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## **LANZAROTE CONVENTION**

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

**Replies to the general overview questionnaire**

**"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"**



## Question 1: Definition of “child”

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

### Ministry of Labour and Social Policy

Given that the *Law on Protection of Children* (“Official Gazette of the Republic of Macedonia” No. 98/2000) was subject to several amendments (nine in total: “Official Gazette of the Republic of Macedonia” No. 17/03, 65/04, 113/05, 98/08, 107/08, 83/09, 156/09, 51/11 and 157/11), the need for adopting a new *Law on Protection of Children* which would specify the new concept of upgrade of the system of child protection was imposed.

On February 12, 2013, the Assembly of the Republic of Macedonia adopted the *Law on Protection of Children*, which was published in the “Official Gazette of the Republic of Macedonia” No. 23/2013 on February 14, 2013, and entered into force on February 22, 2013.

The main objective of this Law is the modernization thereof and harmonization of the legal solutions to the legislation of the European Union countries, as well as to the commitments relating to the Convention on the Rights of the Child and other documents aimed at protecting children.

Article 11 of the *Law on Protection of Children* stipulates that a child, in the sense of this Law, is any person under the age of 18, as well as persons with physical and mental disabilities under the age of 26.

Article 10 of the *Family Law* (“Official Gazette of the Republic of Macedonia” No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14 and 115/14) stipulates that the parental right over a child shall terminate at the time of the child’s maturity or in another manner as provided under this Law.

Pursuant to this Law, maturity shall be obtained after reaching 18 years of age in life, when the adult attains operating capability. In the part concerning the legal requirements for entering into a valid marriage, Article 16 stipulates that a person after reaching 18 years of age is entitled to enter into marriage.

### Ministry of Interior

#### Definition of “Child”

A child is a person before reaching 18 years of age, which is in line with the definition contained in the Convention on the Right of the Child.

In compliance with the Child Justice Act (Official Gazette of the Republic of Macedonia, 148 from 29.10.2013) a child is a person that have not yet reached 18 years of age.

The Child Justice Act Stipulates the categorization of a child as follows:

A child in risk up to 14 years of age;

A child in risk from 14 to 18 years of age;

A child in conflict with the Law from 14 to 16 years of age;

A child in conflict with the Law above 16 years of age;

Every person under the age of 18 is considered a child (victim) and;  
A young adult.

#### Ministry of Justice

In article 19 paragraph 1, item 1 of the Law on Justice for Children contains a definition of child, which corresponds to the provisions of the Convention: "A child is any person under the age of 18".

The Penal Code in article 119 point 22 contains a definition of child as a victim: "A child as a victim of crime means a person who is under the age 18"

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

#### Ministry of Labour and Social Policy

As regard the cases when there is a suspicion concerning the child's age, Article 177 of the *Family Law*, which refers to the protection of children victims of trafficking in humans, stipulates that in case of uncertainty about the victim's age and when there are reasons to believe that the victim is a child, the victim is considered a child while waiting for the child's age to be confirmed, and hence is accorded measures of protection that are provided for children victims of trafficking in humans.

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

#### Ministry of Labour and Social Policy

The *Family Law* makes an exception in relation to the age for entering into marriage, specifically for persons who have reached the age of 16. Namely, the competent court, in an out-of-court procedure, may reach a decision granting approval of marriage to a person that has reached the age of 16 if the court can verify that the person has reached a level of physical and mental maturity sufficient for exercising the rights and duties of marriage, after first obtaining an opinion from a healthcare institution and providing expert assistance from the Center for Social Work.

Ministry of Justice

Article 18 paragraph 1 of the Convention is embedded in the Penal Code of the Republic of Macedonia. Namely, the article 188 contains the crime: "Sexual assault of a child under 14 years. In addition in the paragraph 1 is regulated that: "He who will commit sexually explicit or statutory rape upon a child who is less than 14 years old, will be punished with imprisonment of at least 12 years".

