the creation of a new item 2 in paragraph. 4 introduces one of the hypotheses of aggravated circumstance under art. 9 b. "a" of the Directive, namely where the offense was committed against a child in a particularly vulnerable position – who does not understand the nature or importance of the act.

§ 5 in the art. 150 proposes a new paragraph. 2 (in accordance with Art. 4, item 7 of the Directive) to cover cases in which the victims are minors and juveniles involved in prostitution. A new wording of the current para. 2 is proposed, which becomes para. 3, as the text is consistent with art. 3, paragraph 5 ii) of the Directive.

§ 6 proposes the creation of a new paragraph. 2 (item 3) in the art. 151 of the PC, where as a qualifying circumstance is introduced art. 9 b. "C" of the Directive, where the act is committed by two or more persons. The new par. 2 (item 2) introduces the requirement of

Art. 4 para. 7 of the Directive. Accordingly, also the determination of the respective amount of punishment of the perpetrators is proposed.

§ 7 of the draft, and in accordance with Art. 4, paragraph 7 of the Directive, proposes a supplement of art. 152, para. 2 – a creation of a new item 2, which supplements the penalties when the rape victim has not reached eighteen and is found in position of prostitution. In connection with the amendment, the existing items 2 and 3 are proposed to become items 3 and 4 respectively.

§ 8 proposes an amendment of Art. 154a, as the text of par. 1 is edited in accordance with art. 4 para. 7 of the Directive. The commitment of sexual activity with a child (fornication or sexual intercourse) in terms of prostitution is criminalized, whereas the requirement for giving or promising a benefit to the victim drops out, as the explicit requirement of the Directive. A new paragraph. 2 is created, which introduces the qualifying circumstances under Art. 9 b. "C" and "e" of the Directive, i.e. where the act is repeated or the offense is committed by two or more persons. The corresponding amount of the penalty is also proposed.

§ 9 proposes an amendment of art. 155a in accordance with Art. 6 para. 1 of the Directive, as with par. 2 the establishment of contact with a person under 14 years of age for purpose to commit fornication, copulation, sexual intercourse, creating pornographic material or to participate in pornographic performance is incriminated. Next, the wording of the current para. 1 of Art. 155a is refined, also with a view to its recognition by the act under the new par. 2, and given the need to criminalize all instances of collection or delivery by the offender of information for a person under 18 years of age to contact him or her with the purpose to commit fornication, copulation, intercourse, prostitution, to create pornographic material or to participate in pornographic performance. A respective sentence where a minimum and maximum term of punishment shall be imposed in view of the specific gravity of the offense is proposed.

§ 10 makes an amendment of Art. 155b, in accordance with Art. 3, paragraphs 2 and 3 of the Directive, as well as with regard to the need of introducing some of the qualified circumstances stipulated under Art. 9 of the Directive - namely, those under letters a), b), c) and e). The correct text becomes para. 1 which criminalizes solicitation of a child under 14 years of age to participate or observe actual, virtual or simulated sexual acts, as is proposed to increase the amount of the penalty and eliminate the possibility of a penalty "probation" - in accordance with the Art. 3, paragraphs 2 and 3 dimensions of the penalties for this crime. The new paragraph. 2 criminalizes the commitment of the offense under par. 1 by the use of force or threat; or using a position of vulnerability or supervision; or by two or more persons who have agreed in advance; or when the act is repeated (the requirement of Art. 9 points a), b), c) and e) of the Directive).

§ 11 proposes the creation of a new Art. 155c in accordance with Art. 3, para. 6 of the Directive, setting the hypothesis of solicitation of a minor or juvenile by force or threat, or by use of a position of vulnerability or supervision, to participate in the actual, virtual or simulated sexual activity.

§ 12 amends Art. 157, which incriminates the criminal sexual acts between persons of the same sex, in accordance with Art. 4 steam. 7 and Art. 9 c) - f) of the Directive.

§ 13 amends Art. 158a, so that the latter introduces in more precise and complete manner the requirements of Art. 4, paragraphs 2 and 3 of the Directive, which provide for criminal liability in the case of: recruitment, promotion or use of a person under 18 years of age, or group of such persons to participate in pornographic performance; forcing a person under 18 years of age, or group of such persons to participate in pornographic performance; performance of previous acts with a person under 14 years of age; and where for the above offenses material benefit is received. Para. 5 incriminates watching the pornographic performance, which involves a person under the age of 18, in accordance with Art. 4, paragraph 4 of the Directive.

§ 14 proposes the creation of new art. 158b as required by Art. 10 of the Directive, which provides for the legal possibility to impose on the perpetrator of the crimes under Art. 149-157 or art. 158a deprivation of the right to hold certain public positions, or deprivation of the right to practice a profession or activity.

§ 15 proposes amendments of Art. 159 in accordance with Art. 5 and Art. 9 of the Directive. Paragraph 4 of Art. 159 is amended in full compliance with art. 9 c) and e) of the Directive, in par. 2 and par. 6 the words "Internet" and "computer system" are replaced by "information or communication technology" as to have properly and accurately covered any technologies through which the offences stipulated in the cited paragraphs can be committed. The creation of a new paragraph. 7 has been proposed, which criminalizes knowingly accessing via information or communication technology pornographic material, for the creation of which a person under 18 years of age is used or anyone who looks like such. The creation and the editing of a new paragraph. 7 are in full compliance with Art. 5, paragraph 3 of the Directive. Next, in order to incorporate the requirement of Art. 10 of the Directive, the creation of a new paragraph. 8, is proposed, providing an opportunity for the court to impose a deprivation of rights under Art. 37, para. 1, item 6 or 7 of the Penal Code, together with the respective punishment under the preceding paragraphs, depending on the particular offense committed.

§ 16 proposes an amendment of Art. 188 in accordance with Art. 4 para. 6 Art. 9 and Art. 10, para. 1 of the Directive, to ensure a proper moral education and sexual development of children through non-involvement in prostitution. In addition, the existing paragraph. 2 of Art. 188 becomes para. 3, as the latter is amended according to the presence of two separate offenses - those under par. 1 and par. 2, and the new par. 5, which provides an opportunity for the court to impose to the offender the penalty deprivation of rights under Art. 37, paragraph 1, item 6 or 7 of the Penal Code.