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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

CROATIA

Replies registered by the Secretariat on 21 January 2014

Revised replies to questions 1, 16 and 17 registered by the Secretariat on 26 June 2014

**Revised replies to questions 3a, 3c, 15b, 20, 21b, 21e, 22b, 22d and 23c registered by the Secretariat
on 24 November 2014**

GENERAL FRAMEWORK

Question 1: Definition of “child”

- a. 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”?**

The notion of “child” is defined in Article 87 paragraph 7 of the Criminal Act¹ (hereinafter referred to as: the CA) as any person who has not attained the age of 18. Thus, the internal law of the Republic of Croatia is aligned with the Lanzarote Convention.

- b. 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?**

The Criminal Procedure Act² (hereinafter referred to as: the CPA) lays down expressly that where the age of a child-victim is uncertain, it is to be assumed that the child-victim in question is under the age of eighteen.

- c. 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.**

Article 158³ of the CA makes it a criminal offence to have sexual intercourse with a person under the age of fifteen. However, the sexual abuse of a child over the age of 15 years is also a criminal offence if such offence has been committed by a person who has been entrusted with the upbringing, education, custody, spiritual guidance or care of the child or

¹ Official Gazette 125/11 and 144/12.

² Article 44 paragraph 3 of the CPA (Official Gazette 152/08, 76/09, 80/11, 91/12, 143/12, 56/13, 145/13) reads as follows: “Where the age of the victim is unknown, it shall be assumed that the victim is a child if there is a possibility that the victim has not reached the age of eighteen years.”

³ Article 158 reads as follows: “(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen, or induces a child under the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever commits a lewd act against a child under the age of fifteen, or induces a child to commit a lewd act with a third party or upon himself/herself, shall be sentenced to imprisonment for a term of between six months and five years.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or performing a sexual act equated with sexual intercourse or a lewd act does not exceed three years.

(4) A perpetrator who was avoidably mistaken that the child referred to in paragraph 1 of this Article was at least fifteen years old shall be sentenced to imprisonment of between six months and five years. If he/she was avoidably mistaken that the child referred to in paragraph 2 of this Article was at least fifteen years old, he/she shall be sentenced to imprisonment of up to three years.

(5) Whoever commits the criminal offence referred to in paragraph 1 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) Whoever commits the criminal offence referred to in paragraph 2 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between one and eight years.”

by a person who is a relative by blood or by adoption, in direct line, a step-father or a step-mother.⁴

The CA also provides that there shall be no criminal offence if the age difference between the persons engaging in sexual intercourse or an equivalent sexual act or a lewd act does not exceed three years (Article 158 paragraph 3).

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 Republic of Croatia has established an institutional system for the prevention of discrimination through the adoption of the Anti-Discrimination Act⁵, in force from 1 January 2009.

By strengthening the institutional anti-discrimination framework through recognising the People's Ombudsman as the central authority responsible for preventing discrimination Croatia's anti-discrimination practice has made great strides forward.

The Anti-Discrimination Act prohibits discrimination on the grounds of race or ethnic affiliation, colour, gender, language, religion, political or other belief, national or social origin, property, trade union membership, education, social status, marital or family status, age, state of health, disability, genetic heritage, gender identity, expression of sexual orientation. The said Act sets forth, among other things, the concept and forms of discrimination, the Act's scope of application, judicial protection mechanisms, powers of the People's Ombudsman and other ombudspersons, and advances a very important provision on the shift in the burden of proof from the claimant onto the respondent, as a result of which it is now on the respondent to prove that there has been no discrimination.⁶

Also deemed discrimination is the placing of a person into a less favourable position on the basis of a misconception of the existence of a ground for discrimination.

Particularly noteworthy is the institution of joint action whereby associations, bodies, institutions or other organisations having a justified interest in protecting the interests of a certain group may bring a court action against a person that has violated the right to equal treatment.

The scope of application of the Anti-Discrimination Act includes the following areas: education, science and sports, social security, including social welfare, pension and health

⁴ Article 159 reads as follows: "(1) Whoever engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on a direct-line relative by blood or by adoption, a step-father or step-mother who engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse."

⁵ Official Gazette 85/08 and 112/12.

⁶ Article 20 reads as follows: "(1) Where a party in court or other proceedings claims that his/her right to equal treatment pursuant to the provisions of this Act has been violated, he/she is required to make it plausible that discrimination occurred. In this case, it shall be for the respondent to prove that there has been no discrimination."

insurance and unemployment insurance, health protection, the judiciary and administration, housing, provision of public information and the media, access to goods and services and their provision, membership in and active participation in the activities of trade unions, civil society organisations, political parties or any other organisations, and participation in cultural and artistic creation.

Question 3: Overview of the implementation

a. indicate the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;

The legislative framework ensuring the fulfilment of the purpose of this Convention is provided by the CA in which the said criminal offences are laid down in:

- Title IX – Crimes against Humanity and Human Dignity⁷,
- Title XVI – Criminal Offences against Sexual Freedom⁸, and
- Title XVII – Criminal Offences of Sexual Abuse and Sexual Exploitation of Children⁹.

In addition to the above criminal offences directly relating to child sexual abuse, mention should be made of criminal offences against child exploitation¹⁰.

Furthermore, in order to eliminate circumstances enabling or conducive to the commission of a new criminal offence, the court has the possibility, under the CA, to impose upon the perpetrator, in addition to a penalty, safety measures or special obligations¹¹.

⁷ The said title of the CA contains the criminal offences of “Slavery” (Article 105 of the CA) and “Trafficking in Human Beings” (Article 106 of the CA).

⁸ The said title of the CA contains the following criminal offences: “Non-Consensual Sexual Intercourse” (Article 152 of the CA), “Rape” (Article 153 of the CA), “Lewd Acts” (Article 155 of the CA), “Sexual Harassment” (Article 156 of the CA), “Prostitution” (Article 157 of the CA). It should also be pointed out that Article 154, paragraph 1, point 2, and paragraph 2, of the CA provides for more severe punishment of the criminal offences of “ Non-Consensual Sexual Intercourse”, “Rape”, and “Lewd Acts” (Articles 152, 153 and 155 of the CA) where the victim of the said criminal offences is particularly vulnerable due to his/her age. This category of “victim vulnerable due to his/her age „most certainly also includes the child within the meaning of Article 87 of the CA.

⁹ By which the following criminal offences are meant: “Child Pandering” (Article 162 of the CA), “Exploitation of Children for Pornography” (Article 163 of the CA), “Exploitation of Children for Pornographic Performances” (Article 164 of the CA), and the criminal offence of “Introducing Pornography to Children” (Article 165 of the CA). With respect to prevention of, fight and protection against sexual exploitation and abuse, special criminal-law protection is provided to children under the age of 15 years. These criminal offences include the following: “Sexual Abuse of a Child under the Age of Fifteen” (Article 158 of the CA), “Satisfying Lust in the Presence of a Child under the Age of Fifteen” (Article 160 of the CA) and “Child Enticement for the Purpose of Satisfying Sexual Needs” (Article 161 of the CA). Article 166 of the CA also provides for special, so-called aggravated forms of particular criminal offences termed “Serious Criminal Offence of Child Sexual Abuse and Exploitation” (Article 166 of the CA).

¹⁰ This group of criminal offences includes the criminal offence referred to in Article 106 of the CA, namely “Trafficking in Human Beings”. Pursuant to paragraphs 2 and 3 of the said Article, the said criminal offence, when committed against the child, is punishable (paragraph 2: “... whoever recruits, transports, transfers, harbours or receives a child, or exchanges or transfers control over a child for the purpose of exploiting his or her labour by means of forced labour or services, slavery or a relationship similar thereto, or for the purpose of exploitation for prostitution of the child or of other forms of sexual exploitation, including pornography, or of contracting an illicit or forced marriage, or of illegal adoption, or of taking parts of a child's body, or of using the child in armed conflicts.”, while paragraph 3 provides for a more severe penalty: “If the criminal offence referred to in paragraph 1 was committed against a child or the criminal offence referred to in paragraphs 1 or 2 of this Article was committed by a public official in the performance of his or her duties, ...”).

¹¹ Safety measures include the following (Articles 65 to 76 of the CA): mandatory psychiatric treatment, mandatory addiction treatment, mandatory psychosocial treatment, prohibition from holding a particular office or engaging in a particular activity, prohibition from driving a motor vehicle, prohibition from approaching a person, removal from shared household, prohibition from accessing the Internet, and protective supervision upon having served a full prison sentence. Some special obligations that are of relevance to the subject matter of this

The Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation which is currently in force in the Republic of Croatia regulates issues such as the legal consequences of conviction, the organisation of the criminal record, its keeping, access to the record, entry of data onto and their deletion from the record, international exchange of the data on the criminal record, and rehabilitation. The criminal record also includes a record of persons convicted by a final judgment for criminal offences of child sexual abuse and child sexual exploitation. The courts, public authorities and institutions engaged in procedures for the protection of the rights and interests of children and procedures of entrusting certain tasks and activities in the field of child-related work may be provided, upon their reasoned request and in the form of a special certificate, with data on the persons convicted by a final judgment for the criminal offences of sexual abuse and sexual exploitation of children. When taking somebody on to do a job that involves regular contacts with children or entrusting somebody with tasks that involve such contacts, the employer may, subject to consent from the person on whom this information is requested, ask for the issuance of a special certificate.

The rehabilitation period for perpetrators of the criminal offences of child sexual abuse and exploitation is twice as long as that for any other criminal offence. Criminal records data are transmitted to all other EU Member States electronically through the use of a criminal records database connected to the European Criminal Records Information System (ECRIS) and to third countries in accordance with the provisions of international treaties.

b. indicate 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;

With a view to enhancing the protection of children against all forms of violence, the Government of the Republic of Croatia has adopted a number of strategic documents, such as: the 2006-2012 National Action Plan for the Rights and Interests of Children, the 2009-2013 National Youth Programme, the 2009-2012 National Strategy for the Prevention of Behavioural Disorders among Children and the Youth, and the 2011-2016 National Strategy for Protection against Family Violence. Also, 2004 saw the drafting of the Violence Prevention Programme for Children and Youth, and the Family Violence Protocol (2006 amendments), which Protocol sets forth the procedures to be followed by the competent authorities where an act of violence has been committed, making special reference to children.

The 2006-2012 National Action Plan for the Rights and Interests of Children sets out measures aimed at protecting children against all forms of abuse and neglect. Segments "The Role of the Family in Child-Raising and Upbringing" and "Abused and Neglected Children" encompass a whole range of goals and measures that in the first place include the strengthening of the prevention of and protection of children against all forms of abuse, including sexual abuse and exposure to abuse via the Internet. The "Abused and Neglected Children" segment of the National Plan contains 15 measures aimed at prevention. The goals of this Segment include the following: systematic raising of public awareness of the importance of protecting children against abuse and neglect, raising professional awareness in the performance of activities relating to the protection of children against abuse and neglect, strengthening prevention and timely identification of child abuse and neglect cases, strengthening prevention and protection of children against all forms of neglect and exposure to abuse via the Internet. The measures are being implemented by all relevant state

Convention include the following: "refraining from frequenting certain establishments, ...", "undergoing individual or group psychosocial treatment at a youth counselling center" or "prohibition to approach or harass the victim" .

administration authorities at the national level and at the level of local and regional self-government. As the basic strategic document in the area of children's rights, the National Plan, in the part relating to the protection of children against violence, corresponds to a great extent with the content and values promoted by Recommendation CM/Rec(2009)10 of the Committee of Ministers to member states on integrated national strategies for the protection of children from violence, of which the Council of Europe Guidelines on integrated national strategies for the protection of children from violence are also an integral part.

Moreover, currently being developed is the new 2013-2020 National Strategy for the Protection and Promotion of the Rights of Children in the Republic of Croatia. Its strategic aim – the elimination of all forms of violence against children – will include several goals and measures relating to all forms of violence against children.

c. indicate 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.

Measures aimed at promoting and implementing the Council of Europe Guidelines on Child-Friendly Justice in the Republic of Croatia are included in the draft proposal of the 2013-2020 National Strategy for the Protection and Promotion of the Rights of Children in the Republic of Croatia, namely segment 3.1.1. Child-Friendly Justice – with the aim of making the judiciary more child-friendly and facilitating children's access to justice and the legal system. Likewise, all measures and activities listed under this segment of the said strategic document are in line with documents constituting the international framework.

Question 4: Child participation

a. 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);

The Council for Children, a governmental advisory body, has been active since 1998. It is entrusted with the task of permanently monitoring the implementation of the National Action Plan for the Rights and Interests of Children and coordinating the activities of state and other bodies within the overall implementation of the measures and activities planned. The Decision on the Establishment of the Council for Children of December 2012¹² provides for the first time that a children's representative and a representative of the National Council of Pupils sit on the Council.

In the first quarter of 2011, the Office of the Ombudsperson for Children has carried out a study among the young in the cities of Rijeka, Split and Osijek in order to find out their attitudes towards certain aspects of sexual abuse. The Criminal Act¹³ (hereinafter referred to as: the CA/97) in force at the time defined the child as a person under the age of 14 years. The Office carried out this study in collaboration with children - members of the Network of Young Advisors of the Ombudsperson for Children, whose attitudes and opinions prompted the taking of certain measures within this sphere of activity. The study focused on the issue of the minimum age of consent to sexual intercourse with an older partner as one of the

¹² Official Gazette 98/12.

¹³ Official Gazette 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07, 152/08 and 57/11.

aspects of the protection of children against sexual exploitation. This study sought to find out what children thought about this. Therefore, in the first quarter of 2011, as a continuation of the study conducted among 850 secondary-school pupils in Zagreb in 2009, an additional study was carried out among 1,650 secondary-school pupils in Split, Osijek and Rijeka. The overall results of the survey show that of the 2,500 secondary-school pupils surveyed, 2,367 (94.68%) of them held that the minimum age of 14 years was too low and that it needed to be raised. Of these, 1,143 (45.72%) held that this minimum age should be 16 years, 562 (22.48%) opted for the minimum age of 17 years, 438 (17.52%) for the minimum age of 18 years, and 224 or 8.96% were of the opinion that it should be 15 years. Only 5.32% (133) of surveyed secondary-school pupils held that the minimum age of 14 years was appropriate and that it should not be changed. These results revealed that it was necessary to amend criminal legislation in terms of increasing adult criminal liability for the sexual exploitation of children, which was also brought to the attention of the working group charged with drafting the Criminal Act and thus eventually led to the increase in the minimum age to 15 years.

The Office of the Ombudsperson for Children has organised four workshops for the young entitled "What Kind of Sex Education for the Young", in the work of which members of the Network of Young Advisors to the Ombudsperson for Children (NYA) participated. The workshops were held in December in the cities of Osijek, Rijeka, Split and Zagreb. Members of the NYA were informed of the Council of Europe "One in Five" Campaign to stop sexual violence against children and they participated in the discussion on the sex education for the young. Children stated what they thought of the ways in which they obtain information about sexuality and responsible sexual conduct and expressed their opinions as to when and how they should be given information relating to sexuality in school, what type of information was relevant to them and to what extent it was important, whether they have a need to discuss and learn about the relations between the sexes, what content in terms of the child's upbringing and education promoting responsible sexual behaviour it would be best to offer at each stage of the child's development, in particular in view of peer violence, and what approach to take in working with children on preventing sexual abuse and exploitation.

Moreover, audio recordings in which children give advice to other children on how to protect themselves against sexual abuse and exploitation have been placed on the website www.sigurnijinternet.hr.

At education institutions children are actively involved through taking classes on Health Education in schools and, to some extent, Civic Education classes. Pupils are taking part, depending on their grade of study, in the work of civil society organisations dealing with this issue.

Also, the working group charged with developing the 2013-2020 National Strategy for the Protection and Promotion of the Rights of Children in the Republic of Croatia was formed so as to include, among others, a representative of the children and a representative of the National Council of Pupils, whereas in order to prepare itself for its role within the said working group, the Union of Societies "Our Children" of Croatia carried out a survey among children in children's councils and children's forums in 15 cities throughout the Republic of Croatia, the results of which survey were taken into account when the said 2013-2020 National Strategy was being developed.

b. 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).

The Office of the Ombudsperson for Children¹⁴ pays attention to children's views, interests and needs when legislative and other measures are being adopted, carries out surveys and collects data on children's views, interests and needs.

The results of the survey carried out by the Office of the Ombudsperson for Children revealed that it was necessary to increase adult criminal liability for the sexual exploitation of children.

With a view to strengthening the criminal-law protection of children offered to all children, a more severe penalty has been introduced for criminal offences committed against children under the age of fifteen years.

The interests of children are also looked after by means of statutory provisions on the statute of limitations for the criminal prosecution of criminal offences committed against a child. Specifically, the statute of limitations for the criminal prosecution of the said criminal offences starts to run when the child-victim attains the age of majority.¹⁵

Question 5: Specialised bodies/mechanisms

a. 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));

The independent institution in charge of promoting and protecting the rights of the child is the Ombudsperson for Children. His job is to inform the public about the state of children's rights, inform children about and give advice to them on the manner in which their rights and interests may be exercised and protected, and participate in procedures preceding the passing of legislation relating to children's rights. He/she may also propose the passing of and amendments to laws and other regulations relating to the rights and protection of children. The Ombudsperson for Children has access, irrespective of their degree of

¹⁴ Under the Ombudsperson for Children Act (Official Gazette 96/03), the ombudsperson for children protects, monitors and promotes the rights and interests of children pursuant to the Constitution of the Republic of Croatia, international treaties and laws. The Ombudsperson for Children acts independently and autonomously, adhering to the principles of fairness and morality. The Ombudsperson for Children may not be given instructions or orders with respect to his/her sphere of activity. The Ombudsperson for Children is appointed and relieved of duty by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia.

¹⁵ Under Article 83, paragraph 3, of the CA, the statute of limitations for initiating criminal proceedings for the following criminal offences: "Slavery" referred to in Article 105, paragraph 3, "Trafficking in Human Beings" referred to in Article 106, paragraphs 2 and 3, "Murder" referred to in Article 110, "Aggravated Murder" referred to in Article 111, "Manslaughter" referred to in Article 112, paragraph 1, "Participation in Suicide" referred to in Article 114, "Female Genital Mutilation" referred to in Article 116, "Serious Bodily Injury" referred to in Article 118, "Particularly Serious Bodily Injury" referred to in Article 119, "Serious Criminal Offences against Sexual Freedom" referred to in Article 154, paragraph 1, point 2, "Sexual Abuse of a Child under the Age of Fifteen" referred to in Article 158, "Sexual Abuse of a Child over the Age of Fifteen" referred to in Article 159, "Child Pandering" referred to in Article 162, "Exploitation of Children for Pornography" referred to in Article 163, "Exploitation of Children for Pornographic Performances" referred to in Article 164, "Serious Criminal Offences of Child Sexual Abuse and Exploitation" referred to in Article 166, "Enabling Non-marital Cohabitation with a Child" referred to in Article 170, "Abandonment of a Close Person in a Situation of Distress" referred to in Article 171, "Child Desertion" referred to in Article 176 and "Violation of Children's Rights" referred to in Article 177 of this Act, committed against the child starts to run from when the victim reaches the age of majority. The said provision on the statute of limitations for criminal prosecution existed in the previous Criminal Act as well.

confidentiality, to all the data, information and legal acts relating to the rights and protection of children, is entitled to enter and inspect all the facilities, state administration authorities, legal and natural persons authorised under special legislation to take care of children, and is authorised to issue warnings, give proposals and recommendations to all state administration authorities, local and regional self-government units and legal persons that are obliged to cooperate and, at the request of the Ombudsperson for Children, submit reports. With a view to monitoring the manner in which children's rights are exercised in the Republic of Croatia, the Ombudsperson for Children also monitors the measures and activities undertaken by the competent authorities that are directed at combatting all the negative occurrences infringing, either directly or indirectly, on the rights of children as they are guaranteed by international documents and the positive law of the Republic of Croatia.

The Ombudsperson for Children is funded from the state budget.

b. 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));

The Ministry of the Interior of the Republic of Croatia monitors and analyses the security conditions and occurrences beneficial for the emergence and development of crime in the territory of the Republic of Croatia as well as within the areas of competence of particular police administrations. This is also the framework within which information relating to the sexual exploitation and sexual abuse of children are analysed and recorded (records containing data on the number of committed criminal offences, number of victims, number of perpetrators, as well as the relationship between the victim and the perpetrator).