## Question 2: Non-discrimination

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

### Ministry of Labour and Social Policy

The *Law on Protection of Children* (“Official Gazette of the Republic of Macedonia” No. 23/13, 12/14 and 44/14) prohibits all forms of discrimination on grounds of race, colour, gender, religion, political or other affiliation, national, ethnic or social origin, cultural or other background, financial status, disability, birth or other status of the child or of the child’s parent or legal guardian; the law sanctions violations of these provisions and introduces misdemeanour provisions for the violators of these prohibitions. With the purpose of raising the quality of the protection of children, this Law also contains provisions arising from the Council Directive 2000/43/EC concerning the prohibition of discrimination on grounds of race and ethnic origin, which, in the text of the Law, has been developed in all segments of exercising the right and forms of protection of children.

In order to secure these rights of the child and to prevent possible abuse, the Law provides that the state and institutions take all measures to protect children. It also provides protection against illegal use and forms of abuse of children in illegal production and trafficking in drugs, psychotropic substances and precursors. The law also prohibits political or religious organizing and acting, and abuse of children for political or religious organizing and acting purposes, as well as the participation of children in armed conflicts, and their recruitment into units that perform military or other actions. For that purpose, the state and institutions of the system are obliged to take all necessary measures to ensure the rights of the child, as well as to prevent all forms of discrimination and abuse regardless of where these activities have been performed, and the severity, intensity and duration thereof.

The obligation of every citizen to report any form of discrimination, abuse and exploitation of children to the competent authority immediately upon gaining knowledge of the event is also provided by law.

The law provides the prohibition of any type of direct or indirect discrimination and harassment in the exercising of the rights and types of protection of children established by this Law. It also defines the forms of direct and indirect discrimination, and the right of the requesting party i.e. the beneficiary to seek protection from a competent authority is established, and, at the same time, legal protection is determined. The law also stipulates the obligation of the state to ensure the right of the child to express their own opinion about all issues affecting the child, and that the views of the child be given due attention in accordance with the age and maturity of the child. Children may give a statement themselves directly or via a representative or a competent authority in compliance with the established procedure and the law.

Article 12 of the *Law on Protection of Children*, adopted in 2013, prohibits all forms of sexual exploitation and sexual abuse of children (harassment, child pornography, child prostitution), violent procuring, sale or trafficking in children, psychological or physical violence and harassment, punishment or other inhuman treatment, all forms of exploitation, commercial exploitation and abuse of children that violate the basic human rights and freedoms and the rights of the child.

The state and institutions shall take all measures to protect children against illegal use and all abuse of children labour in the illegal production and trafficking in drugs, psychotropic substances and precursors.

The abuse of children for political or religious organizing and acting is prohibited.

The participation of children in armed conflicts and their recruitment into units that perform military or other actions are prohibited.

The state and institutions of the system are obliged to take all necessary measures to ensure the rights of the child, as well as to prevent all forms of discrimination and abuse regardless of where these activities have been performed, and the severity, intensity and duration thereof.

The obligation of every citizen to report any form of discrimination, abuse and exploitation of children to the competent authority immediately upon gaining knowledge of the event is also provided by law.

The misdemeanour provisions of the Law (Article 228) determine the penalties for the failure to implement the provision of the Law. Fine in the amount from 500-1000 EUR in MKD counter value shall be imposed for misdemeanour of the institution for children or a natural person who independently performs certain activities in the field of care and education of children as a professional activity and an agency for provision of services for looking after and taking care of preschool children if they: organize political or religious organizing and acting, and if within the institution for children, or with the natural person or the agency children are abused from the same motives, as well as if psychological or physical abuse, punishment or other inhuman treatment and abuse of children take place (Article 12, paragraphs 2 and 4).

Fines in the amount from 500 to 1000 EURO in MKD counter value are also envisaged for the managing person.

