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

Replies to the thematic questionnaire

CROATIA

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 21 January 2014

Revised replies to questions 10, 11 and 12 registered by the Secretariat on 26 June 2014

Revised replies to questions 1, 9a, 12, 13 and 14 registered by the Secretariat on 24 November 2014

DATA COLLECTION

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

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

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

The Ministry of the Interior carries out the activities of monitoring and analysis of the state of security and the phenomena that are conducive to the emergence and development of crime both in the territory of the Republic of Croatia and within areas under the jurisdiction of individual police administrations. These activities also include the analysis of data relating to sexual abuse and exploitation of children, within the scope of which records are kept on the number of committed criminal offences, number of injured persons, number of offenders, and the relationship between the victim and the offender.

In view of the fact that on 1 January 2013, a new Criminal Act entered into force in the Republic of Croatia¹ – for a detailed overview of the criminal offences covered by the Convention and provided for in the said Act see the answer to question 3a of the General Overview Questionnaire – and that the 2013 reference period for which statistical data are being collected has still not ended, the data presented below on these criminal offences refer to the Criminal Act that was in force until 1 January 2013² (hereinafter referred to as: the “CA/97”).

Article 191, paragraph 2, of the CA/97³ prescribes punish ability for sexual intercourse with a minor aged between 14 and 18 years through abuse of position, which provision corresponds to Article 159, paragraph 1, of the CA.

At the same time, Article 192, paragraph 3, of the CA/97⁴ describes the aggravated form of the criminal offence, namely sexual intercourse with a child (person under the age of 14 years), which corresponds to Article 158, paragraph 5, of the CA.

Furthermore, Article 166 of the CA provides for the qualified forms of sexual abuse of children (Serious Criminal Offences of Sexual Abuse and Exploitation of Children) in accordance with Article 28 of the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. Thus, Article 166, paragraphs 1 and 2, provides for a number of qualified forms, including that of a criminal offence committed by a person close to the child or a person with whom the child lives in a shared household.

¹ Official Gazette 125/11 and 144/12.

² 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.

³ Article 191, paragraph 2, of the CA/97 reads as follows: “A teacher, educator, parent, adopter, guardian, step-father, step-mother or any other person who, by abusing his/her position towards or relationship with a minor with whose education, upbringing, custody, or care he/she has been entrusted, engages in sexual intercourse or an equivalent sexual act with the said minor, ...”

⁴ Article 192, paragraph 3, of the CA/97 reads as follows: “Whoever through abuse of his/her position engages in sexual intercourse or an equivalent sexual act with a child, ...”.

In order to ensure the best possible quality of the collection and analysis of data on the criminal-law protection and violence within the circle of trust, on 1 January 2013, the Ministry of the Interior started registering the victim-offender relationship. The said relationship includes 95 different forms of victim-offender relationship (family members, persons close to the child, members of the shared household), as well as other relations important for monitoring the criminal-law protection of children and, consequently, the criminal offences of sexual abuse of children.

POSSIBLE VICTIM – OFFENDER RELATIONSHIP:

son/daughter – father/mother
father/mother – son/daughter
step-son/step-daughter – step-father/step-mother
step-father/step-mother – step-son/step-daughter
grandson/granddaughter – grandfather/grandmother
grandfather/grandmother – grandson/granddaughter
great-grandson/great-granddaughter – great-grandfather/great-grandmother
great-grandfather/great-grandmother – great-grandson/great-granddaughter
brother/sister – brother/sister
maternal half-brother/half-sister – paternal half-brother/half-sister
paternal half-brother/half-sister - maternal half-brother/half-sister
wife/husband – husband/wife
ex-husband/ex-wife – ex-wife/ex-husband
common-law husband/common-law wife – common-law wife/common-law husband
ex-common-law husband/ex-common-law wife – ex-common-law wife/ex-common-law husband
son-in-law (daughter's husband) – father-in-law (wife's father)
son-in-law (daughter's husband) – mother-in-law (wife's mother)
father-in-law (wife's father) – son-in-law (daughter's husband)
mother-in-law (wife's mother) – son-in-law (daughter's husband)
daughter-in-law (son's wife) – father-in-law (husband's father)
daughter-in-law (son's wife) – mother-in-law (husband's mother)
father-in-law (husband's father) – daughter-in-law (son's wife)
mother-in-law (husband's mother) – daughter-in-law (son's wife)
brother-in-law (sister's husband) – brother-in-law (wife's brother)
brother-in-law (wife's brother) – brother-in-law (sister's husband)
brother-in-law (sister's husband) – sister-in-law (wife's sister)
sister-in-law (wife's sister) – brother-in-law (sister's husband)
sister-in-law (brother's wife) – brother-in-law (husband's brother)
brother-in-law (husband's brother) – sister-in-law (brother's wife)
sister-in-law (brother's wife) – sister-in-law (husband's sister)
sister-in-law (husband's sister) – sister-in-law (brother's wife)
nephew/niece (brother's/sister's son/daughter) – (paternal) uncle
nephew/niece – (maternal) uncle
nephew/niece – (paternal) aunt
nephew/niece – (maternal) aunt
(paternal) uncle – nephew/niece