Furthermore, health care facilities keep records containing information on the following:

1. the number of reports submitted by physicians to the Croatian Health Insurance Fund in the case of injuries inflicted by a family member;
2. the number of cases in which the victim of domestic violence is administered medical treatment;
3. costs of medical treatment of the victim of domestic violence;
4. the number of cases in which the victim of domestic violence is prescribed psychiatric treatment; and
5. the number of cases in which the perpetrator of domestic violence is prescribed psychiatric treatment.

According to the protocols for handling cases of domestic violence, sexual violence, bodily injury inflicted by a family member or by an unknown person, the physician is required to fill out the "Injury/Illness Report" form which is then submitted to the police and the local branch office of the Croatian Health Insurance Fund within the jurisdiction of which the person has a permanent or temporary place of residence.

As regards the requirements of personal data protection, one of the objectives of the Sexual Violence Protocol is to ensure data confidentiality in accordance with the provisions of the Personal Data Protection Act¹⁶, Official Statistics Act¹⁷, Media Act¹⁸, codes of ethics for

¹⁶ Official Gazette 103/03, 118/06, 41/08 and 130/11.

¹⁷ Official Gazette 103/03, 75/09 and 59/12.

professionals and international treaties on privacy protection to which the Republic of Croatia is a signatory.

Under Article 25 of the Act on the Protection of Patients' Rights¹⁹, the patient is entitled to confidentiality of his/her medical information in accordance with the professional secrecy and personal data protection legislation.

Professional legislation relating to health care workers, namely the Medical Practice Act²⁰, Dental Practice Act²¹, Medical-Biochemistry Act²², Pharmacy Act²³, Nursing Act²⁴, Midwifery Act²⁵, Physiotherapy Act²⁶, Health Care Activities Act²⁷, as well as the codes of ethics and deontology for health care workers provide that health care workers are required to respect regulated patients' rights and the requirements of personal data protection.

Social welfare centres keep records of the application of the provisions of the Family Act that come within their area of competence. The said centres forward data to the Ministry of Social Policy and Youth which then processes the said data and drafts annual reports that are available to the public on the Ministry's website. The section *Protection of the Rights of the Child and Child Welfare* provides, among others, the following information (some of which refer to child abuse and, in particular, child sexual abuse):

- the number of reported cases of child abuse by type of violence and abuser;
- the number of reported cases of child abuse by source of filed report.

c. 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 Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation which regulates the legal consequences of conviction, the organisation of the criminal record, its keeping, access to it, entry of data on the criminal record and their deletion from it, international exchange of criminal record data, and rehabilitation has been in force in the Republic of Croatia since 1 January. This Act, *inter alia*, transposes into Croatia's national law Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA. A criminal record is kept for physical and legal persons convicted by a final judgment in the Republic of Croatia for criminal offences. Article 4 of the said Act explicitly provides that the criminal record also contains a list of persons convicted by a final judgment for criminal offences of child sexual abuse and child sexual exploitation.

The criminal record of perpetrators convicted by a final judgment contains the following information: full name, maiden name, personal identification number, full names of the father and mother, mother's maiden name, date, place and state of birth, nationality, permanent and temporary residence, and for the legal person: firm name, i.e., the legal person's full

¹⁸ Official Gazette 59/04 and 84/11.

¹⁹ Official Gazette 169/04 and 37/08.

²⁰ Official Gazette 121/03 and 117/08.

²¹ Official Gazette 121/03, 117/08 and 120/09.

²² Official Gazette 121/03 and 117/08.

²³ Official Gazette 121/03, 35/08 and 117/08.

²⁴ Official Gazette 121/03, 117/08 and 57/11.

²⁵ Official Gazette 120/08 and 154/10.

²⁶ Official Gazette 120/08.

²⁷ Official Gazette 87/09.

name, its seat and personal identification number, as well as information on the judgment itself, the criminal offence and criminal sanctions.

It should also be noted that all these data on the perpetrator may be provided upon a reasoned request; to courts, public authorities and institutions engaged in procedures for the protection of the rights and interests of children and procedures of entrusting certain tasks and activities in the field of child-related work.

The data listed refer to the conviction record check for criminal offences enumerated in the answer to question 3a).²⁸

The Act also provides for the possibility of issuance, subject to consent from the person on whom this information is requested, of the certificate of no criminal conviction for criminal offences committed against children. This possibility exists in cases where the employer is employing a person to do a job that involves regular contacts with children. In the Republic of Croatia it is the Ministry of Justice, which is also the central authority for the international exchange of such data, that keeps, pursuant to these statutory provisions, a record of persons convicted by a final judgment for sexual criminal offences against children.

In order that these perpetrators be removed from the criminal record, i.e., in order that their convictions for these criminal offences be fully rehabilitated, a period of time twice as long as that applicable to the rehabilitation of convicted persons is prescribed.

Furthermore, the determination of the genetic identity of persons convicted for criminal offences established in accordance with this Convention is subject to the provisions of Article 327, paragraphs 1 and 2 of the CPA.²⁹ Under the CPA, the data collected by means of molecular-genetic analysis are stored and kept, as a rule, for a period of twenty years upon the termination of criminal proceedings.³⁰

The Ordinance on the organisation and keeping of records of automatically processed data on suspect identity determination³¹ states that the Ministry of the Interior of the Republic of Croatia is charged with setting up the following suspect identity determination records:

1. Record of signalitic photographs;
2. Record of papillary line prints; and
3. Record of DNA profiles.

²⁸ See footnotes 4 and 5.

²⁹ Article 327, paragraphs 1 and 2, of the CPA reads as follows: "(1) The competent authority may order the performance of molecular genetic analysis in order to enable the comparison of biological traces recovered from the crime scene or any other location at which traces of a criminal offence have been left with biological samples taken from persons referred to in paragraph 2 of this Article, or to establish the identity of a particular person, or to enable the comparison of these traces or samples with the results of molecular genetic testing obtained in accordance with this Act or any other act.

(2) Samples of biological material shall be taken for any of the purposes referred to in paragraph 1 of this Article from:

- 1) the place of commission of a criminal offence and any other location at which traces of a criminal offence exist;
- 2) the defendant;
- 3) the victim;
- 4) any other person provided the sample to be taken is not a biological sample of this person, unless otherwise prescribed by this Act.

³⁰ Article 327a, paragraph 2, of the CPA reads as follows: "The data collected by molecular genetic analysis in accordance with the provisions of Article 327 of this Act from a defendant against whom a final judgment of conviction will be brought in the criminal proceedings in question shall be stored and kept for a period of twenty years following the conclusion of the criminal proceedings. Exceptionally, where the criminal offence in question carries a sentence of ten years' imprisonment or a more severe penalty, or where it is a criminal offence against sexual freedom carrying a sentence of imprisonment in excess of five years, the said data may be kept for no more than forty years following the conclusion of the criminal proceedings.

³¹ Official Gazette 157/09; Article 2.

The abovementioned records are kept on the information system of the Ministry of the Interior.

The records of DNA profiles contain the following data: the name of the authority responsible for data entry, where and when the biological samples were taken, DNA profile, full or partial DNA profiles of traces taken from the site, data on the person from which samples were taken for molecular-genetic analysis: full name, citizen identification number, personal identification number, sex, full name of the father, date of birth, full name of the mother and her maiden name, place of birth, country of birth, permanent residence, street and house number, nickname, false name or alias, occupation, profession, marital status, nationality, for aliens type of border crossing document, number and date of issuance of the said document, name of the authority that issued the said document and date of expiry of the said document, name of the criminal offence of which the person is suspected and information on whether the DNA profile is in the CODIS system (Combined DNA Index System).

The national database containing data collected by means of molecular-genetic analysis (CODIS) is located at the Forensic Science Centre "Ivan Vučetić".

Question 6: National or local coordination, cooperation and partnerships

- a. 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 order to arrive at more effective solutions in the field of prevention of and fight against domestic violence that rest on a close and well-coordinated inter-agency cooperation, in 2010, an agreement between the Ministry of the Interior, the Ministry of Justice, the Ministry of the Family, Veterans' Affairs and Intergenerational Solidarity, the Ministry of Health and Social Welfare, the Ministry of Science, Education and Sports, and the Ministry of Public Administration was signed. Its aim was to set up inter-agency teams at both the national and county levels.

The teams are tasked with the coordinated monitoring and supervision – through teamwork – of the work of all the competent authorities dealing with cases of domestic violence and violence against women, which is to lead to greater cooperation between the said authorities, thus eventually contributing to the prevention of and fight against domestic violence and quality protection of victims and thereby also to the protection against, prevention of, and fight against sexual exploitation and sexual abuse of children.

In line with the above, the Ministry of the Interior developed, in 2010, a package of measures, i.e., specific activities, which it is still implementing in cooperation with the other competent authorities, institutions and civil society organisations.

- b. 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 working groups that the Ministry of Social Policy and Youth and the other ministries set up when drafting legislation falling within their respective fields of competence include representatives of all the relevant state authorities, public institutions and civil societies that

are active in the field in question. This allows for the coordination of all the relevant factors within a certain field.

Also, as a form of cooperation with civil societies, the Ministry of Social Policy and Youth awards funds on a competitive basis to projects set up by various associations that aim to prevent violence against and among children and the youth.

c. 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)?

The Criminal Act, Criminal Procedure Act, Juvenile Courts Act³² and Probation Act³³ provide the legislative framework within which probationary services and other bodies act and specify the measures that may be imposed on suspects or convicted perpetrators of criminal offences covered by the Lanzarote Convention.

Under the Probation Act, the probation service takes measures aimed at protecting the entire society from offenders and at resocialising and reintegrating offenders into the community. Probation-related activities are of special interest to the Republic of Croatia and are performed when deciding on criminal prosecution, imposing measures ensuring the defendant's presence, deciding on the type of criminal sanction, and enforcing criminal sanctions against the perpetrator of a criminal offence. The probation service, in performing activities within its field of competence, cooperates and exchanges relevant information with individuals, institutions, associations of citizens, courts, state attorney's offices, health care and social welfare institutions, educational institutions, employment service, academia, police, prison system, attorneys-at-law, legal persons, and other institutions and associations. Concerning all of the above, one of the strategic goals of the probation service is to establish a partnership with the police so that it would be able to better supervise high-risk perpetrators of all criminal offences in the community, including those covered by the Lanzarote Convention. In pursuit of the same aim, the probation service is working to establish a partnership with agencies specialised in developing specific and structured interventions directed at various groups of high-risk perpetrators, including persons convicted of criminal offences under the Lanzarote Convention. For these purposes as well as for the purpose of establishing and promoting cooperation, the Probation Sector of the Ministry of Justice has signed with the Ministry of the Interior a Protocol on Co-operation in the Performance of Probation-Related Activities.

Legislative measures with respect to defendants, convicted persons and juvenile offenders are specified in the CPA and the Juvenile Courts Act.

The CPA provides for the possibility of ordering a precautionary measure against the person charged with a criminal offence in situations where there are grounds for imposing investigative imprisonment.³⁴

³² Official Gazette 84/11, 143/12 and 148/13.

³³ Official Gazette 143/12.

³⁴ Precautionary measures provided for in Article 98 of the CPA include the following: prohibition to leave one's place of residence, prohibition to frequent a certain location or area, duty to report at regular intervals to a certain person or a government authority, prohibition to approach a certain person, prohibition to establish or maintain contact with a certain person, prohibition to engage in a certain business activity, temporary seizure of a travel or other document needed for crossing the state border, temporary seizure of the driving license, prohibition to stalk or harass the victim or another person, and removal from the home. The precautionary measure of removing a person from his/her home or restricting his/her unhindered relationship with members of his/her household, spouse or common-law spouse, parents, children, adoptee or adopter may be ordered only where the criminal offence that is the subject of the proceedings was committed against any of these persons.

The CA provides for the possibility of ordering safety measures against a person convicted of a criminal offence against a child provided for in the Lanzarote Convention, which safety measures may in turn be ordered alongside the sentence of imprisonment or conditional sentence.³⁵ Their purpose is to prevent or eliminate the circumstances that influence the commission of a certain type of criminal offence.

From the viewpoint of criminal-law protection covered by the Lanzarote Convention, the safety measure of “prohibition from holding a particular office or engaging in a particular activity“ is especially significant.³⁶

The court may order the safety measure “prohibition from approaching a person“ against the perpetrator of a criminal offence against sexual freedom or a criminal offence of sexual abuse or sexual exploitation of children where there is a risk that the perpetrator might recommit the said criminal offence against the victim, another person or a group of persons or that he/she might recommit it at a particular location.³⁷ The said measure may be no shorter than one year or longer than five years.

In the case of a criminal offence against sexual freedom committed against a child and a criminal offence of child sexual abuse and exploitation, the CA provides for the ordering, in addition to the above mentioned measures, of protective supervision following a prison term served to the full. Consequently, the period for the duration of which protective supervision is ordered starts to run after the full prison sentence is served, that is, immediately upon the perpetrator's release from prison. The ordering of protective supervision following a prison term served to the full is intended to facilitate the convicted person's reintegration into society and to protect the victim. Protective supervision is imposed by court judgment and is carried out by the probation authority. The period of probation lasts for one year and, upon the proposal of the authority carrying out protective supervision, may be extended by one year. Exceptionally, when passing judgment, the court need not impose protective supervision where it has reason to believe that, although protective supervision was not ordered, the convicted person will not commit a new criminal offence.

The CA also specifies the obligations of the convicted person during the probation period that starts with his/her release on parole under the conditions provided for by a special act.³⁸ The convicted person released on parole (for a period which is commensurate with the length of the unserved part of the prison sentence) may be imposed special obligations or protective supervision under the authority of the probation service. As regards the part of criminal-law protection that is regulated by the Lanzarote Convention, mention should be made of the following special obligations: undergoing or continuing to undergo psychosocial treatment provided by health care facilities, legal or natural persons authorised to provide such treatment, prohibition to frequent certain places, facilities or events which could provide him/her with the opportunity or incite him/her to commit a new criminal offence, prohibition to approach the victim or some other person, prohibition to harass or stalk the victim or some other person, and treatment or continuation of treatment necessary to overcome a disorder

³⁵ Safety measures are provided for in Articles 65 to 76 of the CA; they are listed in footnote 11.

³⁶ The safety measure is provided for in Article 71 of the CA. Under paragraph 3 of the said Article, the said safety measure may (inter alia) be ordered in relation to a criminal offence against sexual freedom committed against a child and a criminal offence of child sexual abuse and exploitation. In other words, the Act provides for the possibility of imposing a prohibition on the defendant to hold an office or engage in an activity that involves regular contact with children even when the criminal offence committed is not related to this office or activity. This safety measures may also be ordered for the entire duration of the perpetrator's life. However, after a period of 10 years, the convicted person may request that the application of the said measure be discontinued, in which case the court may discontinue the application of the measure where it establishes that the risk because of which the measure was ordered has ceased to exist.

³⁷ Article 73, paragraph 1, of the CA.

³⁸ Execution of Prison Sentence Act (Official Gazette 128/99, 55/00, 59/00, 129/00, 59/01, 67/01, 11/02, 190/03, 76/07, 27/08, 83/09, 18/11, 48/11, 125/11 and 56/13).

which could be conducive to the commission of a new criminal offence. Protective supervision may be imposed where the assistance, guidance and supervision by the competent probation authority is deemed necessary in order to prevent the perpetrator from committing new criminal offences and to facilitate his/her integration into society. Protective supervision and special obligations may also be ordered against perpetrators who were not sentenced to imprisonment but were imposed, for instance, a conditional sentence.

According to the data obtained from the probation service on the types of special obligations imposed in the Republic of Croatia pursuant to final judicial decisions and relating to criminal offences covered by the Convention, in 2012, a total of 17 special obligations relating to treatment or continuation of treatment for disorders (Article 62, paragraph 2, point 4 of the CA) were imposed, while by 18 October 2013, a total of 7 such obligations were imposed.

The Juvenile Courts Act lays down special procedural rules for criminal offences established by the Lanzarote Convention³⁹ when the perpetrators of criminal offences are minors (14-18 years) or young adults (18-21 years). A minor who at the time of committing a criminal offence is over fourteen but under sixteen years of age may be ordered educational measures and safety measures, while a minor who at the time of committing a criminal offence is over sixteen years of age but under eighteen years of age may be ordered educational and safety measures and, under the terms of the Act, juvenile imprisonment.⁴⁰ The purpose of criminal proceedings against minors is to ensure protection, care, assistance and supervision and thus ultimately prevent them from committing new criminal offences. It should be pointed out that for the purpose of implementing the provisions of this Convention, a minor may also be imposed special obligations which may not exceed one year.⁴¹ Young adults may also be imposed measures and sanctions provided for in the Juvenile Courts Act. Apart from special obligations, a minor or young adult may, in addition to educational measures or juvenile imprisonment, be imposed safety measures.

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.

Within the context of international development cooperation, the Republic of Croatia is gradually integrating prevention of and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states.

The Republic of Croatia devotes special attention to the protection of human rights, in particular those of the most vulnerable groups in society, among which children feature most prominently, and has adopted a special approach towards war-torn countries. In view of Croatia's recent experience of post-conflict issues and transition, the activities carried out by the Republic of Croatia primarily fall under reconstruction programmes in post-conflict and unstable environments and the protection of children in crises. In this regard, Croatia specialised in providing assistance in the form of programmes of psychosocial rehabilitation of children-victims of humanitarian crises that include the psychosocial rehabilitation of children with promotion of children's development through various educational programmes.

³⁹ See footnotes 4 and 5.

⁴⁰ Juvenile Courts Act, Article 4.

⁴¹ Special obligations such as, for instance, "refraining from frequenting certain establishments...", "undergoing individual or group psychosocial treatment at a youth counselling centre", "prohibition to approach or harass the victim", etc.

The Republic of Croatia has in this way carried out the rehabilitation of children-victims of humanitarian crises from Japan, Palestine and Iraq. Through similar educational programmes promoting children's development, the Croatian Red Cross with its network of branch organisations and many other civil society organisations run education courses that include spreading knowledge of and providing practical solutions for preventing and reporting sexual violence against children, thus also raising awareness about its actual proportions. In view of the specific experience it has, the Republic of Croatia is willing to share the knowledge it has gained in this field with the countries that express an interest in this.

PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 8: Education, awareness raising and training

- a. 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);
 - 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);
 - 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).
- b. 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);

Council of Europe Campaign to Stop Sexual Violence against Children “Kiko and the Hand“

In 2011, within the framework of the Council of Europe campaign, the Ministry of the Interior launched a series of prevention activities relating to the said subject matter at the local and regional level. These activities were organised on behalf of the Ministry of the Interior in Police Administrations by staff specialised in juvenile delinquency in partnership with staff specialised in crime prevention. They were varied and directed at different target groups, including, first and foremost, pre-school and primary school age children, but also their parents, qualified staff in pre-school and educational institutions, police officers and the general public. The main activities were educational and informational in character as they

included workshops and lectures intended for children, parents, qualified staff, and the police. In addition to these educational activities, there were news conferences, public discussions, round tables, children's plays, campaign promotional events for the public, TV and radio shows, etc.

Besides promoting the Convention and its goals, the said activities were intended to raise public awareness about this problem, prompt people to report such events, and inform the general public about where and how to ask for the needed assistance. These activities were organised by Police Administrations in partnership with the Ministry of Social Policy and Youth's family centres. Standard promotional materials (leaflets, posters, video clips) under the name "Kiko and the Hand" were used in the campaign.

Prevention Campaign "Protecting Children on the Internet" by the General Police Directorate of the Ministry of the Interior and *net.hr* Internet portal

In June 2012, the General Police Directorate of the Ministry of the Interior and *net.hr* Internet portal launched a joint prevention campaign entitled "Protecting Children on the Internet".

The said campaign is intended to raise public awareness of the dangers and risks of inadequate use and lack of knowledge of computer and communication technologies and the Internet, with special emphasis on their dangers and risks for children.

The said campaign started in June 2012 and is still ongoing. It is run via the Internet and the new means of communication, which enables it to reach its target groups, in particular, the parents. Its main activities include the following: informational and educational activities; parent counselling and work with parents, educational activities and work with children.

In its education for children and parent counselling segment, this Campaign relies on the "You're Not Alone" project of the Koprivnica-Križevci Police Administration in which all primary school within the territory of the Koprivnica-Križevci County have been participating since September 2011. The project has prompted other police administrations to endeavour, in collaboration with the competent partners in their local communities, to raise the awareness of the young population as regards the safe use of the Internet and modern technologies.