Fines in the amount from 500 to 1000 EURO in MKD counter value are also envisaged for the employee of the institution, the agency for provision of services for looking after and taking care of preschool children, as well as for the natural person who independently performs certain activities in the field of care and education of children as a professional activity if they perform psychological or physical violence or harassment or other inhuman treatment or abuse of a child/children (Article 12).

In the *Draft Law Amending the Law on Protection of Children*, which was established by the Government of the Republic of Macedonia and which was in parliamentary procedure in the last quarter of the year of 2013 (adopted by the Assembly of the Republic of Macedonia at the session held on January 17, 2014, published in the "Official Gazette of the Republic of Macedonia" No. 12/2014 on January 22, 2014) interventions were made by replacing the existing provision with a new provision, specifically, the provision of Article 12, paragraph 3, "The state and institutions of the system are obliged to take all necessary measures to ensure the rights of the child, as well as to prevent all forms of discrimination and abuse regardless of where these activities have been performed, and the severity, intensity and duration thereof." was replaced with a new provision, "The procuring or offering of drugs, psychotropic substances and precursors to a child under the age of 18, and all illegal activities and abuse of child labour for production and trafficking in drugs, psychotropic substances and precursors are prohibited."

#### Ministry of Interior

Under the Police Law when exercising police powers, authorised officer shall act impartially, extending the same protection under the law, without bias or discrimination on any grounds. In exercising police powers, authorised officers shall proceed humanely and with respect for

the dignity, honour and good name of all, and other fundamental human rights and freedoms, favouring the rights of the endangered person over those of the person violating such rights, and mindful of the rights of third parties.

In their work police officers are guided by the principle of impartiality in enforcement of the law regardless of nationality, ethnic origin, race, language, social status of the person to whom the law should be enforced, of his political, religious or philosophic convictions, of his age, marital status, sex or any corporal or mental impairment. In carrying out their authorizations, police officers shall treat the citizens politely and responsibly in the streets, at counter, border posts and other venues of execution of official action. In communication with citizens, police officers respect human personality and dignity and safeguard high standards of the Ministry.

### Ministry of Justice

Article 8 of the Law on Justice for children contains the grounds of non-discrimination contained in article 2 of this Convention:

“(1) The Court and other institutions in the application of this law respect and ensure the rights of the child without any discrimination, regardless of gender, race, colour of skin, cognate, affiliation to a marginalized group, ethnicity, language, nationality, social origin, religion or religious beliefs, other types of beliefs, education, political affiliation, personal or social status, mental and physical disability, age, family or marital status, property status, health status or any other basis which is provided by the law or ratified international agreement, of the parents/or/from, respectively the tutors/ or/ from the members of the child family.

(2) The Court and other institutions in the application of this Law shall take all necessary measures to ensure the protection of the child from all forms of the discrimination or sanction or other restrictions of rights on grounds provided in paragraph (1) of this article.”

### **Question 3: Overview of the implementation**

*Please indicate (without entering into details):*

- a. *the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;*
- b. *whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;*
- c. *whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.*

### Ministry of Labour and Social Policy

At the end of the year of 2008, the Government of the Republic of Macedonia adopted the *National Action Plan on Prevention and Combating Sexual Abuse of Children and Paedophilia 2009-2012*, which is the first official document providing a set of measures and actions for protection of children from sexual abuse and paedophilia. During this period, the tremendous efforts of both the relevant state institutions and the non-governmental sector greatly contributed to the alleviating and dealing with the consequences of this phenomenon, by raising awareness, undertaking preventive measures, and by providing coordinated and

efficient protection, assistance, rehabilitation and reintegration of children victims of sexual abuse.

For effective and coordinated implementation of the *Action Plan*, at the proposal put forward by the Ministry of Labour and Social Policy, the National Coordination Body for the implementation of the *Action Plan for Prevention and Combating Sexual Abuse of Children and Paedophilia 2009-2012* was established with a Decision passed by the Government of the Republic of Macedonia. The National Coordination Body, composed of representatives from all relevant ministries and non-governmental organizations, is chaired by the Minister of Labour and Social Policy.

