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LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

BULGARIA

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 22 August 2014

DATA COLLECTION

Question 1: Data on sexual abuse in the circle of trust

Please indicate whether data are collected for the purpose of observing and evaluating the phenomenon of sexual abuse of children in the circle of trust. If so, please:

- specify what mechanisms have been established for data collection or whether focal points have been identified especially with regard to statistical data on victims and offenders within the circle of trust (**Article 10 (2) (b), Explanatory Report, paras. 83 and 84**);
- include any relevant data in an Appendix.

According to the Regulation of the Child Protection act (adopted on 25.07.2003), “Violence against child is any act of physical, psychological or sexual abuse, neglect, commercial or other exploitation, resulting in actual or potential harm to health, life, development and dignity of the child, which can be done in a family, school or social environment”.

Since the establishment of the State Agency for Child Protection in 2001 it gathers information on the number and profile of children victims of violence, which allows to monitor the process in their development, to identify trends and accordingly to take adequate measures to prevent violence and to protect the child.

The main tool for data gathering is a specially developed information card which is fulfilled by all child protection departments at municipal level. The questions in the card include key indicators on active cases of violence against children during the reporting period:

- number of cases of violence against children ;
- type of violence;
- place of violence;
- age and family status of children who are victims of violence;
- profile of the sender of the signal;
- profile of the perpetrator of violence;
- measures taken.

See the Appendix.

PREVENTION

Questions in this section aim specifically at collecting information on policies and strategies to prevent sexual abuse particularly in the child’s circle of trust. The questions thus concern awareness-raising of children themselves as well as of persons working in regular contact with them, thus forming a part of their circle of trust.

Question 2: Education for children

The reply to question 8 of the GOQ will be examined by the Committee to assess the implementation of **Article 6** with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether a special attention is drawn to children’s education concerning the risks of sexual abuse of children in the circle of trust, and how children should protect themselves and request help in this regard. If so, please provide details. (**Explanatory Report, paras.59-62**).

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 has become a matter of great importance in schools recently.

Question 3: Recruitment and screening

The reply to question 9 of the GOQ will be examined by the Committee to assess the implementation of **Article 5, para. 3** with respect to the theme of the monitoring round, paying particular attention to the recruitment and screening of persons whose professions involve regular contacts with children.

There is a proposal for a legislative change under the Law on the Amendments and Supplements of the Penal Code. The amendment foresees a special provision which gives the Court the legal ground for imposing cumulatively also a punishment under art 37, para1, i. 6 or i. 7 of the CC for perpetrators convicted under art 149-157 of the CC (sexual crimes against children)

art 37, para1,

“i. 6 deprivation of right to practice a specific state or public position”

“i. 7 deprivation of right to practice specific profession or activity”.

Question 4: Raising awareness on sexual abuse in the circle of trust

Have policies or strategies been implemented for promoting or conducting awareness-raising campaigns where the focus is directed especially towards the risks and realities of sexual abuse of children in the circle of trust? If so, please specify for whom these campaigns were/are run (**Article 8, Explanatory Report, paras. 65-66**). Please include examples by providing links to what has been developed.

There is a significant increase of initiatives, programmes and projects in Bulgarian schools which teach students on the so called reproductive health – a part of the global strategy for health education in the recent years. There is a number of non-governmental organizations that work on sexual and reproductive health. The health inspectors in the Regional Health Inspectorates also organize and prepare different campaigns, initiatives and information materials for children. Annually there are events (concerts, happenings, polls, and dances) on 1st of December – Anti Aids Day, 14th of February – St Valentine’s Day, on 17th of May and etc. These events are patronized by the Regional Health Inspectorates and the Bulgarian association for family planning.

Question 5: Specialised training

Have legislative or other measures been taken to ensure that persons, units or services in charge of investigations are trained in dealing with cases where the alleged perpetrator of child sexual abuse is a member of the victim’s immediate family or has otherwise been in a recognised position of trust, authority or influence over him or her? (**Article 34 (1), Explanatory Report, paras. 233-235 as well as para. 123**).