Prevention Project "Living a Life Without Violence"

In October 2010, a joint prevention project "Living a Life Without Violence" was launched by the Ministry of the Interior and UNDP in collaboration with the non-governmental organisation "Status M", the civil society organisation Words/Make/Plays, local communities and educational institutions.

The project is being carried out in towns throughout the Republic of Croatia and is directed at the prevention of violence against women, domestic violence and violence among the young. Through its long-term implementation and the realisation of each of its components, the said prevention project is focused on preventing all forms of violence and developing a culture of non-violence among the young.

The activities aim at prompting pupils to develop positive attitudes that comply with society's positive values, raising their awareness of the problem of all forms of violence, preventing violence, encouraging everyone and especially the victims to report violence, and increasing awareness of the existence of social entities that by acting jointly and in an organised fashion foster a positive environment for the development of children and the young. The target group are children and the young (pupils in the 7th and/or 8th grade of primary school).

By bringing together the three components, namely “Interactive Workshop“, “Conceptually Developed Programme“ and “Interactive Debate Forum“, each of which builds on the preceding one, the project takes a systematic approach to primary crime prevention.

During the first component, namely the “Interactive Workshop“, children and the young become familiarised with the issue of violence and the statutory possibilities for its prevention and reporting and learn about non-violence, tolerance and non-discrimination. This component, organised at educational institutions with the assistance of UNDP, includes the participation of police representatives, non-governmental organisation “Status M“, and teachers and school educationists.

The second component, “Conceptually Developed Programme“ is directed at developing a culture of non-violence, tolerance and non-discrimination and is adapted to children and the young as a follow-up to the first project component. The said component includes the participation of both the representatives of the police and UNDP, and artists promoting this project and spreading its message among the general public. This component consists of two interdependent parts: topical play and musical and performing arts programme.

By building on the information and knowledge gained during the first two components, the third component, i.e., the interactive “debate forum“, encourages children and the young to comment and express their thoughts on the issues of nonviolence, tolerance and non-discrimination. This component is targeted at those children and the young who participated in the previous two project components. This component requires active participation of children and the young in terms of their having to write an essay on the topic of violence and its prevention, includes a discussion, stimulates thinking, and includes meetings and spending time with representatives of the police and possibly also other state authorities, organisations and civil societies, so that children and the young would become more actively involved in the process of understanding the model of a “caring community“.

In addition to the already mentioned programmes, children obtain good quality information through the health education programme that is obligatory in both the primary and the secondary school.

Continuous staff training is provided by health care institutions, professional bodies, relevant chambers and other organisers. It covers specialised training for health care workers in the protection and rights of children, specialised training on sexual violence, and specialised training on sexual exploitation and sexual abuse of children.

The City of Zagreb and the Polyclinic for the Protection of Children of the City of Zagreb have published a manual entitled “25 Questions (and Answers) for Experts in Child Abuse Discovery Procedures“. The manual is the result of the clinical work experience of the Polyclinic's experts and is based on the most frequent questions asked by psychologists, psychiatrists, paediatricians, school medicine physicians, teachers, social workers and other experts who come across these problems.

Under Article 108 of the Family Act⁴² everyone is required to inform the social welfare centre of a violation of a child's rights and, in particular, of all forms of physical or psychological violence against, sexual abuse, neglect or negligent treatment, abuse and exploitation of a child. Where any such report is filed, the social welfare centre is required, immediately upon receiving this report, to look into the matter and take measures to protect the child's rights. This Act provides for a series of measures which the competent authorities (social welfare centres, courts) may take whenever a violation of a child's rights is established.

⁴² Official Gazette 116/03, 17/04, 136/04, 107/07, 57/11 and 61/11.

Under the Protection against Domestic Violence Act⁴³, health care workers, professionals working in the fields of social welfare, prevention and protection within the family, and education, and professionals employed with religious institutions, humanitarian organisations, and civil society organisations the activities of which involve child- and family-related matters are required to report to the police or the state attorney's office any act of domestic violence that comes to their knowledge in the exercise of their professions. Any failure to do so represents a violation of the provisions of the said Act.

In addition to the provisions of the said Acts, there was the formerly applicable strategic document *2006-2012 National Action Plan for the Rights and Interests of Children*. One of the aims of the measures specified therein was to increase through the media public awareness of the rights of children. The new draft proposal of the 2013-2020 National Strategy for the Protection and Promotion of the Rights of Children in the Republic of Croatia also contains measures aimed at increasing public awareness.

Furthermore, under Article 202⁴⁴ of the Social Welfare Act social workers have the right and duty to undergo continuous professional training and development in their profession and other fields important for effective and good-quality provision of social services.

Concerning professional development of social workers, the Ministry participated in the implementation of three IPA projects: "Support to the Social Welfare Sector in the Process of Further Deinstitutionalisation of Social Services", "Improving Experts' Capacities for the Protection of Rights and Interests of Children and Youth Placed in Homes for Children and Youth with Behavioural Disorders", and "Improving Foster Care for Children and Youth in the Republic of Croatia", within the framework of which a number of training courses for social workers were organised. Throughout 2012 and 2013, three two-day seminars entitled "Abused Child – Psychological Assessment, interview and Treatment" and intended for psychologists working at social welfare centres and children's homes were held in cooperation with the Polyclinic for the Protection of Children of the City of Zagreb.

Following the launch of the Council of Europe "One in Five" Campaign, the Republic of Croatia developed an Action Plan implementing the Council of Europe Campaign to stop sexual violence against children in the Republic of Croatia. The said Action Plan was adopted in March 2011 and was implemented in 2011. Its implementation involved a wide range of activities organised throughout 2011 by ministries, offices of the Government of the Republic of Croatia, UNICEF Office for Croatia, family centres, and local and regional self-government units in cooperation with other stakeholders at the local level, including civil society organisations.

Materials relating to the Campaign were translated and adapted, and made available to the public on the Ministry's website.

At the local level, 17 family centres took part in the Campaign in 2011. These family centres organised numerous activities aimed at raising awareness, informing and spreading knowledge among children, youth, parents, and citizens of how to recognise, stop and prevent the sexual abuse of children (lectures for parents and children, workshops, publication and distribution of brochures, leaflets and posters, round tables, drives, informing through the local media and the like). Within the framework of the Campaign to stop sexual violence against children in the Republic of Croatia, the Family Centre of the City of Zagreb published the brochure "Good Secrets Make You Happy, Dark Secrets Do Not" containing information for children on the prevention of sexual abuse, including sexual abuse through the Internet.

⁴³ Official Gazette 137/09, 14/10 and 60/10.

⁴⁴ Official Gazette 33/12.

At present there are no plans to launch a new campaign.

- c. 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).**

The CA⁴⁵ provides that the criminal offence of introducing pornography to children is committed by a person who sells, gives a gift, presents or publicly displays, by means of a computer system, network or media for the storage of computer data or otherwise makes accessible files, pictures, audio-visual content or other objects of pornographic content to a child under the age of fifteen or who shows a child under the age of fifteen a pornographic performance.

Article 39 of the Media Act⁴⁶ prohibits public display and advertising of publications with pornographic content on the front page except in shops specifically designated for this purpose. A publication of pornographic content must visibly display a warning that it contains pornography as well as a warning against its distribution to minors.

Article 26 of the Electronic Media Act⁴⁷ prohibits the publication of footage containing especially immoral and pornographic content and footage encouraging, promoting, and glorifying, in any manner whatsoever, violence and crime. It also prohibits the broadcasting of audio-visual or radio programmes that may seriously impair the physical, mental or moral development of minors, in particular of programmes containing pornography or gratuitous violence. The broadcasting of audio-visual or radio programmes that are likely to impair the physical, mental or moral development of minors is prohibited, except where it is ensured by the television or radio broadcaster, by the selection of broadcasting time or any other technical measure, that minors within the area of transmission will not normally hear or watch such programmes. Where such programmes are broadcast in unencrypted form, the broadcaster is required to ensure that they are preceded by an acoustic warning or that they may be identified by the presence of visual symbols throughout their duration.

Question 9: Recruitment and screening

- a. 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;**

Acts regulating the exercise of certain professions, such as, for instance, the Social Welfare Act⁴⁸, Sports Act⁴⁹, Primary and Secondary Education Act⁵⁰, Act on Volunteering⁵¹, Nanny

⁴⁵ Article 165, paragraph 1, of the CA.

⁴⁶ Official Gazette 59/04, 84/11 and 81/13.

⁴⁷ Official Gazette 153/09, 84/11 and 94/13.

⁴⁸ Official Gazette 33/12.

⁴⁹ Official Gazette 71/06, 150/08, 124/10, 124/11, 86/12 and 94/13.

⁵⁰ Official Gazette 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12 and 94/13.

⁵¹ Official Gazette 58/07 and 22/13.

Act⁵², prohibit perpetrators of certain criminal offences committed against children from exercising these professions.⁵³

Furthermore, perpetrators convicted by a final judgment are entitled to rehabilitation upon the expiry of deadlines specified in the Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation. Criminal record data⁵⁴ are permanently and fully expunged pursuant to either the rehabilitation order issued by the authority charged with criminal record keeping, the final court decision on rehabilitation or the early rehabilitation decision by the authority granting amnesty or pardon. Provided the perpetrator of a criminal offence is not re-convicted of a new criminal offence, and the criminal offence of which he/she was convicted represents a criminal offence of sexual abuse and sexual exploitation of children⁵⁵, i.e., the criminal offence of “Non-Consensual Sexual Intercourse”⁵⁶, “Rape”⁵⁷ or “Lewd Acts”⁵⁸ committed against a victim who is particularly vulnerable due to his/her age, or the criminal offence of “Trafficking in Human Beings” referred to in Article 106 of the Criminal Act, paragraphs 2 and 3 of which lay down special penalties if the said criminal offence is committed against a child, the rehabilitation period applicable to the said convicted person will be **twice as long** as the rehabilitation period in respect of perpetrators of other criminal offences. General rehabilitation periods are specified in Article 19 of the Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation⁵⁹. If the period for the duration of which a safety measure was ordered is still running at the moment when the rehabilitation period expires, the data on the conviction and the safety measure will be expunged upon the expiry of, respectively, the rehabilitation period and the period for the duration of which the safety measure was ordered.

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

Under Article 10 of the Act on Volunteering, volunteering for the provision of services to children, disabled persons, the elderly and the infirm, persons who are ill or who are fully or partially deprived of transactional capacity, is forbidden, amongst others, to persons who have been convicted by a final judgment or who are subject to criminal proceedings for a criminal offence against life and limb, criminal offence against personal freedom or sexual freedom, criminal offence of sexual abuse and sexual exploitation of children, criminal offence against marriage, family and children, and to persons who have been convicted by a final judgment of or against whom criminal proceedings are in progress for a criminal offence against sexual freedom and sexual morality subject to the CA provisions applicable at the time.

⁵² Official Gazette 37/13.

⁵³ For instance, Article 106 of the Primary and Secondary Education Act lays down restrictions with respect to taking up employment with a school.

⁵⁴ Article 17 of the Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation.

⁵⁵ Sexual Abuse of a Child under the Age of Fifteen – Title XVII of the CA.

⁵⁶ Article 152 of the CA.

⁵⁷ Article 153 of the CA.

⁵⁸ Article 155 of the CA.

⁵⁹ Article 19 of the Act on the Legal Consequences of Conviction, the Criminal Record and Rehabilitation lays down the general periods of rehabilitation: for long-term imprisonment 20 years from the day the sentence is served, barred by the statute of limitations or remitted, for 10 years' imprisonment or a more severe sentence 15 years from the day the sentence is served, barred by the statute of limitations or remitted, for 3 years' imprisonment or a more severe sentence 10 years from the day the sentence is served, barred by the statute of limitations or remitted, for 1-year imprisonment or a more severe sentence or juvenile imprisonment 5 years from the day the sentence is served, barred by the statute of limitations or remitted, and for imprisonment of up to 1 year 3 years from the day the sentence is served, barred by the statute of limitations or remitted, for a fine from the day the fine is paid, for a conditional sentence from the day the probationary period expires, for community service from the day community service is completed, and for exemption from punishment from the day the decision on the exemption from punishment becomes final.

By way of example, according to the obtained data, each candidate for a job at the Centre for Child and Youth Mental Health Protection of the Zagreb Clinic for Children's Diseases is interviewed both by individual employees of the Centre and by interview panels (psychiatrists, psychologists, speech pathologists, special-education teachers) who have to decide whether there are any elements incompatible with working with children (e.g., sexual exploitation, sexual abuse). In this sense the written recommendations and the good references submitted by most candidates are also analysed. These measures apply to both permanent and temporary employees of the Centre, irrespective of the profession they exercise (psychiatrists, psychologists, special-education teachers, speech pathologists, nurses and technicians, occupational therapists), and to work-process observers, volunteers and interns.

Question 10: Preventive intervention programmes or measures

- a. 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);**

The Health Care Act⁶⁰, the Mandatory Health Insurance Act⁶¹, and the Plan and programme of health-care measures covered by mandatory health insurance⁶² represent the basic legislation on the health-care system in the Republic of Croatia.

Within the framework of the regular health-care system, all persons who are insured with the Croatian Institute for Health Insurance and who fear that they might commit any of the offences established in accordance with the Convention have access to the systems' primary, secondary and tertiary health-care institutions.

The Plan and programme of health-care measures covered by mandatory health insurance establishes, subject to available funding and health-care capacities, health-care measures referred to in the Mandatory Health Insurance Act, through the implementation of which measures persons insured with the Croatian Institute for Health Insurance are able to exercise their right to health care covered by mandatory health insurance, the entities obliged to implement health-care measures, and the manner of their implementation.

One of the programmes of health-care measures covered by mandatory health-care insurance in primary health care, more specifically in general practice/family medicine, is the programme of mental health care measures:

1. Improvement and maintenance of adult mental health – by counselling persons at risk in order to develop their abilities to face up to everyday life and overcome crises and to prevent mental disorders.

The body responsible for implementing the said measure is a mental health-care team, i.e., a chosen primary health-care team cooperating with and consulting specialists in psychiatry.

⁶⁰ Official Gazette 150/08, 71/10, 139/10, 22/11, 84/11, 12/12, 35/12 – Decision of the Constitutional Court of the Republic of Croatia, 70/12 and 82/13.

⁶¹ Official Gazette 80/13.

⁶² Official Gazette 126/06 and 156/08.

2. Early detection, treatment and rehabilitation of mental disorders affecting persons who have sought help because of mental as well as certain physical health problems coupled with their referral to a chosen psychiatric consultation unit.

The body responsible for implementing the said measure is a mental health-care team, i.e., a chosen primary health-care team cooperating with and consulting specialists in psychiatry.

The profession of medical specialists encompasses more sophisticated measures and procedures for prevention, diagnosis, treatment and rehabilitation.

Measures of specialised-cum-consultative health care are implemented, among other things, through psychiatric treatment.

The services provided by hospitals include diagnosis, treatment and medical rehabilitation, health care, and accommodation and alimentation of inpatients.

b. 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 programme "Prevention of Recidivism and Impulsive Behaviour Control" (PRIBC) for male perpetrators of criminal offences convicted of criminal offences against sexual freedom and criminal offences of sexual abuse and sexual exploitation of children has been implemented within Croatia's prison system since 2005. The said perpetrators undergo group treatment based on psychotherapeutic and psychosocial interventions largely relying on cognitive-behavioural therapy and psycho-education. Meetings lasting 60 to 90 minutes are held within small and fixed groups of prisoners (8 to 12 of them) once a week during 10 months, i.e., 40 weeks. Each PRIBC group is managed by two persons specially trained to work with perpetrators of the said criminal offences.

The Programme was first implemented only at the Lepoglava Penitentiary. However, in 2008, it was also launched in the Glina Penitentiary and since 2013 it is available in the Zagreb Prison as well.

As a unique mental health facility offering treatment to children suffering from various traumatic experiences, including children who have been sexually exploited and sexually abused, the Zagreb Polyclinic for the Protection of Children has no special programmes for young offenders, but provides both diagnosis and treatment of minors and children with sexual behaviour problems who are most frequently referred for examination by the competent social welfare centre. Where during the child's examination it is revealed that the perpetrator of sexual violence against the child is a minor, i.e., a child with sexual behaviour problems, the competent social welfare centre is recommended to refer this child/minor too for examination and possibly treatment at some mental health facility since it is important to focus on the child's behaviour and not on his/her classification as perpetrator.

The young with risky behaviours may be referred for consultative treatment to prevention of addiction and mental health services of county public health institutes.

Since the measures taken for the purpose of implementing intervention programmes aimed at preventing defendants, perpetrators convicted by a final judgment, and minors from repeating the same criminal offences, have already been expounded in the answer to question 6c) of this questionnaire, we will not repeat here the measures applied within Croatia's criminal law system. However, in view of the provision of Article 17 of the Convention, it should be pointed out that precautionary measures may be imposed where conditions for investigative imprisonment exist. Precautionary measures (enumerated in the answer to question 6c) of this questionnaire) are always ordered by means of a reasoned written order which, pursuant to the provision of Article 98 of the CPA, is accompanied by an oral warning to the defendant that, if he/she fails to comply with the ordered precautionary measure, the said measure will be replaced by investigative imprisonment. Special obligations, some of them being subject to the convicted person's consent, may be imposed on the convicted person in addition to the conditional sentence. Such special obligations concerning certain criminal offences regulated by this Convention which may be imposed only with the convicted person's consent are mentioned in the answer to question 3c) of this questionnaire: special obligation to undergo treatment or continue treatment necessary to overcome a disorder that might act as an incentive to the commission of a new criminal offence, and participation or continuation of participation in psychosocial treatment at health care facilities or legal or natural persons authorised to provide psychosocial treatment (Article 62, paragraph 2, points 4 and 6 of the CA). The said legislation also provides for the statutory obligation that the convicted person be orally informed of the said special obligations (measures) prior to their imposition.

Furthermore, the conditional sentence handed down against the offender may also be coupled with protective supervision or a safety measures. Protective supervision may be imposed on adult perpetrators subject to statutory conditions, while young offenders under the age of 25 years are, in addition to the conditional sentence, community service or conditional discharge, generally imposed protective supervision if they have been sentenced to imprisonment for a term in excess of six months (Article 64 of the CA). In the latter case, the convicted person need not consent to protective supervision (such as, for instance, the protective supervision measure of regularly reporting to the probation officer) but is warned, both orally and in the reasoned part of the judgment (pursuant to the provision of Article 58 of the CA), that the conditional sentence may be revoked if he/she repeatedly fails to discharge the obligations imposed on him/her in terms of protective supervision. The same applies to perpetrators who are imposed a special obligation alongside the conditional sentence.

Where a safety measure is imposed alongside a sentence of imprisonment, it is implemented within the competent penal system. Where it is imposed alongside a conditional sentence, the convicted person's failure to abide by it will also result in the conditional sentence being revoked.

Under the conditions provided for in the Juvenile Courts Act, a minor or a young adult – perpetrator of a criminal offence may be imposed one of the special obligations explicitly set forth in the said Act. The Juvenile Courts Act also requires that the minor be specifically warned of the possibility of his/her being sent to a correctional centre if he/she fails, through his/her own fault, to discharge special obligations. The body responsible for supervising whether these obligations are being fulfilled is the social welfare centre in the county acting under the court's supervision. The law does not provide for the possibility of refusing to abide by special measures.

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

What steps have been taken to encourage:

- a. **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 Ministry of Science, Education and Sports co-funds or funds civil society organisations that have and implement child abuse prevention programmes.

The Croatian Employers' Association and UNICEF have developed a guide book for companies entitled "Children are Our Most Important Activity" presenting different contexts and ways in which companies may integrate the rights of children into their business activities. Moreover, a Cooperation Agreement has been signed between the Croatian Employers' Association and UNICEF regulating their joint spheres of activity for the benefit of children in the business sector.