In the year of 2013, the *Action Plan 2009-2012* was revised and the new *Action Plan* including activities for protection of children against sexual abuse and paedophilia for the year of 2013 was adopted.

In order to ensure the continuity in the undertaking and carrying out of the actions for prevention and combating sexual abuse of children and paedophilia, the National Coordination Body responsible for the implementation of the *Action Plan* revised the activities of the existing *Action Plan* and proposed a new *Action Plan for Prevention and Combating Sexual Abuse of Children and Paedophilia* for the 2014-2015 period to be adopted.

The *Action Plan* aims to provide means and mechanisms for implementing the assistance and protection of children from sexual abuse and paedophilia, and for establishing and enhancing a coordinated system of cooperation between the institutions of the Government and between the governmental and non-governmental sector, covering all areas in relation to this issue.

The areas of activity included in the *Action Plan* are: prevention, sensitizing, and raising public awareness about the problem with the sexual abuse of children and paedophilia, measures for help and protection of children victims of sexual abuse of children and paedophilia, measures and a programme for the treatment of persons convicted of acts of sexual abuse of children and paedophilia, and education of personnel.

#### Ministry of Interior

Legal acts and bylaws implemented from police officers in this scope:

- Criminal Code of Republic of Macedonia;
- Child Justice Act (Official Gazette of RM 148/2103);
- Law on Police (Official Gazette of RM 114/2006);
- Law on amending the Law on Police (Official Gazette of RM 145/2012)

#### Ministry of Justice

The Republic of Macedonia ratified the Convention in 2010 year. National Plan for combating of sexual abuse is based on the principles of this Convention. Also, the amendments and modifications to the Penal Code in 2008, 2013 and 2014 among other had as scope the further harmonization of our legislation with this Convention. The Law on the Rights of a Child was prepared in accordance with the rules of the European Council. So in the basic principles of this law are embedded principles or child's right of: participation (article 4), protection from discrimination (article 8), the best interests of the child (article 7), dignity (article 9 and 14) and governance of the right (article 7). The general elements of this guideline are contained in the basic principles of this law, especially those relating to deprivation of liberty as last resort, the training of professionals in the system e juvenile justice and multi-disciplinary approach. In the part of those guidelines concerning to the child friendly justice before of the judicial proceedings, the same are embedded in the Law for



Rights of Children with the provisions relating to the application of measures of assistance and protection as a form of diversions of litigation, mediation and settlement. Also are contained provisions for the right of children in a police station. In relation of judicial procedure is guaranteed the right of attorney at all stages of the proceedings, the right of trial within reasonable time, the right of measures of procedural protection when is giving testimony and examination in all phases of the procedure. For three years there are also indicators for assessment of implementation of this law.

#### **Question 4: Child participation**

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

#### Ministry of Labour and Social Policy

The non-governmental organizations "First Children's Embassy in the World – Megjashi" and "For Happy Childhood" were actively involved in the preparation of the *Action Plan for Prevention and Combating Sexual Abuse of Children and Paedophilia 2009-2012* as well as in preparation of the *National Action Plan for Protection of Children against Abuse and Neglect 2013-2015*, as representatives and advocates of children in the Republic of Macedonia.

#### Ministry of Justice

The provisions of the Law for Rights of Children corresponds with this article of the Convention. Namely, in article 6 is regulated that:

"(1) Children victims of acts which with the law are provided as crimes have the same rights as the adults and victims before, during and after the criminal proceedings, as well as special rights recognized in the Convention of the Rights of the Children and other ratified international agreements.