(maternal) uncle – nephew/niece
(paternal) aunt – nephew/niece
(maternal) aunt – nephew/niece
same-sex partner – same-sex partner
ward – guardian
guardian – ward
ward – member of guardian's family
member of guardian's family – ward
user of foster care – foster care provider
foster care provider – user of foster care
user of foster care – member of foster care provider's family
member of foster care provider's family – user of foster care
adoptee – adopter
adopter – adoptee
adoptee – member of adopter's family
member of adopter's family – adoptee
godchild – godfather/godmother
godfather/godmother – godchild
godchild – member of godfather's/godmother's family
member of godfather's/godmother's family – godchild
recipient of health care – health-care worker
health-care worker – recipient of health care
welfare recipient – social worker
social worker – welfare recipient
user of education-sector services – education sector employee
education sector employee – user of education-sector services
user – employee at a correctional facility
employee at a correctional facility – user
user – worker at pupils'/student hostel
worker at pupils'/student hostel – user
user – employee at a preschool institution (kindergarten)
employee at a preschool institution (kindergarten) – user
user – employee at a children's home
employee at a children's home – user
user – employee at a religious institution
employee at a religious institution – user
user – employee at a sports organisation/club
employee at a sports organisation/club – user
user – employee at a children's playgroup
employee at a children's playgroup – user
user – employee with an arts and cultural organisation
employee with an arts and cultural organisation – user
user – employee at an organisation for technical culture
employee at an organisation for technical culture – user

user – employee at a charitable organisation
employee at a charitable organisation – user
primary school pupil – primary school pupil
secondary school pupil – primary school pupil
primary school pupil – secondary school pupil
secondary school pupil – secondary school pupil
primary school pupil – former pupil
secondary school pupil – former pupil
pre-school child – pupil
employee – employer
employer – employee
former same-sex partner – former same-sex partner
partner (boyfriend/girlfriend) – partner (boyfriend/girlfriend)
unknown relationship between the victim and the offender (it has not been established whether the victim and the offender know each other)
the victim and the offender do not know each other (this has been established)

Furthermore, with the aim of protecting children and minors against sexual abuse and all forms of intentional engagement in sexual acts with children whereby a recognised position of trust, authority or influence is abused by a person within the child's circle of trust as well as of preventing such forms of wrongful conduct it is necessary to continually monitor all modes in which the criminal offences of sexual violence are committed. An important role in this monitoring activity is performed by the statistical data and operational reports which all state attorney's offices in the territory of the Republic of Croatia send each month to the State Attorney's Office of the Republic of Croatia which then stores them in the Case Tracking System (CTS). This allows for the analysis and monitoring of data on the sexual exploitation and sexual abuse of children, within the framework of which activities the number of committed criminal offences, the number of perpetrators, the number of injured persons, and the relationship between the victim and the perpetrator are registered. The records kept also contain information on the procedural actions taken by the state attorney's office and courts in each criminal proceeding, including information on the appeals filed in each proceeding.

According to the consolidated annual report of the State Attorney's Office of the Republic of Croatia which represents the official document in 2012 for the criminal offence of sexual intercourse by abuse of position referred to in Article 191, paragraph 2, of the CA/97⁵, criminal reports were filed against 3 perpetrators, with 2 of them being eventually convicted and sentenced to, respectively, imprisonment and a conditional sentence. As regards the criminal offence referred to in Article 192 of the CA/97, namely sexual intercourse with a child, the statistical reports of the State Attorney's Office of the Republic of Croatia contain data on all the forms of this criminal offence (Article 192, paragraphs 1, 2, 3, 4 and 5 of the CA/97). Thus, a total of 23 perpetrators were reported for this criminal offence.

According to the data collected by the State Attorney's Office of the Republic of Croatia, in 2013, criminal reports for the criminal offence referred to in Article 159, paragraphs 1 and 2, of the CA and the criminal offence referred to in Article 166, paragraph 2, in conjunction with Article 158, paragraph 5, of the CA were filed against, respectively, 3 perpetrators and 1 perpetrator⁶ (see the answer to question 3a of the General Overview Questionnaire).

⁵ See footnote 3.

⁶ See the answer to question 3a of the General Overview Questionnaire.