Given that the Penal Code itself provides in a number of provisions as a constitutive element the commitment of the offense by a upward relative - i.e. father, mother, grandmother, grandfather, or the act of using a position of vulnerability or supervision means that the magistrates (judges and prosecutors) have been trained in the initial and continuing training at the National Institute of Justice on the aforementioned hypotheses.

In the curriculum of the National Institute of Justice annually are foreseen and 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 program for remote training of magistrates from 2012 NIJ annually conducts training on "Proceeding for measures for protection from domestic violence," which deals with the problems with the imposition of measures on protection from domestic violence, including children. 40 magistrates, one official of the Ministry of Justice and one judicial officer trained in the distance course conducted in 2012 and 2013. Lecturers in these trainings are Bulgarian magistrates (judges and prosecutors), trained to work with children who are victims or witnesses of crime, and experts at the Institute of Social Activities and Practices. Funding for these trainings are funded from the budget of the National Institute of Justice, as well as funds for projects in which the Institute is a beneficiary.

Question 6: Participation of children, the private sector, the media and civil society

Replies to questions 4 and 11 of the GOQ will be examined by the Committee to assess the implementation of **Article 9** with respect to the theme of the monitoring round. Please therefore only add whether any specific steps have been taken to encourage participation by children, the private sector, the media and/or civil society in the development and implementation of policies, programmes or other initiatives specifically concerning sexual abuse of children in the circle of trust. If so, please specify which and explain how participation takes place. (**Explanatory Report, paras. 67-75**).

Such measures focused explicitly on the circle of trust are not taken.

Question 7: Preventive intervention programmes or measures

Which measures have been taken to ensure that persons, especially those forming a part of a child's circle of trust, who fear that they may commit offences of sexual abuse established in accordance with the Convention, have access, where appropriate, to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? (**Article 7, Explanatory Report, para. 64**).

Social Protection directorates shall take the appropriate measures in accordance with every specific case.

PROTECTION

The questions in this section aim at identifying what specific legislative or other measures have been taken to protect in particular children victims of sexual abuse in the circle of trust.

Question 8: Reporting suspicion of sexual abuse

The reply to question 13 of the GOQ will be examined by the Committee to assess the implementation of **Article 12** with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether specific legislative or other measures have been taken to encourage reporting of sexual abuse of children in the circle of trust to the competent authorities. (**Explanatory Report, para. 91**).

As noted in the general questionnaire, a special provision in the Child Protection Act /art. 7/ provides for a general obligation for reporting when a child needs protection. Every person is obliged to signal the Bulgarian child protection bodies - "Social Assistance" Directorate (Agency for Social Assistance), State Agency for Child Protection and Ministry of Interior.

Furthermore, art. 205, para. 1 and par. 3 of the Criminal Procedure Code "Obligation of the citizens and officials to signal" stipulates:

“Art. 205.

(1) Anyone who becomes aware of a general crime is obliged to immediately signal the Authority of the pre-trial proceedings or other state authority.

(2) On becoming aware of a crime of general nature, officials must report to the pre-trial body and take the necessary measures to preserve the environment and crime data.

(3) In the cases under para. 1 and 2 pre-trial body immediately exercise its powers to initiate criminal proceedings. "

Question 9: Assistance to and special protection for victims

- If, and to what extent, does internal law provide for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse? If internal law so provides:

The regulations are provided in the CPA, Criminal-Procedure Code and the Law on Protection against Domestic Violence.

Art 25 of CPA “Grounds for placement out of the family” stipulates among others that a child could be placed out of his/her family if he/she is a victim of violence in the family and there is a serious threat of harm of his/her physical, mental, moral, intellectual or social development.

The placement of a child outside of the family is a protective measure of last resort after exhausting all options for protection within the family except in cases of urgent removal.

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; 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.

In the context of criminal proceedings can also be applied a protection under the Criminal Procedure Code (CPC) - art. 67 "Prohibition to approach the victim." (see the appendix for more information).