(2) Children victims of acts that by law are considered as crime and child witnesses enjoys enhanced protection and support of all institutions, organizations and individuals in the justice system for children, in order to reduce the negative effects on them by the crime and to prevent the negative influence of the activities of the institutions on the correct development of the child and encourage them to ask for protection before a competent court.  
"

In article 19 is contained definition of a child victim, which is every child under the age of 18 years who has suffered damage, including physical or mental injury, emotional suffering, material loss or other injury or violation of the rights and interests as a result of an act done by law is planned as a crime.

Also in articles 145-153 of this law are contained provisions for protection of child victims of crime and witnesses in criminal proceedings. With these provisions is guaranteed the right of child victim for psychological and other professional assistance and support from the authorities. Also, these provisions oblige the police, the prosecutor and the court to proceed with special care the child-victim of a crime by giving them lessons in accordance with the

provisions of this law and care on his interests when is taking the decision to prosecute the accused for which is compile an official note or process verbal. Also, contains provisions for special rights of procedural protection and special measures procedural protection of child victims and child witnesses.

With this law is guaranteed the right of compensation of a minor who is a victim or damaged with crimes of violence and other acts of individual or group violence. These legal provisions regulate that the Minister of Justice after obtaining an opinion from the National Council for the Prevention of Juvenile Delinquency, adopted Program with funds within the budget of the Ministry of Justice. Considering the mentioned provision in 2013 and 2014 the Minister of Justice of the Republic of Macedonia adopt Program to redress the minor who is the victim or damaged with crimes of violence and other acts of individual or group violence in 2013. For the realization of this program from the Budget of the Ministry of Justice are approved 500.000,00 denars. Also it is important to state that in these provisions is regulate and the procedure for exercising the right to compensation.

### Question 5: Specialised bodies/mechanisms

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

#### Ministry of Labour and Social Policy

In May of 2005, the National Commission for preparation and implementation of the *National Action Plan for the Children in the Republic of Macedonia* was established by decision of the Government of the Republic of Macedonia. In March of 2006, the Government adopted the *National Action Plan for the Rights of Children in the Republic of Macedonia (2006-2015)*, as an appropriate national strategy for the implementation of the Convention on the Rights of the Child, which unites all goals and objectives that the Republic of Macedonia should undertake in order to ensure for the children the full exercising of the rights guaranteed on the basis of principles of equality, accessibility, quality and efficiency, prohibition of discrimination, the best interests of children and their participation in the environment in which they live in order for them to be able to express their opinion, as well as to provide free access to information. The National Commission for Protection of Children submits a report on the realization of the activities of the *National Action Plan for the Rights of Children in the Republic of Macedonia (2006-2015)* to the Government of the Republic of Macedonia on an annual basis.

There are 30 Centres for Social Work established in the system of social protection in the Republic of Macedonia, which perform their activities and public authorizations in the whole territory of the Republic of Macedonia.

The Centres for Social Work, as public institutions for social protection, carry out their activities in compliance with the *Law on Social Protection*, the *Family Law*, the criminal and legal provisions and other provisions and strategic documents.

Pursuant to the *Family Law* ("Official Gazette of the Republic of Macedonia" No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14 and 115/14), the actions related to the special protection and assistance to children, the family, domestic violence, part of the matters related to adoption, as well as matters related to custody of children specified in this Law, are performed by the Center for Social Work via the methods of professional, counselling and advisory interdisciplinary team work.

The *Law on Social Protection* provides the organization, management and administration of the Center, the necessary personnel, activities, authorizations, the records, responsibility, the procedure in compliance with which they perform their duties, as well as the manner and sources of funding. The activities of the Centres for Social Work are carried out via professional, counselling and advisory interdisciplinary team work. The Expert Team consists of professional workers of the following educational profiles: a social worker, a social pedagogue, a psychologist and a jurist.

Social Inspection was formed within the Ministry of Labour and Social Policy for conducting inspection supervision over the institutions for social protection for the implementation of laws and other regulations, as well as inspection of the compliance with the conditions relating to the space, equipment and professional staff for performing activities in the field of social protection.