From the report of the State Attorney's Office of the Republic of Croatia for 2013, for committing criminal offence against sexual freedom and sexual abuse and sexual exploitation of children (Chapter 16 and 17, Criminal Code) 240 persons have been reported. Regarding the criminal offence stipulated in Article 166 paragraph 1 and 2 of the Criminal Code (Serious Criminal Offence of Child Sexual Abuse and Exploitation) which prescribes circumstances of the offense committed by the close person or a person the child lives with in a joint household, 12 persons were reported, 5 charged, while the Courts passed 10 judgment from which 8 are condemning. The State Attorney's Office of the Republic of Croatia has submitted 4 complaints on imposed judgments as follows: 3 for the decision of the Court on criminal sanction and 1 in relation to the acquittal.

In order to ensure the best possible quality of the collection and analysis of data on the criminal-law protection and violence within the circle of trust, the State Attorney's Office of the Republic of Croatia shall prescribe the duty of recording the relationship between the victim and the offender.

Accordingly to the data of the Ministry of Justice of the Republic of Croatia for the criminal offence of Sexual Abuse of a Child under the Age of Fifteen (Article 158 paragraph 5 and 6, Criminal Code/11) in 2013 4 persons were convicted and in 2014, 1 person. For the criminal offence of Sexual Abuse of a Child over the Age of Fifteen (Article 159, Criminal Code/11) in 2013, 1 person was convicted and also in 2014 (1 person). For the criminal offence of Serious Criminal Offence of Child Sexual Abuse and Exploitation (Article 166, Criminal Code/11) in 2013 and 2014 15 persons were convicted.

The General Overview Questionnaire - 3a

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.

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

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.

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.

PREVENTION

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

Question 2: Education for children

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

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 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".

In November 2012, the Government of the Republic of Croatia and the Office for Gender Equality adopted a Sexual Violence Protocol. The procedures to be taken in educational institutions are regulated by points 5.1 and 5.2 of the said Protocol. According to the said Protocol, where it is suspected that a minor experienced sexual harassment or sexual violence (within or outside of an educational institution), the qualified person at school is first required to talk with the said minor in order to ensure his/her protection. The conversation must take place within a safe environment, taking due consideration of the need to protect the rights of the said minor. Furthermore, the responsible person is required to inform of the incident the minor's parents, who are to be provided with institutional and extra-institutional assistance and support, the competent social welfare centre, and the school principal, report the incident to the police or the state attorney's office, and, where the perpetrator is an employee of the educational institution or where the said act of sexual violence was committed on the premises of the educational institution, inform the Ministry of Science, Education and Sports as well.

The Ordinance on the measures to be taken by school educational staff in order to protect the rights of pupils and report any violation of these rights to the competent authorities also regulates in detail the issue of special attention given in the education sector to the risk of sexual abuse as well as the procedure to be followed in any such case. Educational institutions appoint at county level qualified persons responsible for co-ordinating activities relating to school programmes on the prevention of all types of violence among children.

Question 3: Recruitment and screening

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

The answer is given in the answer to question 9 of the General Overview Questionnaire.

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

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

"Two little girls" is a campaign against trafficking in women and girls for purposes of sexual exploitation.

The Centre for Education, Counselling and Research (CESI) in co-operation with the Embassy of the United Kingdom, the Ministry of the Interior – the Police Directorate, the Ombudsperson for Gender Equality, and the Office for Human Rights and Rights of National Minorities of the Government of the Republic of Croatia is conducting the "Two Little Girls" campaign for the prevention of trafficking in women and girls for purposes of sexual exploitation. Trafficking in human beings is a global problem and one of the fastest growing and most lucrative forms of organised crime. It also represents one of the grossest instances of human rights violations.

Thus far 13 European countries have joined the campaign and more than 10,000 direct beneficiaries have taken part in the various activities. The campaign is spearheaded by a short animated film of no more than three minutes in length that follows the stories of two young women who were cruelly deceived by people they knew and trusted, and then trafficked against their will. The author of the animated film is Ruth Beni. The campaign is funded by Comic Relief foundation as well as various other British and international organisations.

In addition to the animated film, a TV video "Two Little Girls" intended for TV broadcasting has also been recorded. Its aim is to warn young women of the dangers of being persuaded to travel abroad with attractive employment offers or for romantic reasons. The TV video will be offered to national and local television stations and we will endeavour to get it screened at different festivals, in cinemas and at other places frequented by young people.

The campaign lasted throughout 2013 and included a promotion hosted by the Embassy of the United Kingdom. In addition to the media promotion, the campaign included activities aimed at informing the public and various educational activities carried out in co-operation with schools, libraries, universities and civil society organisations. An education package consisting of the short film "Two Little Girls" and a brochure containing an education module and the basic information on trafficking in human beings, possibilities for preventing the trafficking, and ways in which they can protect themselves has been developed.