- b. **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);**

The Ombudsperson for Children and her collaborators continuously, through their public appearances, point to the need to protect children from sexual abuse and sexual exploitation. From 2010 to 31 October 2013, 96 telecasts have been shown by major television broadcasting companies and more than 60 press articles published on the following: prevention of sexual violence against children, underage pregnancies, age of consent, national campaign for the protection of children against sexual abuse, introduction of sex education classes into school, and the sex offenders registry. On its website, the Office of the Children's Ombudsperson⁶³ has made available the information on the protection of children on the Internet. Other portals have also joined suit. The media see the Office of the Children's Ombudsperson as a place they will turn to when they want to warn and educate the public about the protection of children against sexual abuse, especially with regard to the obligation of the state to provide protection to children and penalise perpetrators of violence. Thus, they frequently ask for statements, comments or answers to certain questions.

Discussions among experts and campaigns are one way in which the Office of the Children's Ombudsperson educates the media about how to report on children, in particular children - victims of violence. The Office of the Children's Ombudsperson organised a discussion "Positive Content for Children and about Children" on how protected children are in the media and on media content and published the proceedings so that it would serve as a useful manual to the media. The media are continually being reminded of the need to respect UNICEF's Principles of Ethical Reporting on Children and the Ombudsperson is constantly calling on the Croatian Journalists' Association and the Croatia's Media Council to contribute through their activities to the education of and awareness-raising among journalists about how to recognise and protect the best interests of the child, and the need to sanction examples of unethical reporting on children and other acts by the media that

⁶³ <http://www.dijete.hr>

contravene positive law. Thus, under the Media Act⁶⁴, the Electronic Media Act⁶⁵, and the Juvenile Courts Act, the media are obliged to respect the privacy, dignity and reputation of children, prohibit the broadcasting or publication of information on the child's identity where this jeopardises the child's well-being, and in particular respect the right to identity protection of witnesses and victims of criminal offences. Where they fail to do so, the said Acts lay down hefty fines (up to one million kuna). Under the Ordinance on the protection of juveniles⁶⁶, radio, television and electronic publication broadcasters are required to protect the identity of minors involved in any kind of violence, are prohibited from making public any information concerning the child's family relations or publish the personal details of a minor where this might jeopardise their well-being. News footage containing disturbing or violent scenes must be preceded by a warning and unencrypted programmes are forbidden from broadcasting pornography. Unencrypted programmes which could jeopardise the development of minors must display visual symbols for the entire period of their transmission. Programmes displaying the sign "18" must not be broadcast from 7 to 23 hours, those displaying the sign "15" from 7 to 22 hours, and those displaying the sign "12" from 7 to 21 hours.

Despite the progress achieved in electronic media regulation through the Electronic Media Act and the Ordinance on the protection of minors, the effective protection of children against potentially harmful electronic media content has not yet been achieved (e.g., pornography advertisements, vulgarities, excessively violent scenes). Violations of regulations are rarely and mildly penalised. Although television broadcasters mark the content that is unsuitable for children, this leaves a lot to be desired in terms of uniformity and appreciation. This is the reason why the Ombudsperson suggested to the Electronic Media Council, which is the authority responsible for monitoring the implementation of legislation but also for promoting media culture development in society, to launch a public dialogue between experts on the criteria and principles for, and manner of protecting children from potentially harmful media content, and to publish professional opinions on this. The Ombudsperson for Children warns editors-in-chief, publishers and broadcasters of their omissions in protecting children, files reports to the Council of Honour of the Croatian Journalists' Association and to the Electronic Media Council, and in case of serious violation of a child's right to privacy in the media informs the State Attorney's Office. Sanctions for violations of the child's right to privacy are rarely imposed in practice, although reporting about children is frequently sensationalist and it is not seldom the case that their identities are disclosed, either directly or indirectly. Unfortunately, as regards the press, it is not clearly established who supervises the implementation of laws. Therefore, many cases of violations of children's right to privacy are not sanctioned. It is necessary to specify the authority responsible for supervising the implementation of the Media Act, as is done by the Electronic Media Council in the case of electronic media, and consistently sanction violations of regulations by publishers. It is also necessary to strengthen the self-regulatory bodies in the field of the media, which are as yet not sufficiently influential, and to continually educate journalists through their professional associations about the importance of protecting the rights and best interests of children.

⁶⁴ Official Gazette 59/04, 84/11 and 81/13.

⁶⁵ Official Gazette 153/09, 84/11, 94/13 and 136/13.

⁶⁶ Official Gazette 60/10.

- c. 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).**

In order to avoid repeating what has already been said, we refer the reader to the answer to question 8a) which we supplement with the remark that every year, the Ministry of Social Policy and Youth provides project funding to civil society organisations through calls for projects aimed at various prevention activities. In 2013, 3 million kuna, earmarked from games of chance proceeds, were allocated in support of projects aimed at preventing violence against and among children and youth, while 5,717,296.86 kuna were devoted to projects aimed at preventing substance abuse and other forms of addiction among children and youth. A total of 550,000.00 kuna were awarded to 20 projects through a call for projects aimed at promoting and protecting the rights of children, and another 550,000.00 kuna to 17 other projects aimed at supporting single-parent families and strengthening parent competences through a call for projects aimed at providing family support.

Question 12: Effectiveness of preventive measures and programmes

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

In the health care system there is no special assessment of the effectiveness and impact of the preventive measures and programmes described in the reply to question 10 but it should be pointed out that statistical indicators relating to health care are monitored by the Croatian Institute of Public Health.

Although the data on the number of persons referred for treatment are collected, no special reference is made to the population of persons who fear they might commit any of the criminal offences established in accordance with this Convention or to the population of persons subject to criminal proceedings or convicted of any of the criminal offences established in accordance with this Convention.

Under Article 7 of the Ordinance on the contents of the mandatory record and report, manner of collecting, processing and storing statistical data falling within the scope of the Protection against Domestic Violence Act⁶⁷ (hereinafter referred to as: the Ordinance), the record kept by health care facilities contains the following information:

1. the number of reports received by the Croatian Health Insurance Institute from physicians in the case of injuries inflicted by family members;
2. the number of cases in which the victim of domestic violence was referred for treatment;
3. the costs of treating the victim of domestic violence;
4. the number of cases in which the victim of domestic violence was referred for treatment to a psychiatric facility; and

⁶⁷ Official Gazette 105/11

5. the number of cases in which the perpetrator of domestic violence was referred for treatment to a psychiatric facility.

The data under points 4 and 5 are monitored by diagnosis. The data under points 1, 2 and 3 are kept track of by the Croatian Health Insurance Institute, and the data under points 4 and 5 are kept track of by psychiatric facilities.

Under Article 9 of the Ordinance, the Ministry of Health is required to submit, in written and electronic form, to the ministry in charge of family matters, via forms that are an integral part of the Ordinance, semi-annual reports on the measures taken pursuant to the Protection against Domestic Violence Act by no later than September of the current year and annual reports by no later than March of the following year.

The projects of associations and organisations funded under calls issued by the Ministry of Social Policy and Youth must provide for an evaluation, and the quality of this evaluation is taken into account when the project is assessed. Some projects provide for internal, others also for external evaluations. However, evaluations of the long-term impact of projects and programmes are carried out very rarely.

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

- a. **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);**

For the purpose of providing the best possible protection to children-victims of criminal offences, in particular physical and psychological ill-treatment, neglect and sexual abuse, the provisions of the CPA oblige all state bodies and persons who work in contact with children to file criminal reports. Under the said Act, the duty to report has priority over the duty to withhold information or keep it confidential. As regards the reporting of child sexual abuse within the child's circle of trust, it is sufficient that state bodies or persons exercising professions that imply contact with children establish on the basis of the information obtained that there exists the lowest degree of reasonable suspicion, i.e., grounds for suspicion, that such an act has been committed. It is not, therefore, necessary that grounded suspicion in the criminal-law sense of the word exists. Instead, a lower degree of probability that the child has been abused suffices for professionals to have a duty to report the event and circumstances. The criminal report may be filed in writing, orally or by some other means to the competent social welfare centre, the police or directly to the state attorney's office.

The provisions of the CPA on the duty and manner of filing a criminal report,⁶⁸ the authority to which the report is to be filed, the right and duty of the police to find the perpetrator of a criminal offence, detect the traces of a criminal offence and the objects that might serve to

⁶⁸ Articles 204 to 205 of the CPA.

establish facts are also fully applicable to perpetrators of the criminal offences of sexual abuse.

- b. 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.**

Under Article 108 of the Family Act everyone is required to inform the social welfare centre of a violation of any child right, including violations relating to child sexual abuse and sexual exploitation. Such conduct may be reported by any citizen⁶⁹ and it is therefore all the more so the duty and obligation of any expert working with children to report any such suspicion. When informed of a violation of a child's rights and interests, the social welfare centre is required to take protection measures under family law, as well as to submit a criminal report to the state attorney's office.

Under the provision of Article 8 of the Protection against Domestic Violence Act, health care workers, professionals working in the fields of social welfare, prevention and protection within the family, and education, as well as professionals employed with religious institutions, humanitarian organisations, and civil society organisations the activities of which involve child- and family-related matters are obliged to report to the police or the state attorney's office any case of domestic violence, including any suspicion of child sexual abuse or exploitation, that comes to their knowledge in the exercise of their professions.

Article 70 of the Primary and Secondary Education Act also lays down the duty to report criminal offences committed against minors.⁷⁰

Moreover, Ordinance for educational staff in schools on taking safeguards of rights of students and application of violation of those rights to authorities⁷¹ and Rules of procedure in case of sexual violence lay down the duty to report, while educational institutions have integrated such provisions into their curricula, each school also having the autonomy to adopt various rules and measures.

A similar provision is also contained in the Medical Practice Act.⁷²

It should be noted here that under the Sexual Violence Protocol, the victim of sexual violence may come to the hospital by himself/herself or in the company of the police. Where the victim comes to the hospital unescorted by the police, hospital staff are required to immediately call the police, and where the victim is a minor, inform his/her parents or his/her other statutory representatives or the social worker.

The codes of ethics and deontology of health care professions establish the principles and rules of conduct which health care workers must respect in the exercise of their profession.

⁶⁹ Article 204, paragraph 1, of the CPA reads as follows: "Everyone is required to report a criminal offence that is prosecuted *ex officio*, which one has been notified of, or which has come to one's knowledge."

⁷⁰ Article 70 reads: "Teachers, staff members and other school employees shall take measures to protect pupils and shall immediately inform the principal of any violation of these rights, in particular of any form of physical or mental violence, sexual abuse, neglect or negligent treatment, abuse or exploitation of pupils, whereupon the principal shall report this to the social welfare body or any other competent authority".

⁷¹ Official Gazette 132/13

⁷² Article 22 of the Medical Practice Act reads: "The medical doctor shall inform the police and the state attorney's office of any suspicion he/she might have that the health of an under-age or infirm person is greatly jeopardised due to neglect or abuse."

Under Article 2 of the Code of Medical Ethics and Deontology adopted by the Croatian Medical Chamber pursuant to the Medical Practice Act and the Articles of Association of the Croatian Medical Chamber, where there is suspicion of abuse or exploitation of children or minors, the physician is obliged to warn the competent authorities, with due regard for the privacy and interests of the child or minor.

Where the official or responsible person fails to report the commission of a criminal offence which has come to his/her knowledge in the exercise of his/her profession and for which criminal proceedings are not instituted by private action or prosecution on request, he/she shall be held criminally liable for the criminal offence of failure to report a committed criminal offence referred to in Article 302, paragraph 2, of the CA.⁷³

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).

Besides the usual 192 and 112 telephone lines for urgent police intervention and the *policija@hr* e-mail address, the Ministry of the Interior has created specialised websites, www.sigurnijinternet.hr and www.saferinternet.hr, the purpose of which is to provide relevant information to citizens and those at risk of becoming victims of criminal offences and to allow for the possibility to report criminal offences to the police via the *RED BUTTON – red button for reporting a criminal offence*. The *Red Button* application is intended for children. It enables the reporting of internet content suspected of being unlawful and targets various forms of exploitation and abuse of children. A report may be filed not only by the victim but also a friend of the victim, a person having knowledge that someone is a victim, or any other person. The said reporting procedure is simple and especially adapted to children. It also contributes to reducing fear and psychological pressure involved in the act of reporting itself. Reports are received and processed by the police.

On the initiative of the Ombudsperson for Children, a unique 116000 missing children helpline has been created and is run by the non-governmental organisation Centre for Missing and Abused Children from the town of Osijek. This NGO has been organising trainings for children in the dangers of the Internet, is implementing the project involving the setting up of blocking servers at some primary schools, and in 2010 presented to the public “Safe on the Internet SINI“, the first computer programme providing protection on the Internet in the Croatian language, which blocks inappropriate web content and websites, and runs a HOTLINE for the reporting of unlawful or harmful content on the Internet, the primary aim of which is to prevent the dissemination of pictures of sexual abuse of children, sexual exploitation and physical and psychological ill-treatment of children, as well as the spread of racism, terrorism, racial, ethnical and other forms of hatred on the Internet. Among primary-school children the centre is implementing the “Web Detectives“ activity through which children, the so-called web detectives, teach their peers about the dangers of the Internet.

Brave Telephone is a non-governmental and non-profit organisation established with the aim of providing immediate assistance and support to abused and neglected children and their families and working to prevent child abuse and neglect as well as unacceptable behaviour

⁷³ Article 302, paragraph 2, of the CA reads: “The same penalty as that referred to in paragraph 1 of this Article shall be imposed on a public official or a responsible person who fails to report the commission of a criminal offence that has come to his or her knowledge in the performance of his or her duties, provided that the prosecution of the criminal offence in question cannot be instituted by private action or upon request.”

of children and youth. The organisation operates the 116 111 free information and confidentiality telephone line for children. It is open from 9 a.m. – 8 p.m. weekdays and is primarily intended for children who feel in any way abused or neglected by someone within their circle.

The general aim of the project is to constantly provide support and assistance in the form of advice and to continue to offer free calls to the Brave Telephone helpline so that timely, effective and expert assistance would be as accessible as possible to children, their families and experts.

Specific project goals include increasing children's knowledge of effective forms of protection against all forms of violence, in particular, of the existence, services offered by and working hours of Brave Telephone's advisory helpline, increasing the knowledge and perceptiveness of experts working with children as regards the causes and consequences of child abuse and neglect through counselling and educational brochures, making persons in the child's environment and the wider public alive to the problems and consequences of child abuse and neglect, and raising awareness of the promotion and importance of prevention activities.

Question 15: Assistance to victims

- a. **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;**
 - **how due account is taken of the child's views, needs and concerns;**
 - **if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.**

The website of the Ombudsperson for Children⁷⁴ devoted especially to children provides information to children in a language they understand on the judicial procedure and the rights of children-victims or children-witnesses.

Of the total number of children undergoing examination by the Zagreb Polyclinic for the Protection of Children, 7-10% of them (around 100 children annually) have been sexually abused or sexually exploited. In order to assess their needs, sexually abused children undergo a multidisciplinary examination (psychologist, psychiatrist, paediatrician, rehabilitator/social educator and social worker). The examination is adapted to the children's age and degree of traumatisation. The procedures for talking to a child and the number of experts participating in them are adapted to the child's age. The degree of the child's traumatisation is assessed by the mental health expert (psychiatrist and/or psychologist) during the initial session, in accordance with which assessment the decisions on the further examinations and treatments needed and the pace at which the child will undergo them are taken. Also, as part of the said examination programme, all children are given, depending on their age, appropriate psychological assistance, while their parents are provided with counselling and psycho-education about what signs of trauma children exhibit as a result of abuse and how they may assist them. As provided under the applicable law and as soon as possible upon having learned of this, professionals working with the Polyclinic are required to inform the competent authorities (police, social welfare centre and the state attorney's office) of any suspicions they might have of child sexual abuse and sexual violence, which authorities will thereupon take further steps to protect the victim and institute criminal proceedings. There are different professional and technical means at the Polyclinic's disposal whereby to question children in a child-friendly environment in accordance with the

⁷⁴ See footnote 64.

recommendations of the Council of Europe. Upon having undergone all examinations at the Polyclinic, the child receives treatment specifically targeting the trauma he/she is suffering from, which enables him/her to confront the trauma, helps him/her to regain a sense of safety and develop his/her self-protection skills, and caters for any other needs that might have come to light during previous examinations and child and parent assessments.

Special assistance is provided to persons close to the victim (parent who is not involved in the sexual abuse/guardian/family member of the sexually abused child) allowing them to cope with the stress they are under and teaching them how to provide the best possible assistance to the child during his/her recovery process. Support includes the following: initial psychological assistance, psycho-education and counselling, inclusion in the treatment of the child for support purposes, where necessary individual counselling/treatment. Assistance to the parent who is not involved in the sexual abuse or the guardian is also provided through leaflets "It happened, so what now...?" given to him/her at the Polyclinic once suspicions concerning sexual abuse are raised.⁷⁵ Also, if the Polyclinic's experts raise suspicions that the other children in the family or community are at risk, they too will undergo, in cooperation with the social welfare centre, examinations aimed at finding out more about their experiences.

The Zagreb Polyclinic for the Protection of Children has been recognised by the Council of Europe as an example of good practice in the work with sexually abused children and in the "One in Five" Council of Europe campaign to stop sexual violence against children was used as a model for other member states during the campaign. Unfortunately, the capacities of the said institution are insufficient to cater for the needs of children from all over Croatia. It is therefore necessary to set up such institutions at the regional level, which the Ombudsperson for Children has been recommending for a number of years now.

b. 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;

Paragraph 3 of Article 14 of the Convention requires from member states to intervene in terms of removing the victim from his/her environment where it is suspected that the parents or persons taking care of the child are involved in his/her sexual exploitation. The CPA provides for the possibility of ordering the precautionary measure of removal from home.⁷⁶

⁷⁵ The leaflets for parents of sexually abused children cover the following topics: Indicators and Consequences of Child Sexual Abuse, Fallacies and Facts about Sexual Abuse and Sexual Abusers, Treatment of a Sexually Abused Child, Providing Family Support to a Sexually Abused Child, and Questions Most Frequently Asked by Parents.

⁷⁶ Criminal Procedure Code, Article 98, Precautionary Measures

(1) When circumstances exist as referred to in Article 123 of this Act which constitute the ground for investigative detention, or the detention is already determined, the court and the State Attorney shall, if the same purpose may be achieved by any of the precautionary measures, issue a ruling with a statement of reasons to carry out one or more such precautionary measures. The defendant shall be warned that in the case of failure to carry out the ordered precautionary measure it may be replaced by investigative detention.

(2) Precautionary measures are:

- 1) prohibition to leave a residence;
- 2) prohibition to visit a certain place or territory;
- 3) obligation of the defendant to call periodically a certain person or authority;
- 4) prohibition to approach a certain person;
- 5) prohibition to establish or maintain contacts with a certain person;
- 6) prohibition to engage in a certain business activity;
- 7) temporary seizure of passport or other document which serves to cross the state border;
- 8) temporary seizure of a license to drive a motor vehicle;

The said precautionary measure may be imposed on the defendant whose right to his/her home is thus also restricted in cases where the said criminal offence was committed against a child. The said measure represents a court-ordered removal from home for a period of time for which this precautionary measure has been ordered. Furthermore, the CA also provides for the possibility of ordering a special safety measure – removal from the shared household⁷⁷ – against the convicted perpetrator of a criminal offence (which means upon the handing down of the sentence) of violence against a person he/she shares the household with if the risk that, were it not for the ordered measure, the criminal offence be recommitted is high. The implementation by a police officer of this safety measure against the person against whom it was ordered follows immediately upon the judgment becoming final, with time served in prison not being counted towards the length of time for which the measure has been imposed.

Moreover, a measure that is especially important is the measure provided for in Article 132 of the Family Act⁷⁸ aimed at protecting the rights and well-being of the child. Under the said Article, the social welfare centre is required, immediately upon having been informed, to look into the matter and take measures to protect the child's rights. The social welfare centre may

9) prohibition of stalking or harassment victims or other persons;

10) removal from home

(3) Precautionary measures may not entail the restriction of a defendant's right to his own home, to unimpeded connections with members of his household, spouse or common-law spouse, parents, children, adopted child or adoptive parent, except where the proceedings are conducted on account of a criminal offence committed to the detriment of any of these persons. The prohibition of the pursuit of a business activity may also include a lawful professional activity if the proceedings have been instituted for the criminal offence committed within the activity in question.

(4) Precautionary measures may not restrain the right of a defendant to unimpeded communication with his defence counsel.