In the Republic of Macedonia, the study of social phenomena and issues, and the enhancement of the social activities, the social protection and social work, the professional help provided by the institutions for social protection and their employees, as well as the organization and implementation of various forms of education of the professional workers in the field of social protection are performed by the Public Institution – Institute for Social Activities, as an autonomous professional institutions.

The Public Institution – Institute for Social Activities in Skopje, in compliance with the policies and guidelines of the Ministry of Labour and Social Policy and with the purpose of education and further education of the professional personnel of the Centres for Social Work to work with a certain category of children at risk, continuously conducts training for acquiring knowledge and skills by the professional workers for working with children at risk.

A new competency of the Institute for Social Protection was established with the adoption of the new *Law on Social Protection* (“Official Gazette of the Republic of Macedonia” No. 79/2009), specifically to issue and revoke licenses for work of the professional staff in institutions for social protection, to keep a register of issued and revoked licenses, and to implement continuous education of the professional staff in the procedure for granting licenses. This institution prepares a programme for continuous education of the professional staff in the process of licensing the professional staff.

Pursuant to the *Law on the Budget of the Republic of Macedonia*, the procedure for preparation of budget programmes at the level of institutions for social protection was provided, as well as budget beneficiaries that are covered within Ministry of Labour and Social Policy part of the Budget of the Republic of Macedonia.

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

#### Ministry of Labour and Social Policy

The Resource Center for children at social risk operates within the Public Institution – Institute for Social Activities, where data are collected and records are kept for all children at risk with which the Centres for Social Work work.

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

#### Ministry of Labour and Social Policy

As regards the records of the perpetrators of crimes of sexual abuse of children and paedophilia, the *Law on the Special Register of Persons Convicted of Crimes of Sexual Abuse of Minors and Paedophilia* was adopted (“Official Gazette of the Republic of Macedonia” No. 11/12), as was the *Book of Regulations* on the manner of inserting data on persons convicted of crimes of sexual abuse of minors and paedophilia, as well as the manner of mutual informing and cooperation (“Official Gazette of the Republic of Macedonia” No. 62/12).

The Special Register of Persons Convicted of Crimes of Sexual Abuse of Minors and Paedophilia was introduced in the year of 2012, and has been available on-line ever since via the webpage [www.registarnapedifili.mk](http://www.registarnapedifili.mk). The data of the Register are entered, changed and updated manually and electronically by an official of the Public Institution – Institute for Social Activities – Skopje, in accordance with the adopted *Book of Regulations*.

#### Ministry of Justice

In Article 249, paragraph 3 of the Law for Criminal Procedure is regulated the possibility of taking samples for conducting DNA analysis when it is necessary for the identification of persons or for comparison with other biological traces and other DNA profiles, and it does not require the consent of the person.

Also with article 130 of this Law is regulated the jurisdiction of the court, prosecution and other authorities to collect, process and kept personal data for the purposes of penal proceedings, taking into account the nature and scope of personal data to respond to the needs in this particular case. Collections which contain personal data for penal procedure purposes are established by law. Also, article 141 paragraph 3 provides that personal data collected exclusively based on determining the identity, physical examination or molecular genetic analysis, after the criminal proceedings may be used in accordance with the law, just for the detection or prevention of crime.

The matter of collecting and storing data related to the identity and genetic profile (DNA) of persons convicted of crime established in accordance with this Convention and the competent authority responsible for it, in accordance with the provisions of this Convention is not regulated legally.

### **Question 6: National or local coordination, cooperation and partnerships**

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

## Ministry of Labour and Social Policy

For effective and coordinated implementation of the *Action Plan*, at the proposal put forward by the Ministry of Labour and Social Policy, the National Coordination Body for the implementation of the *Action Plan for Prevention and Combating Sexual Abuse of Children and Paedophilia* was established with a Decision passed by the Government of the Republic of Macedonia. The National Coordination Body is composed of representatives from all relevant ministries (Ministry of Labour and Social Policy, Ministry of Education and Science, Ministry of Justice, Ministry of Health), as well as two non-governmental organizations (“First Children’s Embassy in the World – Megjashi” and “For Happy Childhood”).