Educational activities are primarily intended for pupils aged 14 to 16 years but may also be used with children and youth aged 12 to 18 years. Such activities focus on providing the basic information so that individuals could recognise the problem and face up to the risks it entails. Workshops are intended for groups of both young people and children which are deemed to be groups at increased risk. Information is also available at www.cesi.hr and via facebook, while the film is available for download from the youtube. In this way information is also available to parents who may join the campaign.

It should be pointed out that the 2012/2013 academic year saw the introduction of Health Education as a mandatory subject at all the schools. It provides pupils with detailed information on the risks of abuse, including sexual abuse, its occurrence, and the harmful influence exerted by some media that are promoting juvenile pornography and sexual abuse (possibility to access the Internet and seduce minors via various social network profiles, etc.).

As has already been stated in the General Overview Questionnaire, the Republic of Croatia does not have a specific strategy aimed at combatting sexual abuse of children but has instead opted for an integrative strategy designed to affirm and protect the rights of children and which targets, among others, abused and neglected children as well as other vulnerable groups. The previous strategic document, the 2006-2012 National Action Plan for the Rights and Interests of Children, as well as the new one currently being drafted, the 2013-2020 National Strategy for the Protection and Promotion of the Rights of Children in the Republic of Croatia, cover issues relating to the media and the raising of public awareness about the rights of children.

Following the launch of the Council of Europe "ONE IN FIVE" Campaign, the Republic of Croatia developed the Action Plan for the Implementation of the Council of Europe Campaign to Stop Sexual Violence against Children in the Republic of Croatia, which was adopted in March 2011 and was implemented throughout 2011.

Although the activities provided for in the Action Plan had been carried out within the prescribed period, certain activities relating to the Campaign are still occasionally undertaken. Thus the Family Centre of the Istria County and the Prevention Department of

the Istrian Police Administration in co-operation with Birikina civil society organisation from the town of Pula created a costume play “Kiko and the Hand” on the basis of the Council of Europe's programme aimed at raising public awareness of this problem and recognising signs of sexual exploitation among the most vulnerable population group, i.e., children aged 6-7 years. It should also be highlighted that the Ministry of Social Policy and Youth funds projects aimed at preventing all forms of violence among children and youth, for which purpose 3 million kuna were earmarked in 2013. Of the civil society organisations which the Ministry has been funding for several years now, one should mention the Centre for Missing and Abused Children which conceived and carried out a whole series of projects relating to Internet violence, and created and made available to the public an Internet content-control software in the Croatian language which shields children against inappropriate content. In addition to this, they carried out the “Web Detectives” project aimed at educating children about how to report inappropriate content and created a computer game for children which teaches them how to use the Internet safely.

Question 5: Specialised training

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

Under Article 114, paragraph 2, of the Juvenile Courts Act¹², in the case of all criminal proceedings for criminal offences against children, and thus also when these criminal offences are committed by persons within the circle of trust, criminal investigations are carried out by specialised police officers. These police officers undergo a specialised six-week training course which focuses, among other things, on how to conduct investigations in the case of child sexual abuse by a member of the child's immediate family or a person in a position of trust, authority or influence over the child. From 2000 to 2013, twelve such training courses attended by 341 police officers took place. Police officers specialised in youth matters are officers trained to work with the youngest age group in cases where children and minors are either perpetrators or victims of punishable acts. These police officers have an affinity to work with children and youth, are highly educated, mainly in the humanities (graduate criminologists, social educators, educators, psychologists, social workers, lawyers, and the like).

With the aim of strengthening the police's own capacities, the Department for Juvenile Delinquency and Crime against Youth and Family applied to the European Commission's Pre-Accession Assistance Programme (IPA) 2009 with the project “Capacity Building in the Field of Fight against Sexual Exploitation and Sexual Abuse of Children and Provision of Police Assistance to Vulnerable Crime Victims“. The project was approved by the European Commission and consisted of Twinning and supply components.

Throughout 2012/2013, the Police Academy and the Department for Juvenile Delinquency and Crime against Youth and Family of the Ministry of the Interior organised within the framework of a Twinning component 30 seminars for police officers, social workers, employees of state attorney's offices and courts on the following topics: investigations into sexual criminal offences against children (lectures and workshops), sexual exploitation via the Internet, interviewing children – achieving best evidence from children (ABE), and support to victims of criminal offences.

¹² Official Gazette 84/11 and 143/12.

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

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

Educational institutions have various programmes in which children participate or they themselves create workshops as well as take part in the workshops organised by civil society organisations implementing such programmes.

In accordance with the answer to question 4a of the General Overview Questionnaire, children participate in the development of the integrative strategy aimed at affirming and protecting the rights of children, as well as in the work of the Council for Children.