(5) Precautionary measures may be ordered before and during the criminal proceedings. Prior to the indictment, the precautionary measures shall be ordered, prolonged and vacated by the State Attorney by a decision and investigative judge when deciding on investigative detention. State Attorney or investigative judge who brings that measure is competent for its prolongation or abolish. When the indictment is preferred until the judgment becomes final, the measures shall be ordered, prolonged and vacated by the court before which proceedings are conducted.

(6) Precautionary measures may last as long as they are necessary and at the longest until the judgment becomes final. Duration of precautionary measures shall not be limited by duration terms of investigative detention. Every two months, counting from the previous final ruling on detention, the competent body who ordered precautionary measures before the indictment or the court conducting the proceedings shall examine by virtue of the office whether the need for precautionary measures still exists and issue a ruling prolonging them or vacating them if they are not needed any more. If the precautionary measures are set as conditions for their application, control of their prolongation will be no performed.

(7) The parties may file an appeal against the ruling ordering, prolonging or vacating a precautionary measure, which does not stay the execution of the ruling. A decision on the appeal until preferring the indictment shall be made by the investigating judge or judge panel.

⁷⁷ Criminal Code, Article 74, Removal from Shared Household

(1) The court may impose the safety measure of removal from the shared household upon a perpetrator of a criminal offence of violence against a person he/she is living with in a shared household if there is a high degree of risk that if this measure were not implemented, the perpetrator might again commit violence against a member of the shared household.

(2) The court may impose the safety measure of removal from the shared household together with a fine or a sentence of imprisonment for a period not shorter than three months or longer than three years.

(3) The person against whom the measure referred to in paragraph 1 of this Article has been imposed is required to leave the apartment, house or other residential premises constituting the shared household accompanied by a police officer as soon as the judgment becomes res judicata. The period of time spent in prison, a penitentiary or an institution shall not be credited towards the term of this measure.

(4) At the expiration of a period of one year since the start of execution of the safety measure imposed on the basis of paragraph 1 of this Article, the court may stop its execution on a proposal from the convicted person if it has established that the risk referred to in paragraph 1 of this Article no longer exists. The convicted person may resubmit his/her proposal but no sooner than six months after the previous review.

(5) The court shall inform the body responsible for probation and the competent police administration of the imposed prohibition referred to in paragraph 1 of this Article which has become res judicata.

(6) The Court will inform the competent authority of the Probation Office and the competent Police department about final imposed prohibition from paragraph 1 of this Article.

⁷⁸ Family Act, Official Gazette, No. 75/14

impose urgent measures of separation and placement of the child outside the family and launch non-contentious civil proceedings for the imposition of other appropriate measures which involve ability of deprivation of parental care (one or both parents) that are abusing or grossly violating parental responsibility and rights. This duty of the court also exists in cases (among others) where it has been established that the parent is sexually exploiting the child or inducing him/her to socially unacceptable behaviour.⁷⁹ Furthermore, under Article 154 of the Family Act the court may in non-contentious judicial proceedings prohibit a parent, grand-mother or grand-father, sister or brother, or half-sister or half-brother and other family member who does not live with the child to approach the child without authorisation in certain places or within a certain distance and to harass him in any other way, for instance unauthorised contact with child or stalking. This decision must be taken immediately or no later than 15 days from the day the request is submitted. The Court will pass the decision; regardless of whether the delivery of the summons to the parties was proper.

c. 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?**
- 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).**

The precautionary measure of removal from one's home provided for in the CPA⁸⁰ may be ordered before and during the proceedings and may last until the judgment becomes final. Each two months the body that ordered the precautionary measure (the court or the state attorney) shall review whether the precautionary measure in question is still needed. Where a precautionary measure is ordered with respect to a criminal offence committed against a child, the social welfare body having jurisdiction over the place of residence of the child must also be informed of the ordering of the precautionary measure. In contrast to the precautionary measure, which may be ordered before and during the criminal proceedings⁸¹, the safety measure is ordered by court decision at the same time the judgment is pronounced, which points to the fact that the grounds for their ordering were established

⁷⁹ Family Law, Article 171. „Specific assumptions for ordering

Except in the case referred to in Article 170 of this Act, the court in non-contentious proceedings can deprive parents of their parental rights:

1. if the child was abandoned
2. if the child was exposed to violence among adult family members
3. if the parents does not comply with measures, decisions and instructions to protect the rights and welfare of children that was brought by the welfare center or court, based on the report of a welfare center
4. if a returning the child to the family after the completion of measures to protect the rights and welfare of the child would be presented as serious threat to the child's life, health and development, based on the report of a welfare center and
5. if a parent has been convicted of any of the following offenses committed against his child, based on the final judgment:

- Criminal offenses against sexual freedom and sexual morality (chapter XIV.), criminal offenses against marriage, family and youth (chapter XVI.), except criminal offenses: failure to provide maintenance from Article 209., abduction of a child or a juvenile from Article 210., change in family status 211. Criminal Code (»Official Gazette«, No. 110/97., 27/98., 50/00., 129/00., 51/01., 111/03., 190/03., 105/04., 84/05., 71/06., 110/07., 152/08., 57/11., and 77/11.)

- criminal offences against life and limb (chapter X.), criminal offences of sexual abuse and sexual exploitation of children (chapter XVII.), criminal offences against marriage, family and children (chapter XVIII.), except criminal offenses: bigamy from Article 167., enabling the contracting of a prohibited marriage from Article 168., enabling cohabitation with a child from Article 170., violation of duty of maintenance from Article 172., change in family status from Article 175. and violation of the privacy of a child from Article 178 of the Criminal Code (»Official Gazette«, br. 125/11. i 144/12.)

6. if the mental ability of parents is such an extent that is not able to exercise any parental care permanently, where the child's welfare is endangered.

⁸⁰ Article 98, paragraph 2, point 10, of the CPA.

⁸¹ Ibid; paragraph 5.

during the course of court proceedings and upon their conclusion. This is explicitly provided for in Articles 47 and 66 of the CA.⁸²

The Zagreb Polyclinic for the Protection of Children provides psychological, social, psychiatric, special-education, and paediatric assistance to children suffering from various traumatic experiences and their parents so that they would be able to cope more successfully with the consequences of such experiences. This primarily applies to sexually, physically and emotionally abused and neglected children, but also to children at risk of being traumatised. Alongside diagnostic and forensic examinations, the Polyclinic's experts provide individual and group counselling services and support to children and parents. Within its sphere of activity the Polyclinic also organises and runs educational activities, courses in supervision and professional trainings for experts at institutions directly dealing with issues of abuse.

Moreover, acting as institutions fully devoted to the provision of counselling and prevention services to families, children, youth and other socially vulnerable population groups, the family centres set up in 19 counties continually organise thematic activities aimed at promoting responsible parenthood and caring concern for family members, and raising the quality of life for children, youth, and the family. The significance and role of family centres is reflected in the provision of various services to families at the local/county level. Within their sphere of activity, family centres perform advisory and prevention work and offer other professional services, such as, for instance, raising the quality of life of children, youth and the family and promoting family values, developing social skills in children and youth, in particular their communication skills and ability to resolve peer conflict in a non-violent way, preventing abuse and neglect, behavioural problems and addiction in children and youth.

Furthermore, Croatia has adopted the Domestic Violence Protocol and the Violence among Children and Youth Protocol. Both Protocols lay down the obligations of the competent authorities and other factors participating in the detection and prevention of violence and the provision of assistance and protection to persons exposed to violence; forms, manner and content of cooperation between the competent bodies and other factors participating in the detection and prevention of violence and the provision of assistance and protection to persons exposed to violence; other activities and obligations concerning the measures taken by the competent bodies and other factors participating in the detection and prevention of violence and the provision of assistance and protection to persons exposed to violence. In this was a multidisciplinary network of cooperation between the relevant factors has been ensured.

d. 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).

In accordance with the general legislation on the filing of criminal reports, there is no obstacle for the victim of a criminal offence established in accordance with this Convention to file a criminal report with the competent authorities of his/her state of residence in cases where this criminal offence was committed outside the territory of their state of residence. In this case the competent authorities of the victim's state of residence act in accordance with

⁸² Article 47 of the CA lays down the obligation of the court to assess, among other things, when pronouncing the sentence and ordering a measure – and thus also a safety measure – the degree of threat to and violation of a legally protected good, the consequences arising from the commission of the criminal offence, and the relationship to the victim, while Article 66 of the CA provides that the purpose of safety measures is to eliminate the circumstances that enable or are conducive to the commission of a new criminal offence.

the statutory provisions of their national legislation depending on whether the alleged perpetrator is a resident of the same or another state.

PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

Question 16: Criminal law offences

a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;

The entire Title XVII of the Criminal Act passed in 2011 refers to sexual activities involving a child who has not reached the legal age for sexual activities.

The content of Article 18 of the Lanzarote Convention is covered by Articles 158⁸³, 159⁸⁴, and 166⁸⁵ of the CA. Engaging in sexual activities with a child below the age of 15 years,

⁸³ Article 158 reads as follows: "(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen, or induces a child under the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever commits a lewd act against a child under the age of fifteen, or induces a child to commit a lewd act with a third party or upon himself/herself, shall be sentenced to imprisonment for a term of between six months and five years.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or performing a sexual act equated with sexual intercourse or a lewd act does not exceed three years.

(4) A perpetrator who was avoidably mistaken that the child referred to in paragraph 1 of this Article was at least fifteen years old shall be sentenced to imprisonment of between six months and five years. If he/she was avoidably mistaken that the child referred to in paragraph 2 of this Article was at least fifteen years old, he/she shall be sentenced to imprisonment of up to three years.

(5) Whoever commits the criminal offence referred to in paragraph 1 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between three and fifteen years.

(6) Whoever commits the criminal offence referred to in paragraph 2 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between one and eight years."

⁸⁴ Article 159 reads as follows: "(1) Whoever engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on a direct-line relative by blood or by adoption, a step-father or step-mother who engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse."

⁸⁵ Article 166 reads as follows: "(1) If as a result of the criminal offence referred to in Article 158, paragraph 1, Article 162, paragraph 1 or 2, Article 163, paragraph 1 or 2, or Article 164, paragraph 1, of this Act a child suffers severe bodily injury or his/her physical or emotional development is compromised or the child becomes pregnant, or the child becomes pregnant, or where the offence was committed by several people acting together, or where the offence was committed against a particularly vulnerable child, or where it was committed by a person close to the child or a person the child lives with in a shared household, or where it was committed in an especially cruel or degrading manner, the perpetrator shall be sentenced to imprisonment for a term of between three and fifteen years.

(2) If as a result of the criminal offence referred to in Article 158, paragraph 5, Article 162, paragraph 3, Article 163, paragraph 3, or Article 164, paragraph 2, of this Act a child suffers severe bodily injury or his/her

above which age a child may engage in sexual activities if the age difference between him/her and his/her sexual partner does not exceed three years, is regulated by Article 158 paragraph 3 of the CA.⁸⁶ Furthermore, a special paragraph of the said Article provides for a more severe punishment where this criminal offence is committed by means of the use of force or threats, deception, fraud, abuse of authority or of a situation of hardship or dependence of the child on him/her. Article 159 of the CA further prescribes punishment for the said acts of sexual abuse if the child is over 15 years of age. Paragraph 2 of the said Article prescribes punishment for the said criminal acts committed by a direct-line relative by blood or by adoption, a step-father or step-mother. Article 166 of the CA prescribes serious criminal offences of child sexual abuse and exploitation, including the criminal offence committed against a “particularly vulnerable child”.⁸⁷

Article 19 of the Convention is covered by Article 162 of the CA entitled “Child Pandering”⁸⁸. The said Article provides for the punishment of any person who for the purpose of making a profit or gaining some other benefit entices, recruits or incites a child (under the age of eighteen years) to provide sexual services, or organises or makes possible the provision of child sexual services and in doing so knows or should or could know that the person in question is a child. Paragraphs 2 and 3 of the said Article also provide for the punishment of the users of these services.

Article 20 of the Convention is covered by Article 163⁸⁹ of the CA which defines the criminal offence “Exploitation of Children for Pornography”. Its paragraph 2 covers all forms of exploitation of children for pornography enumerated in the Convention.

physical or emotional development is compromised or the child becomes pregnant, or where the offence was committed by several people acting together, or where the offence was committed against a particularly vulnerable child, or where it was committed by a person close to the child or a person the child lives with in a shared household, or where it was committed in an especially cruel or degrading manner, the perpetrator shall be sentenced to imprisonment for a term of at least five years.

(3) If as a result of the criminal offence referred to in Article 158, 162, 163 or 164 of this Act a child dies, the perpetrator shall be sentenced to imprisonment for a term of at least ten years or long-term imprisonment.”

⁸⁶ Article 158 paragraph 3 of the CA reads as follows: “(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or performing a sexual act equated with sexual intercourse or a lewd act does not exceed three years.”

⁸⁷ See footnote (7)

⁸⁸ Article 162 reads as follows: “(1) Whoever for the purpose of making a profit or gaining some other benefit entices, recruits or incites a child to provide sexual services, or organises or makes possible the provision of child sexual services, where he/she knows or should and could have known that the person in question was a child, shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever uses the sexual services of a child who has attained the age of fifteen years in exchange for any form of remuneration or consideration, where he/she knows or should and could have known that the person in question is a child, shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever for the purpose of making a profit coerces or induces by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence a person he/she knows or could and should have known is a child to provide sexual services, or uses the sexual services of this child in exchange for payment, where he/she knows or should and could have known about the said circumstances, shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) Whoever advertises the exploitation of sexual services of a child, shall be sentenced to imprisonment for a term of between six months and five years.”

⁸⁹ Article 163 reads as follows: „(1) Whoever entices, recruits or incites a child to participate in the taking of child pornography pictures or whoever organises or makes possible the taking of child pornography pictures, shall be sentenced to imprisonment for a term of between one and eight years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever takes child pornography pictures or produces, offers, makes available, distributes, transmits, imports, exports, procures for himself/herself or for another person, sells, gives, exhibits or possesses child pornography or knowingly obtains access, through information and communication technologies, to child pornography.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in the taking of child pornography pictures, shall be sentenced to imprisonment for a term of between three and twelve years.

(4) Special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be

Article 21 of the Convention is covered in its entirety by Article 164⁹⁰ of the CA and is defined as the criminal offence of “Exploitation of Children for Pornographic Performances”.

Article 22 of the Convention is covered by Article 160⁹¹ of the CA. In this way internal law has been aligned with the said provision of the Convention. Article 160 of the CA provides for the punishment of any person who in the presence of a child under the age of fifteen years commits sexual acts intended to satisfy his/her lust or who in the presence of a child under the age of fifteen years engages in sexual intercourse with another person without this person's consent, rapes, commits lewd acts or engages in sexual intercourse or an equivalent sexual act with a child below or over fifteen years of age.

Article 23 of the Convention is covered by Article 161⁹² of the CA. The said Article prescribes the criminal offence of Child Enticement for the Purpose of Satisfying Sexual Needs.

Under Article 24 of the Convention, member states are obliged to take legislative or other measures aimed at intentional aiding or abetting of the commission of or at attempts to commit any of the offences established in accordance with the Convention.

seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be destroyed.

(5) A child shall not be punished for producing and possessing pornographic material depicting him/her alone or him/her and another child, where this material is produced and possessed by them with their consent and solely for their own private use.

(6) Child pornography shall mean any material that visually or otherwise depicts a real child or a realistic image of a non-existent child or a person appearing to be a child, involved or engaged in real or simulated sexually explicit conduct, or any depiction of a child's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic or medical or scientific in character shall not be deemed pornography.”

⁹⁰ Article 164 reads as follows: „(1) Whoever entices, recruits or incites a child to participate in pornographic performances, shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever profits from pornographic performances involving the participation of a child or otherwise exploits a child for pornographic performances, shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in a pornographic performance, shall be sentenced to imprisonment for a term of between three and twelve years.

(4) The sentence of imprisonment referred to in paragraph 1 of this Article shall be imposed on whoever watches a pornographic performance that is transmitted live or via communication means, where he/she knows or should and could have known that it involved the participation of a child.

(5) Special devices, means, computer programmes or data intended, adapted or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1 and 2 of this Article shall also be destroyed.”

⁹¹ Article 160 reads as follows: „(1) Whoever in the presence of a child under the age of fifteen commits sexual acts intended to satisfy his/her own or another person's lust, shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever in the presence of a child under the age of fifteen commits any of the criminal offences referred to in Articles 152 through 155, Articles 158 and 159 of this Act, shall be sentenced to imprisonment for a term of up to three years.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.”

⁹² Article 161 reads as follows: „(1) An adult who, with the intention that he/she or a third party commit the criminal offence referred to in Article 158 of this Act against a person under the age of fifteen, proposes to this person, through information and communication technologies or in some other way, to meet up with him/her or a third party, where this proposal is followed by material acts leading to such a meeting, shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever collects, gives or transfers data on a person under the age of fifteen for the purpose of committing the criminal offence referred to in paragraph 1 of this Article, shall be sentenced to imprisonment for a term of up to one year.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.”

Article 38 of the CA provides for the punishability of anyone who intentionally aids and abets another in the commission of a criminal offence, in which case the aider and abettor is to be punished as if he/she himself/herself committed the criminal offence in question, but may also be punished less severely.

An attempt to commit a criminal offence is punishable if the criminal offence in question carries a penalty of five or more years' imprisonment or where the law explicitly provides for the punishment of attempt⁹³. As regards the criminal offences established by the Convention, punishable are attempts to commit the following criminal offences: non-consensual sexual intercourse (Article 152⁹⁴ of the CA), rape (Article 153⁹⁵ of the CA), lewd acts (Article 155⁹⁶ of the CA), sexual abuse of a child under the age of fifteen (Article 158⁹⁷

⁹³ Article 34 reads as follows: „(1) Whoever, with the intent to commit a criminal offence, performs an act which spatially and temporally directly precedes the realisation of the statutory definition of the criminal offence shall be punished for the attempt, provided that a sentence of imprisonment of five years or a more severe punishment may be imposed or that the law expressly provides for the punishment of an attempt as well.

(2) The perpetrator of an attempt may be punished less severely.

(3) The punishment of a perpetrator who through gross unreasonableness attempts to commit a criminal offence by unsuitable means or towards an unsuitable object may be remitted.”

⁹⁴ Article 152 reads as follows: „(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with another person without this person's consent, or whoever induces another person to engage without his/her consent in sexual intercourse or to perform, without his/her consent, a sexual act equated with sexual intercourse with a third party or to perform without his/her consent a sexual act equated with sexual intercourse upon himself/herself, shall be sentenced to imprisonment for a term of between six months and five years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article, shall be sentenced to imprisonment for a term of up to three years.

(3) Consent referred to in paragraph 1 of this Article shall exist if the person decided of his/her own free will to engage in sexual intercourse or perform a sexual act equated with sexual intercourse and was capable of making and expressing such a decision. It shall be deemed that no such consent exists in particular if the sexual intercourse or the sexual act equated with sexual intercourse was performed by the use of threats or fraud, by abusing one's position towards a person who is in a situation of dependence with respect to the perpetrator, by exploiting a person's condition due to which the person was unable to express his/her refusal or if it is performed against a person unlawfully deprived of liberty.”

⁹⁵ Article 153 reads as follows: „(1) Whoever commits the offence referred to in Article 152, paragraph 1, of this Act by the use of force or threats of an imminent attack on the life or limb of the raped or other person, shall be sentenced to imprisonment for a term of between one and ten years.

(2) A perpetrator who is avoidably mistaken as to the existence of consent referred to in paragraph 1 of this Article, shall be sentenced to imprisonment for a term of between six months and five years.”

⁹⁶ Article 155 reads as follows: „(1) Whoever, under the conditions set forth in Article 152 of this Act when the criminal offence in question has not even been attempted, commits a lewd act, shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever, under the conditions set forth in Article 153 or Article 154 of this Act when the criminal offences in question have not even been attempted, commits a lewd act, shall be sentenced to imprisonment for a term of up to three years.”

⁹⁷ Article 158 reads as follows: “(1) Whoever engages in sexual intercourse or performs a sexual act equated with sexual intercourse with a child under the age of fifteen, or induces a child under the age of fifteen to engage in sexual intercourse or perform a sexual act equated with sexual intercourse with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever commits a lewd act against a child under the age of fifteen, or induces a child to commit a lewd act with a third party or upon himself/herself, shall be sentenced to imprisonment for a term of between six months and five years.