PROTECTION AGAINST DOMESTIC VIOLENCE ACT

Chapter One GENERAL PROVISIONS

Art. 1.

(1) This law governs the rights of individuals having suffered from domestic violence, the protection measures, and the procedure applicable to the imposition of such measures.

(2) Liability under this Act shall not preclude the civil, the administrative-criminal and the criminal liability of the respondent.

Art. 2.

Domestic violence is any act of physical, sexual, mental, emotional or economic violence, and any attempted such violence, as well as the forcible restriction of individual life, individual freedoms and rights, carried out against individuals who have or have had family or kinship ties or cohabit or dwell in the same home.

Art. 3.

Protection under this Act may be sought by any individual having suffered from domestic violence applied by:

1. a spouse or former spouse;
2. a person with whom that individual cohabits or has co-habited;
3. a person with whom that individual has a child;
4. an ascendant;
5. a descendant;
6. a person with whom are relatives in the collateral line to the fourth degree, inclusive;
7. a person with whom is or was affinity to the third degree;
8. a guardian, a custodian or a foster parent;
9. ascendant or descendant of the person who is in a de facto marital cohabitation;
10. a person whom the parent is or has been a de facto marital cohabitation.

Art. 4.

- (1) In the event of domestic violence the victim has the right to refer to the court to seek protection.
- (2) 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 for the imposition of emergency measures in accordance with the Ministry of Interior Act.
- (3) At the request of the victim, any medical doctor must issue a document to establish in writing any injuries or traces of violence found by that doctor.

Art. 5.

- (1) The protection measures against domestic are:
 1. placing the respondent under an obligation to refrain from applying domestic violence;
 2. removing the respondent from the common dwelling-house for a period specified by the court;
 3. prohibiting the respondent from getting in the vicinity of the victim, 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.
- (2) The measures under para 1, points 2, 3, and 4 shall be imposed for a period from three months to eighteen months.

.....

- are the conditions and duration of such removal to be determined in accordance with the best interests of the child? (**Article 14 (3), Explanatory Report, para. 99**);

The main principles for child protection are listed in Article 3 of the Child Protection Act. Among them is explicitly enshrined the principle of "best interests of the child". Legal definition of the term is defined in Item 5 of the Supplementary Provisions of the Child Protection Act, and according to it "the best interest of a child" is the discretion of:

- wishes and feelings of the child;
- physical, mental and emotional needs of the child;
- age, sex, background and other characteristics of the child;
- danger or harm caused to the child or is likely to be caused to him;
- ability of parents to care for the child;
- consequences that will occur as a result of the changed circumstances;
- other circumstances relating to the child.

The steps stipulated in the regulations for implementing the measure “placement outside the home” safeguards the compliance with this principle. The first step is maintaining a comprehensive social inspection, which is the basis for the risk assessment for the child and his/her needs, and subsequently preparation of an action plan for the case; the action plan is reviewed at every six months. Legal safeguard of the principle is the established judicial review of the decisions of the bodies for child protection for the undertaken measure. Another safeguard for the best interest of the child is the prosecutor’s involvement in the judicial proceedings for placement of a child outside the family.

- have legislative or other measures been taken to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care? (**Article 14 (4), Explanatory Report, para. 100**).

Article 23 of the Child Protection Act indicates that protection measures in family environment can be taken by referral to appropriate services in the community. Measures for protection through the use of social services are undertaken by the SAD at the request of parents, guardians, trustees, people who care for the child, or the child and at the discretion of SAD and are carried out by providers of social services for children or the SAD

- Does internal law provide that sanctions for offences of child sexual abuse within the circle of trust include denying the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed? (**Article 27 (3) (b), Explanatory Report, para. 187**).