Question 7: Preventive intervention programmes or measures

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

Within the framework of the regular health-care system, all persons insured with the Croatian Health Insurance Institute who fear that they might commit any of the criminal offences established in accordance with this Convention have access to the system's primary, secondary, and tertiary health-care institutions. See the answer to question 10a of the General Overview Questionnaire.

PROTECTION

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

Question 8: Reporting suspicion of sexual abuse

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

In addition to the usual 192 and 112 telephone lines for urgent police intervention and the e-mail address policija@hr, the Ministry of the Interior created a specialised website containing information of relevance to citizens and those at risk of becoming victims of criminal offences. Citizens may also report criminal offences to the police via websites www.sigurnijinternet.hr and www.saferinternet.hr which feature a RED BUTTON for the reporting of criminal offences. The Red Button application is intended for children since it enables the reporting of Internet content that is suspected of being illegal and that relates to various forms of exploitation and abuse of children. A report may be filed by the victim as well as by a friend of the victim, a person who has knowledge that somebody is a victim, or any other person. In addition to being simple and especially adapted to children, the said reporting procedure helps allay fear and psychological pressure caused by the reporting itself. Reports are received and processed by the police.

The Republic of Croatia has adopted legislative measures that encourage the reporting of sexual abuse of children within the children's circle of trust to the competent authorities and which have been specified in detail in the answer to question 13 of the General Overview Questionnaire.

Question 9: Assistance to and special protection for victims

- a. If, and to what extent, does internal law provide for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse? If internal law so provides:**
- **are the conditions and duration of such removal to be determined in accordance with the best interests of the child? (Article 14 (3), Explanatory Report, para. 99);**
 - **have legislative or other measures been taken to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care? (Article 14 (4), Explanatory Report, para. 100).**

The General Overview Questionnaire - 15b

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.¹³

¹³ 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;
- 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

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 household¹⁴ – 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 Act¹⁵ 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 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

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 defense 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.

¹⁴ 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.

¹⁵ Family Act, Official Gazette, No. 75/14

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.¹⁶ 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.

The General Overview Questionnaire – 21e

During criminal proceedings both the victim and the immediate family members are protected through the ordering of the measure of investigative imprisonment¹⁷ against the

¹⁶ 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.

¹⁷ 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).

defendant or the ordering of a precautionary measure¹⁸ where conditions for investigative imprisonment have been met but where it is estimated that the purpose will just as well be 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 Act¹⁹ 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 Act²⁰ 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

¹⁸ See footnote No. 12

¹⁹ Official Gazette, No. 137/09, 14/10 and 60/10

²⁰ Official Gazette, No. 75/14

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 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).²¹ 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.²²

²¹ 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.

²² Family Act, Article 129, removal of a child from family

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.

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

The acts regulating the exercise of certain professions, for instance, the Social Welfare Act²³, the Sports Act²⁴, the Primary and Secondary Education Act²⁵, the Act on Volunteering²⁶, and the Nanny Act²⁷, prohibit perpetrators of certain criminal offences committed against children from exercising any of these professions.

(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.

(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.

²³ Official Gazette 33/12.

²⁴ Official Gazette 71/06, 150/08, 124/10, 124/11, 86/12 and 94/13.

²⁵ Official Gazette 87/08, 86/09, 92/10, 105/10, 90/11, 5/12, 16/12, 86/12, 126/12 and 94/13.

²⁶ Official Gazette 58/07 and 22/13.

²⁷ Official Gazette 37/13.

PROSECUTION

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

Question 10: The offence of sexual abuse

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

Note:

Please also see the answers to Question 1 and Question 16 of the General Overview Questionnaire.

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

Under internal law a criminal offence may be committed with direct (*dolus directus*) or indirect intent (*dolus eventualis*). The perpetrator is acting with direct intent when he/she is aware of the material elements of the criminal offence and wants or is certain of their realisation. The perpetrator is acting with indirect intent when he/she is aware that he/she might realise the material elements of the criminal offence and agrees to this.

b. what is understood by “sexual activities” in internal law? (Explanatory Report, para. 127).

Under internal law the concept of sexual activities is not specially defined. However, in relation to the subject-matter of the Convention, the said concept subsumes concepts that are generally considered criminal offences, such as, for instance, sexual intercourse, sexual acts to which a person has not consented, lewd acts.

Non-consensual sexual intercourse means any sexual intercourse to which the victim has not consented.

A sexual act – any act which includes the penetration of the vaginal, anal or oral cavity with another person's body part or an object, to which the person has not consented.

Lewd acts – acts performed on the body or through contact with another person's body for the purpose of satisfying or inciting one's own or another person's lust, which under established social views represent a gross intrusion into sexuality.

Question 11: Corporate liability

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

Please see the answer to Question 17 of the General Overview Questionnaire.