(3) There shall be no criminal offence referred to in paragraphs 1 and 2 of this Article if the age difference between the persons engaging in sexual intercourse or performing a sexual act equated with sexual intercourse or a lewd act does not exceed three years.

(4) A perpetrator who was avoidably mistaken that the child referred to in paragraph 1 of this Article was at least fifteen years old shall be sentenced to imprisonment of between six months and five years. If he/she was avoidably mistaken that the child referred to in paragraph 2 of this Article was at least fifteen years old, he/she shall be sentenced to imprisonment of up to three years.

(5) Whoever commits the criminal offence referred to in paragraph 1 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between three and fifteen years.

of the CA), sexual abuse of a child over the age of fifteen (Article 159⁹⁸ of the CA), satisfying lust in the presence of a child under the age of fifteen (Article 160⁹⁹ of the CA), child enticement for the purpose of satisfying sexual needs (Article 161¹⁰⁰ of the CA), child pandering (Article 162¹⁰¹ of the CA), exploitation of children for pornography (Article 163¹⁰² of the CA) and exploitation of children for pornographic performances (Article 164¹⁰³ of the CA).

(6) Whoever commits the criminal offence referred to in paragraph 2 of this Article by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her, shall be sentenced to imprisonment for a term of between one and eight years.”

⁹⁸ Article 159 reads as follows: “(1) Whoever engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted, or whoever induces a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care he/she has been entrusted to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse, shall be punished by imprisonment from six months to five years.

(2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on a direct-line relative by blood or by adoption, a step-father or step-mother who engages in sexual intercourse or an equivalent sexual act with a child over the age of fifteen or who induces a child over the age of fifteen to engage in sexual intercourse or an equivalent sexual act with a third party or to perform upon himself/herself a sexual act equated with sexual intercourse.”

⁹⁹ Article 160 reads as follows: „(1) Whoever in the presence of a child under the age of fifteen commits sexual acts intended to satisfy his/her own or another person's lust, shall be sentenced to imprisonment for a term of up to one year.

(2) Whoever in the presence of a child under the age of fifteen commits any of the criminal offences referred to in Articles 152 through 155, Articles 158 and 159 of this Act, shall be sentenced to imprisonment for a term of up to three years.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 or 2 of this Article shall be punished.”

¹⁰⁰ Article 161 reads as follows: „(1) An adult who, with the intention that he/she or a third party commit the criminal offence referred to in Article 158 of this Act against a person under the age of fifteen, proposes to this person, through information and communication technologies or in some other way, to meet up with him/her or a third party, where this proposal is followed by material acts leading to such a meeting, shall be sentenced to imprisonment for a term of up to three years.

(2) Whoever collects, gives or transfers data on a person under the age of fifteen for the purpose of committing the criminal offence referred to in paragraph 1 of this Article, shall be sentenced to imprisonment for a term of up to one year.

(3) A perpetrator who attempts to commit the criminal offence referred to in paragraph 1 of this Article shall be punished.”

¹⁰¹ Article 162 reads as follows: “(1) Whoever for the purpose of making a profit or gaining some other benefit entices, recruits or incites a child to provide sexual services, or organises or makes possible the provision of child sexual services, where he/she knows or should and could have known that the person in question was a child, shall be sentenced to imprisonment for a term of between one and ten years.

(2) Whoever uses the sexual services of a child who has attained the age of fifteen years in exchange for any form of remuneration or consideration, where he/she knows or should and could have known that the person in question is a child, shall be sentenced to imprisonment for a term of between six months and five years.

(3) Whoever for the purpose of making a profit coerces or induces by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence a person he/she knows or could and should have known is a child to provide sexual services, or uses the sexual services of this child in exchange for payment, where he/she knows or should and could have known about the said circumstances, shall be sentenced to imprisonment for a term of between three and fifteen years.

(4) Whoever advertises the exploitation of sexual services of a child, shall be sentenced to imprisonment for a term of between six months and five years.”

¹⁰² Article 163 reads as follows: „(1) Whoever entices, recruits or incites a child to participate in the taking of child pornography pictures or whoever organises or makes possible the taking of child pornography pictures, shall be sentenced to imprisonment for a term of between one and eight years.

(2) The sentence referred to in paragraph 1 of this Article shall be imposed on whoever takes child pornography pictures or produces, offers, makes available, distributes, transmits, imports, exports, procures for himself/herself or for another person, sells, gives, exhibits or possesses child pornography or knowingly obtains access, through information and communication technologies, to child pornography.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in the taking of child pornography pictures, shall be sentenced to imprisonment for a term of between three and twelve years.

(4) Special devices, means, computer programmes or data intended for, adapted to or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be destroyed.

Subject to the provisions of the CA, inciting (Article 37¹⁰⁴ of the CA) another to commit a criminal offence carries the same penalty as that laid down for the commission of the said criminal offence.

b. Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;

There is no difference between the said criminal offences defined by the Criminal Act from those stated in the Convention.

c. 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;

The Criminal Act also provides for the criminal offence of “sexual harassment”.¹⁰⁵ Moreover, the CA has extended punishability for exploitation of children for pornography in the sense that the very act of enticing, recruiting, or inciting a child to participate in the filming of child pornography has been criminalised.¹⁰⁶

(5) A child shall not be punished for producing and possessing pornographic material depicting him/her alone or him/her and another child, where this material is produced and possessed by them with their consent and solely for their own private use.

(6) Child pornography shall mean any material that visually or otherwise depicts a real child or a realistic image of a non-existent child or a person appearing to be a child, involved or engaged in real or simulated sexually explicit conduct, or any depiction of a child's sexual organs for sexual purposes. For the purpose of this Article, any material that is artistic or medical or scientific in character shall not be deemed pornography.”

¹⁰³ Article 164 reads as follows: „(1) Whoever entices, recruits or incites a child to participate in pornographic performances, shall be sentenced to imprisonment for a term of between one and eight years.

(2) Whoever profits from pornographic performances involving the participation of a child or otherwise exploits a child for pornographic performances, shall be sentenced to imprisonment for a term of between one and ten years.

(3) Whoever by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence coerces or induces a child to participate in a pornographic performance, shall be sentenced to imprisonment for a term of between three and twelve years.

(4) The sentence of imprisonment referred to in paragraph 1 of this Article shall be imposed on whoever watches a pornographic performance that is transmitted live or via communication means, where he/she knows or should and could have known that it involved the participation of a child.

(5) Special devices, means, computer programmes or data intended, adapted or used for committing or facilitating the commission of the criminal offences referred to in paragraphs 1, 2 and 3 of this Article shall be seized, while the pornographic material which was created by the commission of the criminal offences referred to in paragraphs 1 and 2 of this Article shall also be destroyed.”

¹⁰⁴ Article 37 reads as follows: „(1) Whoever intentionally incites another to commit a criminal offence shall be punished as if he/she himself/herself has committed it.

(2) Whoever intentionally incites another to commit a criminal offence for which an attempt is punishable, and the act is never even attempted, shall incur the penalty provided for an attempt to commit this criminal offence.

(3) In the case of an inappropriate attempt at incitement, the punishment of the inciter may be remitted.”

¹⁰⁵ Article 156 reads as follows: “(1) Whoever sexually harasses another person who is his/her subordinate or who is in a situation of dependence with respect to him/her or who is especially vulnerable due to his/her age, illness, disability, addiction, pregnancy, a severe physical or mental disability, shall be sentenced to imprisonment for a term of up to one year.

(2) Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, which creates an intimidating, hostile, degrading or offensive environment.

(3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.”

¹⁰⁶ Article 163, paragraph 1, of the CA reads as follows: “Whoever entices, recruits or incites a child to participate in the child pornography or whoever organises or makes possible the production of child pornography, ...”. See also footnote (24).

d. Please also specify whether the age of a child plays a role in determining the gravity of the offence.

That the age of the child plays a role in determining the gravity of criminal offences is evident from the Criminal Act itself which has provided for a special group of criminal offences committed against children under the age of 15 years. This fact, in addition to the circumstances referred to in Article 47 of the CA, may be taken into account when determining the type and severity of punishment.¹⁰⁷

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.

Within the criminal law system of the Republic of Croatia, definitions of the legal person and the responsible person are contained in the CA and the Act on Corporate Liability for Criminal Offences¹⁰⁸ (hereinafter referred to as: the ACLCO). The latter act also regulates the matter of corporate liability for criminal offences. Within the meaning of the said Act, the responsible person is any natural person in charge of the operations of the legal person or entrusted with carrying out the tasks falling within the legal person's sphere of activity.¹⁰⁹ Corporate liability is based on the responsible person's established guilt. It exists where the responsible person has violated the legal person's duty or where the legal person acquired or was to obtain unlawful pecuniary benefit for itself or another person. Pursuant to the provisions of ACLCO and in relation to the provisions of the Convention, the Republic of Croatia has fulfilled the conditions for the punishment of legal persons where the latter committed a criminal offence established in the Convention.

Question 18: Sanctions and measures

a. 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);

For the criminal offences established in the Convention and described in detail in the answers to the previous questions from this questionnaire internal law provides imprisonment for natural persons. The term of imprisonment provided for all of the abovementioned criminal offences runs from three months for some less severe forms of criminal offences such as, for instance, sexual harassment referred to in Article 156 of the CA or the criminal offence of satisfying lust in the presence of a child under the age of fifteen referred to in Article 160 of the CA, to three to fifteen years' imprisonment for more serious forms of criminal offences referred to in the answer to question 3c of this questionnaire. The

¹⁰⁷ Article 47 reads as follows: "(1) When determining the type and measure of punishment, the court shall, starting from the degree of guilt and the purpose of punishment, assess all the circumstances affecting the severity of punishment by type and measure of punishment (mitigating and aggravating circumstances), and especially the degree of threat to or violation of a legally protected good, motive for having committed the criminal offence, degree to which the perpetrator's duties have been violated, manner of commission and the consequences arising from the commission of the criminal offence, perpetrator's prior life, his/her personal and pecuniary circumstances and his/her conduct following the commission of the criminal offence, relationship to the victim and efforts to repair the damage.

(2) The severity of punishment shall not exceed the degree of guilt."

¹⁰⁸ Official Gazette 151/03, 110/03, 110/07, 45/11 and 143/12.

¹⁰⁹ Article 4 of the ACLCO.

more serious forms of criminal offences (under the CA) include: the criminal offence of sexual abuse of a child under the age of fifteen years who has been inflicted serious bodily injury or whose physical or emotional development has been hindered or who has been made pregnant, or if the criminal offence was committed by several people acting together, or if it was committed against a particularly vulnerable child, or by a person close to the child or a person with whom the child shares the household, or if it was committed in an especially cruel or especially humiliating way.

Sanctions which may be imposed against legal persons under Article 8 of the Act on Corporate Liability for Criminal Offences (provided corporate responsibility for any of the criminal offences covered by the Convention has been established) include fines and the abolition of the legal person. In addition to monetary sanctions, the following safety measures may be ordered against legal persons: prohibition to engage in certain activities or work, prohibition to obtain permits, powers, concessions or subsidies, prohibition to do business with beneficiaries of state budget or local budgets, and seizure of objects. Furthermore, under the provisions of the CA and other special acts, legal persons may also be penalised through the confiscation of pecuniary benefit or seizure of objects.¹¹⁰ Moreover, where in view of the significance of the criminal offence it is established that there are valid grounds for informing the public of the final judgment, the judgment against the legal person may be publicly announced. Also, where specific circumstances justify concerns that the accused legal person will repeat the criminal offence or complete the attempted criminal offence or commit the criminal offence it is threatening to commit, the said Act also provides for the ordering of a precautionary measure against the legal person. The said measures include: prohibition of performing certain activities or work, prohibition of doing business with beneficiaries of state budget or local budgets, and prohibition of obtaining permits, powers, concessions or subsidies.

b. 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).

Article 19 of the CA provides for the obligatory crediting of any period of deprivation of liberty served in a foreign country towards the length of the sentence of imprisonment pronounced in the Republic of Croatia where the criminal offence in question is the same.¹¹¹

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).

The rules on the jurisdiction over criminal offences defined by the Convention are contained in the CA. Article 10 of the CA explicitly provides that the criminal law of the Republic of Croatia applies to anyone who commits a criminal offence in its territory. Furthermore, Article 11 of the CA provides for the application of criminal law to criminal offences committed

¹¹⁰ Act on the Procedure for the Confiscation of Pecuniary Benefit Obtained as a Result of a Criminal Offence or Misdemeanour (Official Gazette 145/10).

¹¹¹ Article 19 of the CA reads as follows: "Where the criminal legislation of the Republic of Croatia is applicable, time spent in custody, in investigative prison or serving the sentence, as well as any other period of deprivation of liberty served in a foreign country shall be credited towards the term of imprisonment imposed by a domestic court for the same criminal offence. Other executed criminal-law sanctions shall be credited as the court deems just".

aboard a Croatian vessel or aircraft and under this provision criminal law applies to anyone who commits a criminal offence aboard a domestic vessel or aircraft, irrespective of where the vessel or aircraft is located at the time the criminal offence is committed.

Article 25, paragraph 1, point d), of the Convention provides for the obligatory punishability for criminal offences established in accordance with the Convention where the criminal offence was committed by one of its nationals outside the territory of the Republic of Croatia. The said provision of the Convention is contained in Article 14, paragraph 1, of the CA. Under the said statutory provision, the criminal law of the Republic of Croatia applies to Croatian nationals and persons who have their permanent residence in the Republic of Croatia who committed a criminal offence outside the territory of the Republic of Croatia, where this criminal offence is also punishable under the law of the state in which it was committed, while in the case of the following criminal offences: rape of a person particularly vulnerable due to his/her age (Articles 153 and 154 of the CA), sexual abuse of a child under the age of fifteen (Article 158 of the CA), child enticement for the purpose of satisfying sexual needs (Article 161 of the CA), child pandering (Article 162 of the CA), exploitation of children for pornography (Article 163 of the CA), exploitation of children for pornographic performances (Article 164 of the CA) and serious criminal offence of child sexual abuse and exploitation (Article 166 of the CA) and other criminal offences where this has been provided for in international treaties to which the Republic of Croatia is party, also when the criminal offence is not punishable under the law of the state in which the criminal offence was committed. Furthermore, the criminal law of the Republic of Croatia applies to aliens who outside the territory of the Republic of Croatia commit a criminal offence against a Croatian national or a person who has his/her residence in the Republic of Croatia or a legal person registered in the Republic of Croatia, if this criminal offence is also punishable under the law of the state in which it was committed.¹¹² It is important to point out that the criminal law of the Republic of Croatia is applicable to anyone who outside the territory of the Republic of Croatia commits the criminal offence of human trafficking or any other criminal offence which, when committed outside its territory, the Republic of Croatia is also required to punish pursuant to an international treaty to which it is party.¹¹³ Likewise, the criminal law of the Republic of Croatia applies to aliens who outside the territory of the Republic of Croatia commit a criminal offence carrying a sentence of five or more years' imprisonment, where this criminal offence is punishable under the law of the state in which it was committed and where the extradition of the perpetrator is allowed under law or the relevant international treaty but failed to occur.¹¹⁴

Article 25, paragraph 8, of the Convention lays down the obligation – where possible – of holding consultations with a view to determining the most appropriate jurisdiction for prosecution when more than one Party claims jurisdiction. Article 22 of the CPA specifies that if the place of the commission of an offence is unknown or if the offence was committed outside the territory of the Republic of Croatia, jurisdiction lies with the court within whose territory the defendant's permanent or temporary residence is located. If neither the place of the offence nor the perpetrator's permanent or temporary residence is known, jurisdiction lies with the court within whose territory the defendant is arrested or turns himself/herself in. Article 23 of the CPA establishes jurisdiction where a person commits a criminal offence both in the Republic of Croatia and abroad. In such a case jurisdiction lies with the court which has jurisdiction as if this criminal offence was committed in the Republic of Croatia.

¹¹² Article 15 of the CA.

¹¹³ Article 16 of the CA.

¹¹⁴ Article 17 of the CA.

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).

In relation to the criminal offences that are the subject-matter of this Convention, the CA contains special statutory provisions prescribing punish ability for serious criminal offences against sexual freedom (Article 154 of the CA) and serious criminal offences of child sexual abuse and exploitation (Article 166 of the CA). Thus, Article 154 of the CA defines as especially serious criminal offences (which also carries a more severe sentence of imprisonment) the criminal offence of non-consensual sexual intercourse and the criminal offence of rape where they are committed against persons close to the perpetrator; against a victim who is particularly vulnerable due to his/her age, illness, addiction, pregnancy, disability, severe physical or mental disorder; in an especially cruel or especially degrading manner; out of hatred; together with one or more perpetrators, with several acts of sexual intercourse or equivalent sexual acts being committed against the same person; by the use of weapons or dangerous instruments or in such a manner that the raped person suffers serious bodily injury or is made pregnant; or if the victim dies as a result of the said criminal offence. Article 166 of the CA provides for especially serious forms of criminal offences (for certain forms of the below mentioned criminal offences provided for in specific Articles of the CA): the criminal offence of sexual abuse of a child under the age of fifteen (Article 158 of the CA), child pandering (Article 162 of the CA), exploitation of children for pornography (Article 163 of the CA), exploitation of children for pornographic performances (Article 164 of the CA), where as a result of these criminal offences the child suffers severe bodily injury, or his/her physical or emotional development is compromised, or he/she becomes pregnant, or where the offence is committed by several people acting together, or is committed against a particularly vulnerable child, or by a person close to the child or a person with whom the child lives in a joint household, or in an especially cruel or degrading manner, or where as a result of the offence the child dies. The circumstance concerning the perpetrator's previous convictions, in particular for the same criminal offences, represents an aggravating circumstance within the meaning of Article 47 of the CA¹¹⁵ and is specially taken into consideration in the assessment of the severity of the sentence provided for under the law for a certain criminal offence.

¹¹⁵ Criminal Code, Article 47

(1) When determining the type and measure of punishment, the court shall, starting from the degree of guilt and the purpose of punishment, assess all the circumstances affecting the severity of punishment by type and measure of punishment (mitigating and aggravating circumstances), and especially the degree of threat to or violation of a legally protected good, motive for having committed the criminal offence, degree to which the perpetrator's duties have been violated, manner of commission and the consequences arising from the commission of the criminal offence, perpetrator's prior life, his/her personal and pecuniary circumstances and his/her conduct following the commission of the criminal offence, relationship to the victim and efforts to repair the damage.

(2) The severity of punishment shall not exceed the degree of guilt.

Question 21: Measures of protection for the child victim

- a. 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;

Victims are entitled to be informed of the services and rights at their disposal pursuant to Article 43 of the CPA.¹¹⁶ Additional rights of the child victim of a criminal offence are covered by Article 44 of the CPA.¹¹⁷ The said Article further specifies that the court, state attorney, investigator and the police must treat the child victim of a criminal offence with special consideration for his age, personality and other circumstances in order to avert any harmful consequences for the child's upbringing and development and that in treating the child victim, the competent authorities must primarily safeguard his/her best interests.

On 15 July 2013, as a result of the cooperation between the Ministry of Justice and the Association for the Provision of Support to Victims and Witnesses, the National Call Centre for Victims of Criminal Offences and Misdemeanours was set up. The National Call Centre provides a toll-free information service to victims in both Croatian and English language. It provides information on the victims' rights and the manner in which to exercise them, and refer the victim to other institutions and organisations that may provide them with professional assistance.

The victim is entitled to be informed about the actions taken following a criminal report or provision of information concerning a committed offence upon expiry of two months from the filing of the criminal report or the provision of information on a committed offence.¹¹⁸ The state attorney is required to inform the victim of the actions taken within the appropriate deadline but no later than thirty days following receipt of the request, except where this would jeopardise the effectiveness of the proceedings. In the latter case, he must inform the victim who requested to be informed of the actions taken of his/her denial to provide this information. If the state attorney fails to inform the victim (or the injured party) or if the victim (or the injured party) is not content with the information provided or the actions taken, he/she is entitled to file a complaint to the senior state attorney. The senior state attorney is required to inform the victim of the actions taken within thirty days of receipt of the complaint. Where the senior state attorney deems it necessary, he/she shall order the state attorney subordinated to him/her to take certain actions within the appropriate deadline. Unless he/she has not filed a complaint to the senior state attorney, the victim may, upon the expiry of six months (from the first request for information), submit a new request for information. Furthermore, under the CPA the state attorney is obliged to decide on the criminal report within six months (from the day the report is entered in the criminal reports register).¹¹⁹ He/she must inform the person who filed the report of his/her decision and of the grounds, in brief, for having taken it. Where the state attorney fails to act, the victim is entitled to file a

¹¹⁶ Article 43, paragraph 1, of the CPA reads as follows: "The victim of a criminal offence shall be entitled under this Act to: 1) effective psychological and other kind of professional assistance and support of the body, organisation or facility providing assistance to victims of criminal offences in accordance with law; 2) participate in criminal proceedings as the injured party; 3) being informed by the state attorney about the actions taken following his/her report (Article 206a) and to file a complaint to the senior state attorney (Article 206b); 4) other rights provided by law".