"Deprivation of the right to practice a profession or occupation" is regulated in Art. 37, Paragraph 1, Item 7 of the Penal Code. Article 50, paragraph 1 of the same normative act stipulates that such penalty shall be imposed in cases provided by law, if the occupation of the office or the exercise of the profession or activity is incompatible with the nature of the offense. Lack of indication of sex offenders among those listed in Article 160 of the Penal Code leads to the conclusion that among the legal penalties for committing sexual crimes is not settled "deprivation of the right to practice a profession or occupation." On the other hand, this outcome is an obstacle towards exercising the profession or occupation due to the incompatibility with the requirements/terms for/of its implementation, which are usually regulated by the requirements for occupying the vacancy or in other regulation.

1. Ordinance for criteria and standards for social services for children:

Criterion 8, Standard 15, Annex 2 under art. 29:

„8. Annually, every employee is inspected whether or not he/she was a subject of a pre-court proceeding.“

Criterion 5, Standard 21, Annex 3 under art. 48:

„5. 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.“

2. Ordinance №4/11.05.1993 r. for documents required for labour agreement

Article. 1. For signing a labour agreement the following documents are required:

1. Passport or other identity document that is returned immediately;
2. Documents for graduated education, qualification, competences, academic title or degree, when required for office or vacancy for which the person is applying;

3. Documents for experience, when office or vacancy for which the person is applying to possess such;
4. Document for medical examination for initial entry into work after suspension of work under an employment agreement for a period exceeding three months;
5. Certificate of conviction when a law or regulation require clear criminal record;
6. Permission from the labour inspection if the person is under 16 years of age or aged 16 to 18 years.

3. Ordinance for the documents required for becoming a state employee

Art. 2.

- (1) Written request is submitted ...
- (2) Enclosed with the request also are provided:

.....

5. Certificate of conviction.....

4. Implementing Regulation on Public Education Act

Art. 125. Positions of art. 124, para. * 1 and 2 cannot be occupied by persons who:

1. are sentenced to imprisonment for an intentional crime;
2. are deprived of the right to practice their profession;
3. suffer from diseases and abnormalities that endanger 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.

* Art. 124.

- (1) Teachers positions are:
 1. "junior teacher";
 2. "teacher";
 3. "senior teacher";
 4. "master teacher";
 5. "teacher-methodologist";
- (2) Counsellors' positions are:
 1. "junior counsellor";
 2. "counsellor";
 3. "senior counsellor";
 4. "master counsellor";
 5. "counsellor -methodologist."

5. Criminal Procedure Code

Removal of defendant from office

Art. 69.

(1) Where the charge is for a malicious crime of general nature committed in connection with the office and there are sufficient grounds to deem that the official position of the defendant will put obstructions to objective, thorough and complete clarification of the circumstances under the case, the Court may remove the defendant from office.

6. Draft Law on amendment and supplement of the Penal Code

It foresees a new provision which applies a punishment referred to art 37, items 6 and 7 for persons from a circle of trust who committed a sexual offense.

§14 new art. 158b is created:

„**Art. 158b** For crimes under art. 149-157 or art. 158a the court can court impose a disqualification under Art. 37, paragraph 1, item 6 or 7.”

Paragraph 15 of the Amendment and Supplement of the Penal Code provides the possibility to impose the punishment for crimes under Article 159, paragraph 1-7.

Paragraph 16 of the Draft Law on Amendment and Supplement of the Penal Code provides the possibility of imposing sanctions under Article 37, items 6 and 7 of an offense under Article 188, paragraph 1-4.

At present the proposed amendment to the Penal Code which will allow child sex offenders to be deprived of rights through criminal law penalty is to be discussed and adopted at second reading by the Parliament in short terms.

PROSECUTION

The questions in this section focus on those provisions that deal with criminalising and sanctioning intentional conduct which amounts to sexual abuse within the child's circle of trust as well as some theme-specific issues relating to whether the investigative, prosecutorial and court stages of proceedings take adequate account of the special nature of cases that have a circle of trust component.