Question 12: Aggravating circumstances

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

Article 166, paragraphs 1 and 2, of the Criminal Act²⁸ explicitly provides for more severe punishment (aggravated form of the basic criminal offence) if the criminal offence against the child is committed by a person close to the child or by a person living within the same household as the child. More severe punishment is provided for the criminal offences of sexual abuse of a child under the age of fifteen years (Article 158, paragraph 1, of the CA), child pandering (Article 162, paragraphs 1 and 2), exploitation of children for pornography (Article 163, paragraphs 1 and 2) and exploitation of children for pornographic performances (Article 164, paragraph 1). If any of the said criminal offences is committed by a person close to the child, the prescribed penalty ranges from three to fifteen years' imprisonment, with the severity of the sentence in each individual case depending on the application of the basic parameters provided for in Article 47 of the CA. In other words, Article 47 of the CA specifies that in determining the type and severity of punishment, one should, among other things, take into account the degree to which the perpetrator's duties have been violated, the consequences arising from the commission of the criminal offence, and the perpetrator's relationship to the victim. There is, therefore, no doubt that the relationship of the perpetrator of a criminal offence to the child within the context of family relations or the performance of a professional or voluntary activity is of relevance to the type and severity of the sanction that is to be imposed on the perpetrator by the court.

²⁸ Article 166, paragraphs 1 and 2, of the CA reads as follows: (1) Where 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 serious bodily injury or his/her physical or emotional development is compromised or he/she becomes pregnant, 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 living within the same household as the child, or where it is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment from three to fifteen years. (2) Where 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 physical or emotional development is compromised or he/she becomes pregnant, 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 living within the same household as the child, or where it is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment of no less than five years.

The General Overview Questionnaire – 20

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 CA²⁹ 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.

Question 13: Best interest of the child

- a. Please specify whether in situations where the alleged perpetrator is a member of the victim's family or has otherwise been in a recognised position of trust or authority towards him or her, legislative or other measures have been taken to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim of sexual abuse. (Article 30, para. 1, Explanatory Report, para. 215);**

The General Overview Questionnaire - 21b

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.³⁰ By contrast, where children witness/victims are questioned for the criminal offences

²⁹ 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.

³⁰ Criminal Procedure Code, Article 292

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.³¹

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.³² 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.³³ Furthermore Article 11 of Rulebook for assistants outside the legal profession in matters of youth delinquency and

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 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.

³¹ 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.

³² 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.

³³ 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.

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.

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.³⁴ 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.³⁵

The General Overview Questionnaire - 23c

Criminal proceedings in which the victim is a child take place without the presence of the public. Article 44 of the CPA³⁶ explicitly states that the child victim is entitled to have the public excluded and similar order is stipulated in Act on Youth Courts in Article 115 paragraph 7. 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 CPA³⁷ on the trial also provide for the exclusion of the public from the trial

³⁴ 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.

³⁵ Criminal Procedure Code, Article 292 paragraph 2

³⁶ Criminal Procedure Code, Article 44

(1) Other than the rights to which the victim is entitled as referred to in Article 43 and other provisions of this Act, a child or a minor under the age of 16 who is a victim of a criminal offence shall be entitled to:

- 1) a legal guardian at the expense of the budget funds;
- 2) accompanied by a person of trust when engaging in actions
- 3) confidentiality of personal data;
- 4) exclusion of the public.

(2) The court, the State Attorney, the investigator and the police authority shall treat the child or the minor under the age of 16 who is a victim of a criminal offence with consideration for his age, personality and other circumstances, in order to avoid possible harmful consequences to the future education and development of the child or the minor under the age of 16. When dealing with the child victim the competent authorities will primarily be guided by the best interests of the child.

(3) if the age of the victim is unknown, it will be assumed that it is a child if there is a likelihood that the victim has not attained 18 years of age.

³⁷ Criminal Procedure Code, Article 388

(1) The panel shall exclude the public from the whole or part of the trial:

- 1) for the protection of a child or a minor,
- 2) upon the request of the victim as referred to in Article 45 of this Act, during his questioning as a witness.

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.³⁸ 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)).

b. The reply to question 22(d) of the GOQ will be examined by the Committee to assess the implementation of Article 31, para. 4 of the Convention with respect to the theme of the monitoring round;

The General Overview Questionnaire - 22d

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.³⁹ 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.⁴⁰

(2) From the opening of the session to the conclusion of the trial the panel may at any time, by virtue of the office or on the motion of the parties but always after hearing their statements, exclude the public from the whole or part of the trial if this is necessary for:

- 1) the protection of the security and defence of the Republic of Croatia;
- 2) keeping the confidentiality of information which could be jeopardised by a public hearing;
- 3) keeping public order and peace;
- 4) the protection of the personal and family life of the accused, the injured person or of another procedural participant.