¹¹⁷ Article 44, paragraph 1, of the CPA reads as follows: "In addition to the rights which the victim has pursuant to Article 43 and other provisions of this Act, the child victim of a criminal offence is entitled to the following: 1) a representative paid for from the budget; 2) the company of a person he/she trusts when taking part in actions; 3) confidentiality of personal data; 4) exclusion of the public".

¹¹⁸ Article 206a, paragraph 1, of the CPA.

¹¹⁹ Article 206b of the CPA.

complaint to the senior state attorney who, upon receipt of such a complaint, shall demand from the state attorney to state his/her position. Where the senior state attorney deems the complaint founded, he/she shall set an appropriate deadline by which a decision on the report must be taken.

Under the Sexual Violence Protocol, if a victim of sexual violence who was admitted to hospital is a minor, it is necessary to inform parents, i.e., his/her other statutory representatives or the social worker with the social welfare centre. The parent or his/her other statutory representative or the social worker, is entitled to be present during the examination, just as the under-age victim is entitled under the United Nations Convention on the Rights of the Child to deny him/her this right.

Within the primary health care framework, the victim is provided with the basic information concerning the types of assistance and support and made aware of the existence of assistance and support services (social welfare centres, specialised civil society organisations providing assistance to victims of sexual violence, and similar institutions).

Persons providing assistance to the victim are required to acquaint the victim of sexual violence with the possibilities for obtaining extrainstitutional assistance and support within the framework of specialised civil society organisations providing assistance to victims of sexual violence.

The Domestic Violence Protocol specifies the procedures to be followed by social welfare centres where cases of violence are reported and explicitly states that the centres must inform the victim of violence or his/her statutory representative or guardian, of the victim's statutory rights, in particular of the child's right to protection against all forms of violence and neglect, powers of and measures to be taken by social welfare centres when protecting citizens, as well as of the further measures and actions which the social welfare centres will take and which are especially important for protecting the safety of victims.

b. 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));

In the course of proceedings children victims are questioned as provided by law. The CPA makes special provision for the questioning of children witnesses under the age of fourteen years.¹²⁰ By contrast, where children witness/victims are questioned for the criminal offences

¹²⁰ Criminal Procedure Code, Article 292

1) Unless otherwise prescribed by a special law, the examination of a child as a witness shall be carried out by the investigating judge. The examination shall be carried out in the absence of the judge and parties in the room where the child is situated through audio and video devices which are operated by an expert assistant. The examination is carried out with the assistance of a psychologist, educator or other expert person and unless this is contrary to the interests of proceedings or the child, parents or a guardian may be present during the examination. The parties may ask the child- witness questions authorized by the investigating judge through an expert. The examination shall be video-taped and audio-taped and the recording shall be sealed immediately and enclosed with the record. The child may be examined again only in exceptional cases and in the same manner.

(2) Unless otherwise prescribed by a special law, the examination of a minor as a witness shall be carried out by the investigating judge. During the examination of a minor, especially if the minor is the injured person of the criminal offence, special care shall be taken lest the examination have a harmful effect on the mental condition of the minor. According to circumstances, the examination may be conducted in the manner referred to in paragraph 1 of this Article, paying special attention to the protection of the minor.

(3) Witnesses who cannot obey the summons due to their old age, state of health or disability state may be examined in their dwellings or other premises where they are situated. These witnesses may be questioned by means of audio and video devices which are operated by an expert assistant. If required so by the condition of the witness, the questioning shall be organized in such a manner that the witness can be questioned by the

referred to in Article 113 of the said Act, the Juvenile Courts Act extends the protection offered to them to the age of sixteen years.¹²¹

The questioning of children who are under the age of fourteen, i.e., sixteen years about criminal offences covered by the Convention is conducted by the judge of investigation. The questioning takes place in a room where the child is located without either the judge or the parties being present and is conducted via audio-visual link operated by a technical assistant. The questioning takes place with the assistance of a social educator outside the legal profession, a social worker or a psychologist.¹²² The amendment to the Act on Youth Courts from 2013 explicitly stipulates that during the hearing of a child victim of criminal offence, help and support shall be provided by expert assistants.¹²³ Furthermore Article 11 of Rulebook for assistants outside the legal profession in matters of youth delinquency and legal protection of children in State Attorney's Office and Courts (Official Gazette 22/13) prescribes the duties of courts' expert assistants in criminal proceedings against adult offenders who committed a crime against a child. These are: 1.) hearing of a child as witness or injured person via audio video conference accordingly to the order of a judge, 2.) providing expert assistance to the judge while hearing a child as a witness through the preparation of the child for hearing, giving expert opinion about his readiness and capabilities for hearing, way of hearing and participation in hearing, 3.) collecting data about the child's personal and family circumstances with the purpose of giving expert opinion of further steps in relation to the conditions that have contributed or have been of influence on the execution of the criminal offence against the child and informing the social welfare centre, 4.) giving basic information about the course of the criminal proceeding against the adult perpetrator of criminal offences against the child to the parents or fosters of a child/witness. Beside the mentioned Rulebook, in 2013 the Minister has brought a decision regarding the actions of an expert associate while hearing a child/witness.

parties without their presence in a room where the witness is situated. If necessary, the interrogation shall be video-taped and audio-taped, and the recording sealed and enclosed with the record.

(4) In the manner referred to in paragraph 3 of this Article, upon the witness' request, the examination may be carried out as the examination of a witness of a criminal offence against sexual freedom and sexual morality or if a criminal offence is committed in the family.

(5) If the examination of a witness is carried out pursuant to paragraph 3 of this Article, it shall be preceded pursuant to Article 297 paragraph 3 of this Act.

¹²¹ Act on Youth Courts, Article 113.

Offences from Article 113 of the Act on Youth Courts:

- against sexual freedom and sexual morality (Title XIV), against marriage, family and youths (Title XVI), aggravated murder (Article 91), infanticide (Article 93), suicide assistance (Article 96), illegal deprivation of liberty (Article 124), kidnapping (Article 125), abuse in the performance of service or public powers (Article 127), human trafficking and slavery (Article 175), international prostitution (Article 178), transmission of sexually transmitted diseases (Article 239), violent behavior (Article 331) and Criminal Code (Official Gazette No. 110/97., 27/98., 50/00., 129/00., 51/01., 111/03., 190/03., 105/04., 84/05., 71/06., 110/07., 152/08. and 57/11.) criminal offences against life and limb (chapter 10), criminal offences against sexual freedom (chapter 16), criminal offences of sexual abuse and sexual exploitation of children (chapter 17), criminal offences against marriage, family and children (chapter 18), torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 104), slavery (Article 105), trafficking in Persons (Article 106), Unlawful Deprivation of Liberty (Article 136), Abduction (Article 137), Spread and Transmission of Infectious Diseases (Article 180) from Criminal Code.

¹²² Act on Youth Courts, Official Gazette No. 84/11, 143/12, 148/13, Article 43:

(1) Courts referred to in Article 37, paragraph 1 of this Act and public prosecutor offices which act before them have expert assistant's social pedagogues, social workers and psychologists.

(2) Expert assistants provide their expert opinion at sessions of the council or at hearings concerning the type of sanction which should be issued, collect data on the successfulness of the enforcement of a correctional measure, issue opinions to the youth council concerning the need to discontinue or replace a correctional measure and perform other actions according to the instructions of the youth judge. Expert assistants in the public prosecutor office collect data and issue expert opinions necessary to adopt decisions from within the competence of the public prosecutor.

¹²³ Law on Amendments to the Act on Youth Courts, Official Gazette 148/13, Article 116 paragraph 3

A child victim of a criminal offence, during the criminal proceedings will be provided help and support by expert associate from the County Court, if not than from Municipal Court at the seat of the County Court. Exceptionally, help and support to the child victim of criminal offence can be provided by other expert person on the cost of state budget if the County Court or Municipal Court in seat of the County Court doesn't have expert associate.

Where this is not contrary to the interests of the proceedings or the child, the questioning is conducted in the presence of a parent or a guardian. The questioning may also take place in the presence of a person whom the child trusts.¹²⁴ Subject to authorisation from the judge of investigation, the parties may put questions to the child witness through a qualified person. The questioning must be recorded by an audio visual recorder and the recording sealed and attached to the minutes. In the case of criminal offences against sexual freedom and criminal offences of child sexual abuse and exploitation, the videotaped questioning will always be transcribed (Act on Youth Courts, Article 115, paragraph 5). Only exceptionally and provided this is done in the same manner as the first time may the child be re-questioned. When questioning a child, special care must be taken in order to avoid the questioning having a harmful effect on the child's mental condition.¹²⁵

c. 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));

Article 116, paragraph 3, of the Juvenile Courts Act explicitly states that during proceedings the child victim of a criminal offence will be ensured assistance and support which will be provided by an expert assistant of the county or municipal court. Exceptionally, assistance and support to the child victim of a criminal offence may also be provided by another qualified person where the county or municipal court does not have an expert assistant.

Under the Sexual Violence Protocol, within the primary health care framework the victim must be given the basic information on the forms of assistance and support and must be acquainted with the existence of assistance and support services (social welfare centres, specialised civil society organisations providing assistance to victims of sexual violence, and similar institutions).

Persons providing assistance to the victim are required to inform the victim of sexual violence of the possibilities for obtaining extrainstitutional assistance and support within the framework of specialised civil society organisations providing assistance to victims of sexual violence.

Extraintitutional assistance and support includes wider measures of providing assistance and support to victims of sexual violence. Apart from counselling and/or psychotherapy (individual or group), these measures include working with family members, preparation for trial, monitoring of the victim during the trial, and efforts to further improve the treatment of victims.

Both the family centres set up in 19 counties and the social welfare centres provide counselling, carry out prevention work and offer other professional services also relating to the prevention of abuse and neglect. In view of the fact that cases of sexual abuse are an extremely delicate matter, it is usual for these services to be provided by psychologists, social workers and social educators who for the most part have also received additional training in working with abused children.

¹²⁴ Act on Youth Courts, Article 115 paragraph 2

Where the child injured by a criminal offence referred to in Article 113 of this Act is interviewed as witness, and is under sixteen years of age at the time of the interview, such interview shall always be conducted according to the provisions of the Criminal Procedure Act concerning the interviewing of a child as witness (Article 292, paragraph 1 of the Criminal Procedure Act). The interview may be attended by a person whom the child trusts.

¹²⁵ Criminal Procedure Code, Article 292 paragraph 2

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

As a measure adopted to protect the privacy, identity and reputation of children victims, the CPA provides for the right to confidentiality of personal data and the right to the exclusion of the public from the trial. The said rights are provided for in Articles 388 to 390 of the CPA.¹²⁶

Under Articles 126 and 127 of the Health Protection Act,¹²⁷ health care workers are required to preserve professional secrets with regard to anything they learn about the patient's state of health. Other health care workers who in the exercise of their profession find out a secret as well as medical students and pupils in secondary medical schools are also required to preserve professional secrecy. Likewise, professional secrets must be preserved by all other persons who in the performance of their duties come across a patient's health data.

The breach of the obligation to preserve professional secrecy is a serious breach of an obligation arising from the employment relationship. By way of exception to the above provision, the said persons are under an obligation to give information on the patient's state of health at the request of the ministry, other state administration bodies in accordance with special regulations, the competent chamber and the judiciary.

Article 25 of the Act on the Protection of Patients' Rights¹²⁸ provides that pursuant to legislation on the preservation of professional secrecy and personal data protection the patient is entitled to have his/her personal health data treated confidentially.

e. 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));

During criminal proceedings both the victim and the immediate family members are protected through the ordering of the measure of investigative imprisonment¹²⁹ against the defendant or the ordering of a precautionary measure¹³⁰ where conditions for investigative imprisonment have been met but where it is estimated that the purpose will just as well be

¹²⁶ As regards the manner in which the child victim is questioned during evidentiary proceedings, see the answer to point b) of this question.

¹²⁷ Official Gazette 150/08, 71/10, 139/10, 22/11, 84/11, 12/12, 35/12, 70/12 and 82/13.

¹²⁸ Official Gazette 169/04 and 37/08.

¹²⁹ Criminal Procedure Code, Article 123. „Grounds for Ordering Investigative Detention“

(1) Investigative detention may be ordered if there exists reasonable suspicion that a person committed an offence and if:

1) the person is on the run or there are special circumstances indicating a danger of flight (the person is in hiding, his identity cannot be established, etc.);

2) if there are special circumstances indicating that he will destroy, hide, alter or forge items of evidence or traces of importance to the criminal proceedings or that he shall impede the criminal proceedings by influencing witnesses, expert witnesses, co principals or accessories after the fact;

3) if there are special circumstances indicating a danger that he will repeat the offence, or complete the attempted one, or perpetrate a felony he threatens to commit, for which the law foresees imprisonment for a term of five years or more;

4) if investigative detention is deemed necessary for undisturbed conducting of the proceedings due to especially grave circumstances of the offence and a sentence of long-term imprisonment is prescribed for such an offence;

5) if the duly summoned defendant evades appearance at the trial;

(2) When pronouncing a judgment of imprisonment for a term of five years or more, investigative detention against the defendant shall always be ordered or prolonged.

(3) When a first instance court renders a judgment of imprisonment for a term not longer than five years, after pronouncement of the judgment investigative detention may not be ordered or prolonged in accordance with paragraph 1, item 4 of this Article.

(4) Investigative detention shall not, contrary to the fact that circumstances referred to in paragraph 1 of this Article exist, be prolonged if the maximum term of duration of detention has expired (Article 133).

¹³⁰ See footnote No. 12

achieved by applying precautionary measures. One of the possible reasons for ordering investigative imprisonment against the defendant is "... obstructing criminal proceedings by influencing witnesses ...". Precautionary measures that may be ordered in a concrete case for the purpose of protecting the victim in accordance with the Convention include, for instance: prohibition to approach a certain person, prohibition to establish or maintain contact with a certain person, prohibition to stalk or harass the victim or another person, and removal from the home. The assessment of the need to prolong a precautionary measure is made every three months. Thus statutory regulations serve to ensure in the above described manner the safety of both the victim, his/her family and the other witnesses in the proceedings. Moreover, the child victim is questioned in the manner provided by statute, whereby the re-victimisation of the child victim is prevented. The re-victimisation is also prevented by providing for victim data confidentiality and the exclusion of the public. The excluding of the public from the trial also indirectly serves to protect against further victimisation other persons appearing as witnesses.

The Protection against Domestic Violence Act¹³¹ lays down protective measures aimed at preventing domestic violence, ensuring the necessary protection of the health and safety of the person exposed to violence, and eliminating the circumstances that favour or promote the commission of a new offence, all of which serves to avert the dangers which persons exposed to violence and other family members face. The Act lays down the following protective measures: mandatory psychosocial treatment, prohibition to approach the victim of domestic violence, prohibition to harass or stalk the person exposed to violence, removal from the apartment, house or some other residential premise, mandatory treatment for addiction, and seizure of the item used or intended to be used in the commission of the offence.

Also, within the regular health-care system the child's parents (the so-called non-abusing parent) also take parts in the treatment, most frequently in the following two ways:

1. through counselling with a professional, which focuses on the behaviour of the child and the behaviour towards the child at certain stages of the treatment;
2. through conversation and counselling that are intended for them so that they can express their feelings in relation to the sexual abuse of the child. The professional may assess that the parent is not coping well with the events and may suggest that the parent(s) undergo additional treatment with the therapist.

The involvement of parents in the treatment of a child also depends on the child's age: the younger the child, the greater the emphasis on working with the parent and strengthening his/her role as the primary assistance provider.

Under the Sexual Violence Protocol, extra institutional assistance and support involves wider measures of assistance and support to victims of sexual violence. In addition to counselling and/or psychotherapy (individual or group), these measures include working with family members, preparations for court proceedings and monitoring of the victim during the proceedings, as well as efforts to further improve the treatment of victims.

The new Family Act¹³² which entered into force on September 1st 2014 clearly stipulates measures to protect the rights and welfare of child and clearly separates measures which are in the competence of welfare centre from those which are in competence of the court. Measures in the competent of welfare centre are: a) urgent measure of removing and placing the child outside the family, b) warning for failures and omissions in the exercise of childcare, c) measures of professional help and support to the families in achieving the

¹³¹ Official Gazette, No. 137/09, 14/10 and 60/10

¹³² Official Gazette, No. 75/14

childcare, d) measures of intensive technical assistance and supervision over the exercise of childcare. Measures in the competence of the Court are: a) entrusting a child to another person, welfare institutions or foster families temporarily, b) prohibition to approach a child, c) deprivation of the right to housing with a child and entrusting daily care of the child to another person, welfare institutions or foster families, d) entrusting a child with behavioural problems for help in raising to the social welfare institutions or foster families, e) deprivation of parental rights.

The new Family Law (as well as previous) also contains a provision relating to the obligation of reporting the violation of the child's personal and property rights, stating that violation of the rights implies in particular: physical or mental violence, sexual abuse, neglect or negligence, abuse or exploitation of the child (Article 132).¹³³ Additionally, Article has been expanded by paragraph which obliges court and social welfare centre, parents and other individuals or social welfare institutions to bind and cooperate and inform on the taken actions.

Further, it is important to emphasize that new Family Law in the Recitals states the fundamental principles and prescribes “the principle of the primary protection and welfare of child” (Article 5). This means *de facto* that it is, in all proceedings based on this Law, which includes the establishing of the measures of family legal protection including the removal of children from their families, the primarily interest is the best interest of the child. Other fundamental principles are: the principal of equality of woman and man, the principal of solidarity, mutual respect and assistance among all family members, the principal of the priority right of parents to care for the child and the duty of the institutions to provide them with assistance, the principle of proportional and the mildest intervention in family life, the principle of guardianship protection of a child without parental care and an adult that has mental difficulties, the principle of an consensual resolution of family relationships, the principle of urgency in resolving family legal matters relating to a child.

Measures for the protection of the rights and well-being of the child are regulated in Chapter III of the new Family Law. General provisions of Chapter III clearly stipulates that the purpose of the removal of a child from family must be the protection of the child's life, health and development, ensuring adequate care of children outside the family and to create conditions for the child's return to the family, or to prepare other durable forms of child care. Removal of a child from a family should not take longer than necessary for protection of rights and well – being of the child. The obligation of regular review of the separation measure from the family is prescribed and the parents are entitled to get help and support in order to avoid causes that lead to separation of a child and for the child's return to the family in accordance with his well-being.¹³⁴

¹³³ Family Act, Article 132; duty of notification and cooperation to protect the child

(1) Everyone is obligated to report to the social welfare violation of the child's personal and property rights. Violation of personal rights means particular: physical or mental violence, sexual abuse, neglect or negligence, abuse or exploitation of the child.

(2) Upon receiving of the notification referred to in paragraph 1 of this Article welfare center shall immediately examine the case and take measures to protect the child's rights and notify the applicant.

(3) Court and social care center, parents and other individuals or social welfare institutions entrusted with the realization of child care are bound to cooperate and inform on the actions taken pursuant to the notice referred to in paragraph 1 of this Article.

(4) Court before which the misdemeanor and criminal proceedings are taken, State Attorney, as well as police are obliged to inform welfare center in 24 hours, based on the child residence, about starting the procedure in connection with the violation of a child's rights or about night life if the child is younger than 16.

(5) Upon receipt of notification referred to in paragraph 4 of this Article welfare center shall immediately examine the case and take measures to protect the child's rights and inform notifying party.

¹³⁴ Family Act, Article 129, removal of a child from family

(1) removal of a child from a family is defined only if no one milder measure is not possible to protect the rights and welfare of the child.