Question 10: The offence of sexual abuse

The reply to question 16 of the GOQ will be examined by the Committee to assess the implementation of **Article 18** with respect to the theme of the monitoring round. The reply to question 1 of the GOQ will also be considered while assessing the situation in the Party with respect to **Article 18**. While replying to this questionnaire, please therefore only add:

- what is understood by “intentional conduct” in internal law? (**Explanatory Report, para. 117**);

The General Part , Chapter Two “Crime”, Section I “General Positions” of the Penal Code contains the legal definition of the term "crime" and its differentiation according to the form of the culpability into intentional crime and negligent crime.

Article 11, paragraph 2 of the CC states that the act shall be considered intentional if the perpetrator has been aware of its socially dangerous nature; he/she has foreseen its socially dangerous consequences and has wanted or admitted the occurrence of these consequences.

- what is understood by "sexual activities" in internal law? (**Explanatory Report, para. 127**).

The meaning of sexual activities in Bulgarian criminal law means all acts within the scope of Chapter Two "Crimes against the person" of the Special Part of the Penal Code, Section VIII "Debauchery". These are all acts of art. 149 Art. 159, inclusive. Please see the appendix and the general questionnaire.

Question 11: Corporate liability

The reply to question 17 of the GOQ will be examined by the Committee to assess the implementation of **Article 26** of the Convention with respect to the theme of the monitoring round. If, in addition, any other measures are foreseen, please specify.

Additional measures to the already existing ones are not foreseen, as the already provided measures constitute the needed legal base in order to comply in full with the requirements of the Conventions.

Question 12: Aggravating circumstances

Does internal law ensure that if an offence of sexual abuse, established in accordance with the Convention, is committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority or any other person in the child's circle of trust, that such circumstances may be considered an aggravating factor in the determination of sanctions, in so far as they do not form a part of the constituent elements of the offence? If so, does internal law provide different sanctions depending on whether the relationship of the perpetrator to the child is within the context of family relations or of a professional or voluntary activity (e.g. care providers in institutions, teachers, doctors, etc.)? (**Article 28 (c) and (d), Explanatory Report, paras. 198-199**).

Legislative approach in regulation of sexual offenses against children is applied in some of the provisions as aggravating circumstance leading to increase of penalty. Such is the committed offense by a person in the children's circle of trust. In other cases the perpetration of such crimes from people from the circle of trust is part of the constituent elements of the offenses.

I. Provisions as aggravating circumstance leading to increase of penalty:

Art. 149, par(2) PC If the fornication is committed by using force or threat, using the helpless status of the aggrieved or by bringing him to such a state the punishment is aggravated.

Art 152, par 2, I 2. If the raped woman is a descending kinswoman - punishment is aggravated.

II. Perpetration of such crimes of people from the circle of trust is part of the constituent elements of the offenses:

The penalty here is not aggravated due to the offense against minor is constituent part of the provision.

Art. 150. PC Who commits an act with the purpose of arousing or satisfying a sexual desire without copulation regarding a person who has accomplished 14 years of age, by using force or

threat, availing himself of his helpless status or by bringing him to such a status (fornication with a minor).

Art. 151 (PC) states that 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. When the criminal act mentioned above 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.

154. PC Copulation between ascendants and descendants, between brothers and sisters and between adopter and adoptee shall be punished by imprisonment of up to three years

Art. 157. PC Who carries out sexual intercourse or an act of sexual satisfaction with a person of the same sex by using force or threat or using a **state of dependence or supervision**, as well as with a person unable to defend himself, shall be punished by imprisonment of two to eight years.

III. In other provisions of sex crimes against children in which the perpetrator is not a part of children's circle of trust or the main constituting the crime is not regulated in aggravated the underlying crime, it can be taken into consideration when determining the sentence as a fact determining the degree of social danger of the offense and the offender, the motives for the offense in light of all mitigating and aggravating circumstances. The legal basis for this is the provision in Article 54 of the Penal Code.

"Art. 54.

(1) 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 dangerousness of the offense and the offender;
- motives of the act and other mitigating and aggravating circumstances.

(2) Mitigating circumstances leads to the imposition of a lighter penalty, and aggravating - a more severe punishment."