³⁸ Criminal Code, Article 145 paragraph 1

(1) An attorney-at-law, notary public, health worker, psychologist, employee of a welfare institution, religious confessor or another person who discloses without authorisation a piece of information about the personal or family life confided to him/her in the performance of his/her occupation shall be sentenced to imprisonment for a term of up to one year.

³⁹ 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.

⁴⁰ Article 53 paragraph 1 Criminal Procedure Code

- c. Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the victim's circle of trust, include withdrawal of parental rights or monitoring or supervision of convicted persons (Article 27, para. 4, Explanatory Report, para. 191).**

Internal law provides through the Family Act⁴¹ the possibility that a parent who abuses or grossly violates his/her parental responsibilities, duties and rights be deprived of parental care. The parent can also be deprived of parental care on the bases of a final judgment which he is condemned on specific criminal offence against his child. The Law specifically defines them:

- criminal offences against sexual freedom and sexual morality (Title XIV), criminal offences against marriage, family and youths (Title XVI) except criminal offences violation of duty of maintenance (Article 209), abduction of a child or a juvenile (Article 210), change in family status (Article 211) of the 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 offences: bigamy (Article 167); enabling the contracting of a prohibited marriage (Article 168); enabling cohabitation with a child (Article 170), violation of duty of maintenance (Article 172); change in family status (Article 175) and violation of the privacy of a child (Article 178) of the Criminal Code (Official Gazette No. 125/11 and 142/11).

Question 14: Child-friendly justice

- a. Please specify whether in situations where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her, a protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate (Article 30, para. 2 and Explanatory Report, paras. 211-215);**

The Ministry of Justice and UNICEF have recognized the importance of respecting the rights of the child in court proceedings and the need for education and training of juvenile judges, juvenile state attorneys and expert assistants outside the legal practice in criminal proceedings. Therefore, in 2013 the Ministry of Justice of the Republic of Croatia and UNICEF launched a joint project named "Criminal law protection of children victims and witnesses". The project is an exceptional contribution to the proclaimed and legally prescribed specialization of juvenile judges and other participants in the criminal proceedings where children are victim/witness. The project also enabled the creation of technical conditions that significantly contribute to the elimination of victimization of children in criminal proceedings. The theme of the project is specific because it applies to the most vulnerable population, children victim/witness of criminal offences committed against them and

(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.

⁴¹ Official Gazette, No. 75/14

demands additional and continuous education of all personnel working on cases of criminal law protection of children. The project consists of two components.

8 County Courts have been chosen to participate in the Project based on the collected data on the number of interviewed children in the cases of criminal law protection of children. The total number of interviewed children in these 8 courts was around 1500.

The first educational component of this Project was realized through four three-day workshops with about a hundred participants (juvenile judges, expert associates outside the legal practice on courts and juvenile public prosecutors). There was a wide range of education topics, from reminders of the legislative framework for children victim/witness in the Republic of Croatia and international standards to the role of certain experts in process in which the child appears as victim/witness, and the education itself took place in an interactive atmosphere. This type of training is an exceptional contribution to the specialisation that the Act on Youth Courts demands from juvenile judges and juvenile public prosecutors. It is also extremely important for the work of expert associates outside the legal practice on Courts which are providing expert assistant to the judge while hearing the child victim/witness.

The Ministry of Justice of the Republic of Croatia has recognized the importance and the role of expert associates outside the legal practice at courts, based in the provisions of Act on Youth Courts and Rulebook for assistants outside the legal profession in matters of youth delinquency and legal protection of children in State Attorney's Office and Courts. Baring in mind the topic of this project, their role primarily arises from the provisions of the Criminal Procedure Code and is reinforced by the Decision which had decreed that the Courts are obliged to ensure the presence of the expert associate outside the legal practice from County or Municipal Court, regardless of where he is employed, to help the judge while hearing the children victim/witness and ensuring support to the children.

Within the second component of the Project, beside the 8 County Courts which are using new audio video equipment for hearing the children victim/witness, 2 Municipal Courts will also get new audio-visual equipment.

The Ministry of the Interior has equipped 15 child interview rooms at police administrations and another 45 such rooms at police stations throughout Croatia. The said rooms are equipped and furnished in such a manner that they be visually acceptable to children, that is, that the child would not have the impression that he/she is on official premises, which is why all elements that would point to these rooms being used for official purposes, such as, for instance, personal computers, office furniture and the like, have been removed from them. The appearance of the rooms gives the impression that the rooms are children's rooms with a desk, box for toys, play mat, and the odd toy, all of which makes it easier for the child to relax and recount to the police officer what he/she has experienced. There are no special limitations with regard to the duration of interviews with children or their stay on official police premises. It is, however, generally recommended that the duration of the said stay be as short as possible and that children not be kept on official premises after the purpose of their stay has been fulfilled. For the duration of inquiries into a criminal offence, the child is to be 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 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 on how to work with minors which focuses, among other things, on child interviewing methods and techniques. The child is interviewed in the presence of a parent, guardian, foster parent,

a person entrusted with the child's upbringing, or a professional working with the social welfare centre, unless there is suspicion that the parent, guardian, foster parent or another person in whose care the child has been placed has committed a criminal offence against this child. The 28 rooms are also equipped with a concealed audio-visual recording device.