The National Coordination Body for the implementation of the *Action Plan for Prevention and Combating Sexual Abuse of Children and Paedophilia* adopted a Protocol for action by the institutions in case of charges of sexual abuse of children and paedophilia.

Ministry of Interior

In order to improve the cooperation and coordination between the state institutions the Ministry of Interior, Ministry of Labour and Social Policy, Ministry of Justice, Ministry of Defence and the Ministry of Health have signed a Memorandums for Cooperation in the area of child protection from all sorts of violence.

- b. *Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (Article 10, para. 3)? If so, please specify how;*
- c. *Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (Article 15, para. 2 and Article 16)?*

## **Question 7: International cooperation**

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

Ministry of Justice

By the competence of the Ministry of Justice are not developed programs for aid and development provided to third countries in which is integrated prevention and combating sexual exploitation and abuse of children.

## PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

### Question 8: Education, awareness raising and training

a. Which legislative or other measures have been taken to:

- ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (Article 6, Explanatory Report, paras. 59-62). Please also specify whether this information includes the risks of the use of new information and communication technologies (Article 6, Explanatory Report, para. 63);
- encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (Article 5, para. 1);
- ensure that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (Article 5, para. 2).

#### Ministry of Labour and Social Policy

In the year of 2013, the Public Institution – Institute for Social Activities – Skopje conducted training for 103 professionals (psychologists, social pedagogues, social workers and jurists) from 30 Centres for Social Work in the Republic of Macedonia, for the purpose of raising the awareness about the protection of the rights of children victims of sexual abuse in the system of social protection in the implementation of the *Law on Justice for Children*.

In the period from 2012 to 2014, the Public Institution – Institute for Social Activities – Skopje conducted training for 71 professionals (psychologists, social pedagogues, social workers and jurists) from 30 Centres for Social Work in the Republic of Macedonia for the treatment of children at risk.

#### Ministry of Education and Science

In compliance with the Law on Primary and Secondary Education and under the current curricula and study programmes, via the conducted classes students are regularly educated (informed) about the problem of sexual abuse and paedophilia with the purpose of raising the level of their awareness, knowledge and responsibility for the aforementioned problem, that is, encouraging them to talk about the problem openly.

As of the previous year, the Ministry of Education and Science has been implementing a new project for “filtering unwanted content on the Internet while students are at school”, in cooperation with the Telecom. Thus far, this project has produced great results.

## Ministry of Justice

In the Academy for Judges and Prosecutors are conducted continuous training of judges and prosecutors in order to advance the knowledge for protecting the rights of children and setting with child victim on sexual exploitation and sexual abuse.

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

## Ministry of Labour and Social Policy

The Ministry of Labour and Social Policy and the Public Institution – Institute for Social Activities – Skopje, in cooperation with the Centres for Social Work and the Red Cross of the Republic of Macedonia, realized a campaign entitled “With education and knowledge to prevention of sexual abuse and paedophilia”. Moreover, for the purposes of the campaign and with the aim of informing about the problem of sexual abuse of children and paedophilia and the methods of tackling thereof, the Public Institution – Institute for Social Activities – Skopje, in collaboration with the Red Cross of the Republic of Macedonia, prepared educational material in the form of a leaflet that was distributed to primary and secondary schools.

During the campaign, specially trained teams of representative of the Centres for Social Work and the Red Cross conducted educational workshops in the schools in the Republic of Macedonia, in compliance with the prepared local plans.