Question 13: Best interest of the child

- Please specify whether in situations where the alleged perpetrator is a member of the victim's family or has otherwise been in a recognised position of trust or authority towards him or her, legislative or other measures have been taken to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim of sexual abuse. (**Article 30, para. 1, Explanatory Report, para. 215**);
- The reply to question 22(d) of the GOQ will be examined by the Committee to assess the implementation of **Article 31, para. 4** of the Convention with respect to the theme of the monitoring round;
- Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the victim's circle of trust, include withdrawal of parental rights or monitoring or supervision of convicted persons (**Article 27, para. 4, Explanatory Report, para. 191**).

First, the safeguards for best interest of the child victim and enjoyment of his/her rights in the investigation stage and during the judicial proceeding are enshrined in the special Child Protection Act.

Child Protection Act

Section I „General Rules“

Art. 3. The protection of the child is based on the following principles:

.....

3. (amended 2009) provision of child’s best interest;

4. (amended 2009) special protection of a child at risk;

.....

Second, there is an opportunity for simultaneous taking of protection measures enlisted in art 4 of the Child Protection Act together with proceedings’ activities; the foreseen special protection for child at risk; the enshrined in art 10 right for child protection for his/her normal physical, mental, moral and social development and for protection of his/her rights and interests; art 11 – right to be protected against all forms of violence; art.11a – the right of protection of child’s personality; art. 13 – the right to be informed and consulted; art 15, par.1 - the obligation the child to be heard in all administrative or judicial proceedings which concern his/her rights and interests.

The main safeguards for the best interest of the child are envisaged in art 15 of the CPA, where is regulated the child involvement in proceedings – the hearings conditions, the participation of a representative from the SAD and presentation of the social report, the right of the child of legal aid and complaints in all proceedings which affects his/her rights or interests.

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.

Supplementary regulations

5. "the best interest of a child" is the discretion of :

- wishes and feelings of the child;
- physical, mental and emotional needs of the child;
- age, sex, background and other characteristics of the child;
- danger or harm caused to the child or is likely to be caused to him;
- ability of parents to care for the child;
- consequences that will occur as a result of the changed circumstances ;
- other circumstances relating to the child.

Penal-procedure Code

Special representative

Art. 101.

(1) Whereas the interests of the juvenile or of the under-aged injured 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 be also appointed to the injured, 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.

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 less than 14 years of age the necessity to give true testimony, without warning him/her liability.

Interrogation of a witness whose identity is kept secret

(5) The interrogation of a minor or juvenile in the state can be done via videoconference if necessary

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 it 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.

(4) In all the cases, the verdict shall be announced in public.

Reading the testimony of a witness

Art. 281.

(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:

.....

The deprivation of parental rights is another legal proceeding envisaged in the Family Code. The consequence of this proceeding is the deprived parental rights and deprived parental function to conduct legal representation. This proceeding is developing independently from the development of penal proceeding initiated by the other parent, prosecutor or SAD. It is not a part of the punishment which defines the parent as a perpetrator of the offense within the circle of thrust and it is complementary safeguard for the protection of the child.

According to the Penal Code, the penalty "probation" includes elements of supervision and monitoring of convicted persons. Based on the provisions of the Penal Code regulating sexual offenses against children, it can be concluded that this penalty is provided only in the provision of chl.155b. In all other cases, the legislature has provided for the imposition of a more severe punishment - „imprisonment".

Question 14: Child-friendly justice

a. Please specify whether in situations where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her, a 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 and Explanatory Report, paras. 211-215**);

I. In all cases, children who are victims of sexual abuse are subject to special protection and care aimed at ensuring their security and overcome the trauma of violence. For this purpose, the protection shall apply the principle of the best interests of the child and ensuring special protection for him/her as stipulated in **Article 3 of the Law on Child Protection**.

The special child protection is implemented through applying of the appropriate protection measures, stipulated in article 4 of the CPA – in or outside the family environment.

Protection measures

Article 4.