Furthermore, with regard to the duration of isolation of the child from the family, the Law has defined the duration of each measure; the measure for urgently separation and placement of the child outside the family, prescribed by the welfare centre, can last up to 15 days after the seizure of a child and exceptionally if the court in further proceedings does not decide within the prescribed period and the danger for child life, health and well – being of a child still exists, welfare centre will extend the measure for a maximum of an additional eight days of the expiry of the measures.

A measure that aims to remove the child from the family (measure of deprivation of the right to housing with a child and entrusting daily care of the child to another person, welfare institutions or foster families) can be determined for up to one year. Since it is an expedited procedure and the current allocation in case of threat we can say that allocation is carried out in accordance with the best interests of the child. Since it is a procedure involving social welfare centers, they are the first place where the family of the victims can receive advice and other assistance.

f. 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));

Article 125 of the CPA provides for the obligation of the police to inform the victim of a criminal offence prior to the defendant's release from investigative prison. Article 164 of the Execution of Prison Sentence Act¹³⁵ provides for the obligation of the penitentiary and the prison to inform the unit within the Ministry of Justice responsible for providing support to victims and witnesses, prior to the release of a prisoner serving time for a criminal offence against life and limb containing elements of violence or a criminal offence against sexual freedom and sexual morality, of the release of the said prisoner so that the said unit could inform the victim or the injured person or their families.

g. 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));

The CPA provides for the possibility of questioning the victim by audio-visual link¹³⁶, while in referring to cases where the child is a victim of a criminal offence which carries a sentence of three years' imprisonment or a more severe penalty Article 115, paragraph 1, of the Juvenile Courts Act, lays down the obligation of the police to (immediately) inform the state attorney for youth who is then required no later than three days from the day of registry in the criminal report register (for criminal offences included in the Lanzarote Convention – in the case of

(2) under removal of a child from a family is considered any measure on the basis that the child is separated from family and placed in social care institutions, another natural or legal person providing social care or with a foster family.

(3) the purpose of removal of a child from a family must be protection of the child life, health and development, ensuring adequate care of children outside family and crating conditions for child returning to the family or preparing other durable forms of child care.

(4) removal of a child from a family shouldn't last longer than it is necessary for protecting rights and well – being of a child.

(5) removal measure child from the family has to be regular reviewed and the parents are entitled to get help and support for avoiding conditions for separation and returning child in family in accordance with his well-being.

¹³⁵ Official Gazette 190/03, 76/07, 27/08, 83/09, 18/11, 48/11, 125/11 and 56/13.

¹³⁶ The manner in which the child is questioned in court is described in the answer to point b) of this question.

criminal offences against sexual freedom or criminal offences of child sexual abuse) to put forward a motion for the questioning of the child as witness.¹³⁷ Such a manner of questioning the child as witness – victim is one of the ways in which to avoid contact between the victim and the perpetrator. Specifically, throughout the child's questioning by video link the child is located in a separate room equipped with content appropriate for children. Instead of being questioned within court premises, children and younger minors – victims of criminal offences may also be questioned as witnesses in their apartments or within some other premises where they reside or at the social welfare centre. In cases where the child or younger minor is questioned in the above described manner, what is presented at the trial is the minutes, i.e., the recording of the questioning of the witness.¹³⁸ Also of significance is the provision of Article 330 of the CPA under which (where the recording is of a child) the recorded image and voice of the child must be pixilated and modulated in order to protect, where necessary, the child's interests, taking also into account the interests of the overall proceedings. Furthermore, the role of the expert assistant in the proceedings in which the child is a victim has been highlighted in the answer to question 21 c) of this questionnaire.

h. 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).

The child – victim of a criminal offence may be appointed a legal representative for the entire duration of criminal proceedings. Article 116 of the Juvenile Courts Act provides for the appointment of a legal representative from among attorneys-at-law having a strong affinity for issues concerning the education, needs, and well-being of youth and a basic knowledge of criminology, social education, youth psychology and social work with youth. The appointed attorney-at-law may not be replaced by an attorney trainee.

The said appointment is prescribed for criminal offences carrying a sentence of five years' imprisonment or a more severe penalty and for cases where the perpetrator of a criminal offence against sexual freedom or a criminal offence of child sexual abuse and exploitation is a direct-line relative, a third-degree collateral relative, a relative by affinity up to the second degree of kinship, or the adoptive parent of the child – victim of a criminal offence if the child has no chosen representative.

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

a. 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);

In accordance with numerous international legal instruments and documents the substantive- and procedural-law status of children-victims of sexual offences has been significantly improved in the criminal legislation of the Republic of Croatia. During criminal proceedings special attention is given to the considerate treatment of the child. In the police, state attorney's offices and courts contact with children victims is entrusted to specialised experts, while for the purpose of preventing secondary victimisation children-victims and witnesses are questioned in the manner set out in the CPA and the Juvenile Courts Act. A special model of child support, i.e., "monitoring" during proceedings has been developed.

¹³⁷ Ibid footnote 113.

¹³⁸ Article 115 of the Juvenile Courts Act.

Under Article 43, paragraph 2, of the CPA, the victim of a criminal offence which carries a sentence of five or more years' imprisonment is entitled to effective psychological and other kind of professional assistance and support of the body, organisation or facility providing assistance to victims of criminal offences in accordance with law, is entitled to the professional assistance of an adviser funded from the budget before giving a statement in criminal proceedings and when submitting a civil claim in criminal proceedings. Furthermore, the victim of a criminal offence of violence committed with intent is entitled to compensation funded from the state budget. When taking the first action in which the victim takes part, the court, the state attorney's office, the investigator and the police must notify the victim of the said rights.

If the victim has already won the civil claim brought within the framework of criminal proceedings, its amount will be taken into account when awarding compensation.

The answer to question 21 specifies the rights of children victims pursuant to Articles 43 and 44 of the CPA. The court, the state attorney, the investigator, and the police must treat the child victim of a criminal offence with special consideration for his age, personality and other circumstances in order to avert any harmful consequences for the child's upbringing and development. In treating the child victim, the competent authorities must primarily safeguard his/her best interests.

Under Article 45 of the CPA, in addition to the rights referred to in Articles 43 and 44 of the CPA, the victim of a criminal offence against sexual freedom and sexual morality has the right, before being questioned, to consult an adviser, which is to be paid for from budget funds, the right to be questioned at a police station or the state attorney's office by a person of the same sex, the right to be questioned in the presence of a person he/she trusts, the right to refuse to answer needless questions that concern the victim's strictly private life, the right to demand to be questioned by audio-visual link, the right to confidentiality of personal data, and the right to request that the public be excluded from the trial.

The Ministry of the Interior has provided 15 equipped child interview rooms within the premises of police administrations and another 45 such rooms at police stations throughout Croatia. The said rooms have been equipped in a child-friendly manner, so that the child would not have the feeling that he/she is on official premises. For this reason anything that might point to these rooms being used for official purposes, such as, for instance, personal computers, office furniture, and the like, were dispensed with. The rooms resemble children's rooms that have a children's desk, a box for toys, a play mat, and some toys, which makes it easier for the child to relax and recount to the police officer what he/she experienced. There is no limit to the duration of child interviews nor to the period of time children spend on official police premises. It is, however, generally recommended that the said period of time be as short as possible and that children not be kept on official premises when the purpose of their stay there is achieved. For the duration of inquiries into a criminal offence, the child is interviewed by a police officer specialised in dealing with youth, unless actual circumstances render this impossible. Police officers specialised in dealing with youth are officers trained to work with children in cases where children and minors are either perpetrators of punishable offences or victims of punishable acts. These police officers have an affinity towards working with children and youth, are highly educated, primarily in the humanities (graduate criminologists, social educators, educators, psychologists, social workers, lawyers, and the like), have completed a specialised six-week training course intended for jobs involving work with children and minors which, among other things, focuses on training in child interviewing methods and techniques that result in the least possible secondary victimisation. Interviews with children are conducted in the presence of a parent, guardian, foster parent, person entrusted with the child's upbringing, or a qualified person with the social welfare centre, provided the parent, guardian, foster parent or any other person in whose care the child has been placed is not suspected of having committed a

criminal offence against this child. The interview is conducted in one of the 28 specially equipped rooms that have concealed audio-visual recording devices.

- b. 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);**

In cases where the witness/victim does not claim exemption from his/her duty to testify and makes a statement/testifies, provision has been made for the possibility of using this statement/witness testimony. Under Article 285, paragraph 3, of the CPA the said persons must be notified that their testimony/statement, if they have given it, can be used in evidence irrespective of what they decide later. The notification and the answer are entered in the minutes. Thus, the following testimonies may be used under the Act: defendant's spouse or common-law spouse, defendant's direct-line relatives, collateral relatives up to and including the third degree of kinship and relatives by affinity up to and including the second degree of kinship, defendant's adoptee and defendant's adopter, if they have been notified that their statement can be used in evidence irrespective of their subsequent decision.¹³⁹

- c. 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);**

Article 82, paragraph 3, of the CA explicitly provides that in the case of statutory criminal offences committed against the child the statute of limitations for initiating proceedings starts to run from when the victim reaches the age of majority. The said statutory provision refers

¹³⁹ Criminal Procedure Code, Article 285

(1) The following persons are exempted from the duty to testify:

- 1) the defendant's spouse or common-law spouse,
- 2) the defendant's linear relatives by blood, collateral relatives by blood to the third degree and relatives by affinity to the second degree,
- 3) the defendant's adopted child and the defendant's adoptive parent,
- 4) notaries public, tax consultants within the scope of a legally binding confidentiality obligation,
- 5) attorneys, physicians, dentists, psychologists and social workers regarding information disclosed to them by the defendant while performing their respective professions,
- 6) journalists and their editors in the media regarding sources of information and data coming to their knowledge in the performance of their profession and provided that their sources were used in the editorial process, except in criminal proceedings for offences against honour and reputation committed by the means of the media in a case prescribed by special law.

(2) Persons referred to in paragraph 1 items 4 to 6 of this Article cannot refuse to give a statement if a legal ground exist exempting them from their duty to keep information confidential.

(3) The authority conducting the proceedings is bound to remind the persons referred to in paragraph 1 of this Article that they are exempt from testifying before their examination or as soon as the court finds out about their relation to the defendant. Persons referred to in paragraph 1 items 1 to 3 of this Article will be worn that their testify, if they decide to testify, no matter on their later decision, will be used as evidence. The reminder and the answer shall be entered into the record.

(4) A minor who due to his age and mental development is unable to understand the meaning of the right to exemption from testifying cannot testify as a witness; however the information obtained from him through experts, relatives or other persons who have been in contact with him may be used as evidence.

(5) A person entitled to refuse to testify in respect of one of the defendants shall be exempted from the duty to testify in respect of other defendants as well if his testimony cannot be, by the nature of the matter, limited only to other defendants.

(6) Persons referred to in paragraph 1 item 1 to 6 of this Article, except the defence counsel, cannot refuse to testify with regard to criminal offences of criminal law protection of children.

to the following criminal offences covered by this Convention: the criminal offence of rape, lewd act, and sexual harassment committed against the child (Article 154, paragraph 1, point 2, Article 155, paragraph 2, and Article 156 of the CA), sexual abuse of a child under the age of fifteen (Article 158 of the CA), sexual abuse of a child over the age of fifteen (Article 159 of the CA), satisfying lust in the presence of a child under the age of fifteen (Article 160 of the CA), child pandering (Article 162 of the CA), exploitation of children for pornography (Article 163 of the CA), exploitation of children for pornographic performances (Article 164 of the CA), and any of serious criminal offences of child sexual abuse and exploitation (Article 166 of the CA).

d. 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;

Pursuant to the provisions of the CPA and Act on Youth Courts, in order to ensure the protection of the legal interests of the child victim or the child injured party, the child victim of a criminal offence is entitled (in addition to his/her other statutory entitlements) to a representative paid for from the budget.¹⁴⁰ The same Article further specifies that the child victim will also be appointed a representative from among attorneys-at-law in cases where the criminal offence in question carries the sentence of five years' imprisonment or a more severe penalty as well as when the perpetrator of a criminal offence against sexual freedom and a criminal offence of child sexual abuse and exploitation is the child's direct-line relative, a third-degree collateral relative, a relative by affinity up to and including the second degree of kinship, or the adoptive parent. Here it should also be mentioned that where the injured party is a child and where the interests of the child are contrary to the interests of the parents, the authority conducting the proceedings must call on the competent social welfare body to appoint a special guardian for the child where this is necessary for the protection of the child's interests.¹⁴¹

¹⁴⁰ Child victim of an offense can be set a power-of-attorney holder for the entire duration of the criminal proceedings. Act on Amendments to the Act on Youth Courts from 2013 in Article 116 foresees setting up a power-of-attorney holder from the ranks of attorneys having pronounced inclinations and knowledge in the field of upbringing and care for young persons and has basic knowledge in the field of criminology, social pedagogy, psychology of youth and social work for youth. Appointed attorney cannot be substituted by trainee. Specified set is scheduled for the child who doesn't have appointed a power-of-attorney holder for the criminal offences which the prescribed sentence of imprisonment is five years or stricter, and where the person having committed the criminal offences against the sexual freedom and sexual morality is a relative of the child in the vertical line, a relative in the horizontal line in the third degree, a relative by marriage up to conclusively with the second degree or an adopted parent.

¹⁴¹ Article 53 paragraph 1 Criminal Procedure Code

(1) Where the injured person is a minor and the interests of a child are contrary to the interests of parents, competent authorities who are conducting the proceedings shall invite competent authority of Social Welfare to appoint a special legal guardian, if it is necessary for protecting his interest.

(2) Where the injured person is a minor or persons declared incapable of performing legal acts, his legal guardian or special guardian is authorized to make all statements and take any actions which is he authorized in the name of injured person under this Law.

(3) By way of derogation from the provision of paragraph 2 of this Article, injured person who has attained 16 years of age can by himself make statements and take actions in proceedings.

- e. 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;**

Children, parents and whoever else needs expert advice of civil society groups may turn to telephone counselling services such as “Brave Telephone“, “Blue Telephone“, and “SOS telephones“ that operate in all major towns in Croatia. During criminal proceedings, however, non-governmental organisations and associations cannot directly participate in the proceedings. They can do this only indirectly and in an advisory capacity, that is, through the provision of psychological assistance and support.

- f. 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);**

Article 332 of the CPA lays down the conditions under which special evidentiary actions temporarily restricting certain constitutional rights of citizens may be ordered in relation to criminal offences established in the Convention¹⁴². Citizens' constitutional rights may thus be limited with respect to the following: surveillance and technical recording of telephone conversations and other remote communication links, interception, collection and recording of computer data, entry onto premises for surveillance purposes and technical recording of premises, covert tailing and technical recording of individuals and objects, use of undercover investigators and confidants, simulated sales and purchases of objects, simulated bribe-giving and simulated bribe-taking, provision of simulated business services or conclusion of simulated legal transactions, and controlled transport and delivery of objects of a criminal offence. Special evidentiary actions may also be ordered against persons against whom there are grounds for suspicion that they are disclosing to or from the perpetrator of a criminal offence of child sexual abuse and exploitation information and messages in connection with the said offence or that the perpetrator of the said offence is using their telephone connection or some other telecommunication device, or that they are hiding the perpetrator of the criminal offence or are assisting the perpetrator of the criminal offence in order to prevent his/her being discovered by concealing the means by which the criminal offence was committed, the traces of the criminal offence or the objects resulting from or acquired through the commission of the criminal offence or otherwise. Where there is no knowledge about the identity of participants in a criminal offence, special evidentiary actions may be ordered in respect of the object of the criminal offence.

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

With the aim of identifying the victims of the criminal offences of child sexual abuse and exploitation, in June 2013, the Republic of Croatia linked with Interpol's child pornography database, International Child Sexual Exploitation Image Database (ICSE), for the use of which three Croatian experts working at the Department for Juvenile Delinquency and Crimes against Youth and Family within the Police Directorate have been certified. The police officers working at the said Department also participate in the work of Interpol's “GROVE“ community which aims to identify victims of child sexual abuse and exploitation.

Seized photographs are categorised with the help of NetClean Analyze DI software, while the photographs themselves and video recordings are analysed by free-of-charge programmes such as, for instance, IrfanView, Free Studio, and others.

¹⁴² See footnotes 7 and 8.

The Crime Police Directorate organised in cooperation with the EU's Technical Assistance and Information Exchange (TAIEX) Office a series of workshops aimed at strengthening the capacities of law enforcement for preventing the distribution of child pornography via the Internet, at which 105 police officers received further training.

Question 23: Child friendly interviewing and proceedings

a. Please describe how interviews (Article 35) with child victims are carried out, indicating in particular whether:

- **they take place without unjustified delay after the facts have been reported to the competent authorities;**
- **they take place, where necessary, in premises designed or adapted for this purpose;**
- **they are carried out by professionals trained for this purpose;**
- **the same persons are, if possible and where appropriate, conducting all interviews with the child;**
- **the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;**
- **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.**

During the conduct of inquiries into a criminal offence, the child is interviewed by a police officer specialised in dealing with youth, unless actual circumstance render this impossible. Police officers specialised in dealing with youth are officers trained for working with the youngest age group in cases where children and minors are perpetrators of punishable acts or where children are victims of punishable acts. These police officers have an affinity towards working with children and youth, are highly educated, primarily in the humanities (graduate criminologists, social educators, educators, psychologists, social workers, lawyers, and the like), have completed a specialised six-week training course intended for jobs involving work with minors which, among other things, focuses on training in child interviewing methods and techniques that result in the least possible secondary victimisation. Interviews with children are conducted in the presence of a parent, guardian, foster parent, person entrusted with the child's upbringing, or a qualified person with the social welfare centre, provided the parent, guardian, foster parent or any other person in whose care the child has been placed is not suspected of having committed a criminal offence against this child. The 28 rooms specially equipped for interviews with children are also equipped with a concealed audio-visual recording device.

The manner in which the child victim is interviewed during criminal proceedings are described in answers to questions 21 b) and 21 g).

b. 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;

Interviews conducted with the victim or child witness are not videotaped. Even if they were videotaped, since the rooms equipped with a hidden audio-visual recording device are located on the premises of the Ministry of the Interior, this recording may not be used in evidence in court proceedings. The only type of child interview recording that may be used in evidence in court proceedings is that of an interview conducted by the judge of investigation (Article 292, paragraph 1, of the CPA).

The recoding of the child/victim interview must always be played at the trial.¹⁴³ Also, the judge may order that a transcript of the videotaped statement be made, which transcript will become an integral part of the minutes of the interview. In the case of a criminal offence against sexual freedom and a criminal offence against child sexual abuse and exploitation, the videotape must always be transcribed. Both the person who made the transcript and the qualified person who made the recording must place their signatures on the transcript of the videotaped statement.¹⁴⁴

c. 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).

Criminal proceedings in which the victim is a child take place without the presence of the public. This fact ensues from Article 44 of the CPA which explicitly states that the child victim is entitled to have the public excluded. Also, case files of proceedings from which the public is excluded may only be accessed by persons to whom this exclusion does not apply. Furthermore, the provisions of Article 388 of the CPA on the trial also provide for the exclusion of the public from the trial in order to protect a person under the age of eighteen. Under the said statutory provision the public may also be excluded from the trial for the purpose of protecting the personal or family life of the accused, the victim, the injured person or any other participant in the proceedings. The exclusion of the public does not apply to the parties, the victim, the injured party, their representatives and the defence counsel, while certain official persons, scholars, public figures, persons trusted, as well as, at the defendant's request, the defendant's spouse or common-law spouse and close relative may be granted permission to be present at the trial. In such a case, those present are instructed of their duty to preserve secret whatever they hear at the trial and that unauthorised disclosure of secrets constitutes a criminal offence.¹⁴⁵ Article 292, paragraph 1, of the CPA which provides for the questioning of the child explicitly states that this questioning must be conducted without the judge or the parties being present in the room in which the child is located and shall be transmitted by an audio-visual link. (For more details on the way in which children are questioned see the answer to question 21 b)).

¹⁴³ Article 115, paragraph 3, of the Juvenile Courts Act.

¹⁴⁴ Article 115, paragraph 5, of the Juvenile Courts Act.

¹⁴⁵ Article 145, paragraph 1, of the CA reads as follows: "An attorney-at-law, notary public, healthcare worker, psychologist, employee of a social welfare institution, religious confessor or any other person who discloses without authorisation a piece of information about somebody's personal or family life that was confided to him/her in the performance of his/her profession, shall be punished by imprisonment of up to one year".