Considering that the legislative framework in the Republic of Croatia prescribes that the hearing of a child victim/witness is in competence of the Court, the Ministry of the Interior offered the above mentioned premises equipped with audio-visual recording equipment to the Ministry of Justice, taking into account the measures for the protection of the child from secondary victimization and the need that the child hearing is held in a room with special audio-visual equipment, instead of a hearing in front of the court.

During 2014 is made and by the competent ministries adopted Rules of Procedure in case of child abuse and neglect. The aim of the Protocol is to improve the welfare of children by preventing child abuse and neglect, ensuring that all procedures and decisions that are made are promptly taken in the best interests of the child and establishment of a good cooperation among the professionals who work in the child welfare (health, education, welfare, justice, etc.). The protocol clearly defines that the best interests of the child is a primary consideration in all matters in which the child is involved or who is affected and take precedence over the interests of the parent, guardian, institution or community, in situations where these interests differ from the interests of the child.

In accordance with the Sexual Violence Protocol, persons providing assistance to the victim are required to acquaint the victim of sexual violence with the possibilities of obtaining extra institutional assistance and support within the framework of civil society organisations specialised in providing assistance to victims of sexual violence.

Extra-institutional assistance and support includes wider measures of assistance and support provided to victims of sexual violence. Besides counselling and/or psychotherapy (individual or group), these measures include working with family members, preparations for court proceedings, monitoring of the victim during the proceedings, and efforts to further improve the treatment of victims.

In September 2014 the Government of the Republic of Croatia adopted the National strategy on children's rights in the Republic of Croatia from 2014 till 2020. The purpose of the national strategy is to achieve effective promotion and protection of children's rights in the Republic of Croatia through the implementation of existing international and national standards in the field of children's rights, promoting a comprehensive and integrated approach to children's rights. The strategy represents a multidisciplinary and systematic framework which needs to be integrated in every other national, regional and local document and plan

In order to provide services and the justice system adapted to children in situation when children are victims of criminal offences, it is necessary to take into account the effect of the process on the child. It is necessary to point out the appropriate oral and written informing of the children and parents/legal representatives about the criminal proceedings and their rights, as well as the usage of means of information and communication technology (especially video conference) to prevent exposing children to the stress of direct presence in the court room and in order to avoid direct contact with the defendants.

One of the main activities of EU Agenda for children's rights is to adjust the judicial system as much as possible to the children in order to facilitate their access to justice and legal system. Action plan for implementation of Stockholm program of the European Commission stressed this field due to above mentioned in the period from 2010 till 2015.

The judiciary should be promoting an individualized approach; it has to be accessible to the child, where it is necessary that each process is adjusted to the child's age, focused on its needs and rights, to be quick and efficient. Respect of the child's rights includes its right on a procedure prescribed by the law, participation and understanding of the procedure, respect of his private and family life, integrity and dignity, being especially noteworthy respect to limit the presence of children during questioning and court hearings, but also enabling to the child to express its opinion in front of the court.

In order to ensure further improvement of the judicial system adapted to children, aims and measures were set to ensure modern audio visual equipment as well as specially equipped premises for interviewing children victims during the criminal proceedings to enable their participation to be active but also appropriately protected. Furthermore, to ensure adequate training of lawyers in criminal proceedings with children victims of criminal offences; ensure that children who are crime victims and their parents/legal representatives get adequate oral and written information (brochure) about criminal proceedings, rights and role of the child in the criminal proceedings before giving a statement, during the criminal proceedings and after it, to provide the possibility of continuous consultation and support before, during and after criminal procedure in cases where the children are victims of a criminal offence.

It is important to emphasize that there is an ongoing reorganization of the judicial system in the Republic of Croatia which includes juvenile judication. In this segment, the reorganization aims on fully implement the provisions of the Act on Youth Courts that refer to the urgency of the procedure and specialization of all the participants in the proceedings (state attorneys, judges and expert assistants) where criminal offenses are committed against children and which include children victims/witnesses.

The General Overview Questionnaire – 3c

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.

b. Which legislative or other measures been taken to ensure that investigations or prosecution of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (Article 32, Explanatory Report, para. 230);

The General Overview Questionnaire - 22b

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.⁴²

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

See the answers to questions 21b and 23c of the General Overview Questionnaire.

⁴² 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 defense counsel, cannot refuse to testify with regard to criminal offences of criminal law protection of children.