(1) Child protection under the present Act shall be carried out through:

1. assistance, support and services rendered in the child's family environment;
2. placement of the child with relatives or close families;
3. adoption – in accordance with the Family Code;
4. placement of the child with a foster family;
5. placement of the child in a specialised institution;
6. police protection;
7. specialised protection at public places;
8. provision of information with regard to the rights and obligations of children and parents;
9. provision of preventative measures for security and protection of the child;
11. provision of legal assistance by the state;
12. specialised care for children with physical and mental disabilities.

Protection of the child's possibility

Art. 11a.

(1) Information and data for a child are not announced without the permission of his/her parents or legal representatives except in cases under art. 7, para. 1.

(2) In cases where a protection measure is taken, no information and measures concerning the child shall be disseminated without the written statement of the authority who has undertaken the measure.

(3) Where a child is above 14 years old, his/her consent is also required.

Information and Consultation

Article 13.

Every child has a right to be informed and consulted by the child protection body even without the knowledge thereof of his or her parents or of the persons who take care of his or her rearing and upbringing, should that be deemed necessary in view of protecting his or her interests in the best possible way and in case where informing the said persons might harm the child's interests.

Note: all the above mentioned measures are applicable before, during and/or after the completion of the criminal proceeding (due to the nature of the measures taken and the stages).

II. Law on support and financial compensation to crime victims

Chapter one.

GENERAL PROVISIONS

Art. 1.

(1) This Law shall regulate 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.

(2) 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. 2.

The purpose of this Law is the protection of the rights and the lawful interests of crime victims to be acknowledged and guaranteed.

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.

(2) Where the victim has passed away as a result of the crime, the right of support and financial compensation shall pass to his/her children, parents, spouse or the person, with whom he/she was in actual cohabitation.

(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.

Art. 4.

This Law shall apply in the cases where the crimes referred to in Art. 3, para 3 have been committed on the territory of the Republic of Bulgaria or if the crimes have been committed out of its territory and the victim is a Bulgarian citizen.

Art. 5.

The support and the financial compensation are an act of humane attitude of the state towards the victims of crime.

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.

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.

b. Which legislative or other measures been taken to ensure that investigations or prosecution 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, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (**Article 32, Explanatory Report, para. 230**);

Crimes defined under all the provisions of the Penal Code which criminalise sexual offences against children are crimes of a general nature and proceedings for them are initiated ex officio by the competent bodies.

From the scope of Art. 161 (Supplementary Provisions) Chapter Two "Crimes against the person" of the Penal Code where are explicitly mentioned the crimes of a private nature (i.e. these for which criminal proceedings are instituted upon complaint of the victim) are excluded the offences under Section VIII "Debauchery", Art. 149-159. In terms of art. 188 (coercing a child into prostitution), the Penal Code does not provide in Chapter Four any special provision, which means that the latter is also a crime of a general nature.

c. Have legislative or other measures been taken to ensure that a judge, in a criminal trial regarding an offence which can be considered to involve sexual abuse of a child within the circle of trust, may order the hearing to take place without the presence of the public or that the victim may be heard in the courtroom without being present? (**Article 36, para. 2 and Explanatory Report, para. 242**).

Yes, such measures have been undertaken and exist. Please, see below for further information:

Penal-Proceeding Code

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 ask 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.

Note: When possible, the interrogation of a child takes place in a special hearing room.

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 it 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 a crime, may be questioned in camera.

(4) In all the cases, the verdict shall be announced in public.

Appendix

Child disaggregated by the type of the violence

	2003		2004		2005		2006		2007		2008		2009		2010		2011		2012	
Total number of cases	1995		2181		1429		1772		1593		1602		1539		2155		2175		2127	
	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%	<i>Number of cases</i>	%
Psychological	393	20	628	29	257	18	288	17	298	19	254	16	287	19	409	19	382	18	413	19,4
Physical	505	25	525	24	486	34	587	34	568	36	490	30	477	31	691	32	713	33	781	36,7
Sexual	108	5	149	7	100	7	147	8	145	9	190	12	176	11	253	12	354	16	324	15,3
Neglect	989	50	879	40	586	41	720	41	582	36	668	42	599	40	802	37	726	33	609	28,6
Total	1995		2181		1429		1742		1593		1602		1539		2155		2175		2127	

Source: SACP

Children victims of violence according to the perpetrator, 2012

The violence is done by:	Number of children	%
- another child	63	19,4%
- unknown	23	7,1%
- unfamiliar	30	9,3%
- acquaintance (neighbour)	92	28,4%
- parent	39	12,0%
- relative	29	9,0%
- teacher, school staff	9	2,8%
- other	39	12,0%
total	324	

Source: SACP

Year	Total number of children victims of trafficking	Number of children victims of trafficking aiming sexual exploitation
2008	71	
2009	31	
2010	48	15
2011	47	3
2012	66	9
2013	60	10

Source: SACP

Number of prostituting children passed through the Child Pedagogical Rooms

Year	Number of prostituting children passed through the Child Pedagogical Rooms
2008	210
2009	177
2010	119
2011	137

Source: Central Commission for combating juvenile delinquency

Extracts from legislation

Criminal code

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 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)

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 to participate or of fourteen years, 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.

Special Provision

Article 161

(1) 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) 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.

Penal 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.

Law on Protection Against Discrimination

Chapter One

GENERAL PROVISIONS

1. (1) This law governs the rights of individuals having suffered from domestic violence, the protection measures, and the procedure applicable to the imposition of such measures.

(2) Liability under this Act shall not preclude the civil and the criminal liability of the respondent.

2. Domestic violence is any act of physical, sexual, mental, emotional or economic violence, and any attempted such violence, as well as the forcible restriction of individual life and individual freedom and of privacy, carried out against individuals who have or have had family or kinship ties or cohabit in a conjugal partnership.

(2) Psychological or emotional violence against a child is also any act of domestic violence, carried out in child's presence.

3. Protection under this Act may be sought by any individual having suffered from domestic violence applied by:

1. a spouse or former spouse;
2. a person with whom that individual cohabits or has co-habited;
3. a person with whom that individual has a child;
4. an ascendant;
5. a descendant;
6. a person with whom are relatives in the collateral line to the fourth degree, inclusive;
7. a person with whom is or was affinity to the third degree;
8. a guardian, a custodian or a foster parent;
9. ascendant or descendant of the person who is in a de facto marital cohabitation;
- 10 a person whom the parent is or has been a de facto marital cohabitation.

4. (1) In the event of domestic violence the victim has the right to refer to the court to seek protection.

(2) 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.

(3) At the request of the victim, any medical doctor must issue a document to establish in writing any injuries or traces of violence found by that doctor.

5. (1) The measures for protection against domestic violence are:

1. enforcing the perpetrator to refrain from applying domestic violence;
2. removing the respondent from the common dwelling-house for a period specified by the court;
3. prohibiting the respondent 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.

Judiciary System Act

Article 249

(1) The National Institute of Justice shall carry out:

1. mandatory inception training of junior judge and junior prosecutor candidates;
2. operations for maintaining and improving the qualifications of judges, prosecutors and investigating magistrates, of state enforcement agents, recordation judges, judicial assistants, prosecutorial assistants, 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 257

(1) National Institute of Justice syllabuses shall be endorsed by the management board at the proposal of the Director following coordination with the Supreme Judicial Council.

(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 duration of the training referred to in Article 249, paragraph 1, Item 1 shall be 9 months and shall start in September in the relevant year.

.....

(2) At the end of the training, junior judge and junior prosecutor candidates shall sit for a written and an oral examination, both of which being of a practical nature, marks being given on a scale of six.

.....

Article 258a

.....

(3) The Supreme Judicial Council shall, by the resolution referred to in Article 186, paragraph 7, appoint the candidates who have successfully completed the training referred to in Article 249, paragraph 1, Item 1 to the position for which they have been approved.

.....

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.