Informational workshops for the teaching and technical school staff and students’ parents were organized via the pedagogical and psychological services, with the purpose of informing them about how to deal with the issue of sexual abuse of children and paedophilia. A total of 156 (specifically, 125 primary and 31 secondary) schools were covered with these preventive activities, with 59 of these schools (45 primary and 14 secondary) being located in Skopje. That is, a total of 187 informative workshops were organized and attended by 4941 persons (namely, professional school staff, students and parents).

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

## Ministry of Labour and Social Policy

During the years of 2009 and 2012, training events on “Appropriate informing by the media on cases of children victims of sexual abuse, incest and paedophilia” organized for journalists took place. These were attended by about 50 journalists from equally as many media in the Republic of Macedonia.

The main objectives of the training events were: developing sensibility for children’s rights and various forms of violence against children, with special focus on sexual abuse of children; encouraging forms of constructive action aimed at preventing violence against

children and appropriately informing by the media in cases of sexual abuse of children and paedophilia; familiarization with the system/mechanisms for monitoring of children's rights in the Republic of Macedonia; contributing to the enhancement of the mutual cooperation and communication among representatives of the media, the governmental and the civil sector; encouraging the joint efforts in the process of protection and enhancement of the rights of the child; initiating a better interconnection of all stakeholders via joint action in the process of realization of the rights of the child and democratization of the society.

Ministry of Interior

The Ministry of Interior as an institution that applies police authorizations in cases where a child is a victim of sexual abuse the conducted activities are in compliance with Article 37 from the Law on Police (Official Gazette of RM no.145 from 2012), with the Criminal Procedure Code (Official Gazette of RM no.150 from 18.11.2010) applicable from 01.12.2013, and in compliance with the Child Justice Act (Official gazette no.148 from 2013).

The Ministry of Interior regularly conducts basic and specialized trainings of police officers and participates in Inter-Agency trainings in cooperation with the Ministry of Labour and Social Policy, Ministry of Health, Ministry of Justice and other Non-Governmental Organizations.

In compliance with the Child Justice Act taking statement from a minor is conducted in specially equipped premises, the Ministry of Interior have equipped 8 premises for taking statement from minor allocated in the Sectors for Internal Affairs. The premises are equipped with up to date audio and video equipment used to produce audio and video data which can be used as evidence in the proceedings.

The premises can be used by the representatives from the Ministry of Labour and Social Policy, Ministry of Health, Ministry of Justice, Ministry of Education and Science and the Public Prosecutor.

## **Question 9: Recruitment and screening**

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

Ministry of Justice

In the laws on primary, secondary and high education as a condition for employment (to be confirmed by MIN. of Education and Science) is defined as a condition of employment in these institutions, among others, the person should have a certification where is not pronounced a prohibition on performing profession, activity or duty.

In the Criminal Code of the Republic of Macedonia the prohibition of performing profession, activity or duty represent penalty that may be pronounced only as a secondary penalty together with imprisonment sentence or suspended sentence that is determined with the imprisonment. In article 106 are contained provisions for criminal records. In addition to in paragraph 5 is regulated that: "Nobody has the right to require from citizens to submit proof of their convictions or criminal records." Paragraph 4 provides that: "Data from the criminal records on special requests can be granted to the state authorities, legal or individuals if still



exists certain legal consequences of conviction or penalties which are consisted on prohibitions or if there exist a justified interest based on law. "

Also, in article 106 of the Criminal Code are contained provisions for Special registry where is regulated that: "Dates for effective court decision for imposed an action of security, the court submitted to the state administration responsible for the affairs of health, because registration health records, as well as to the state administration responsible for the affairs of labour and social policy, because registration in a special register.

In the paragraph 2 is regulated that: "the Court submit to the organ of the state administration responsible for the labour affairs and social policy data's for persons convicted by a final judgment for crimes against sexual freedom and sexual morality and crime under article 418-g of this Code committed against minors, for which has a special register. "

Paragraph three provides that: "The data referred to paragraphs (1) and (2) of this article may be used exclusively to protect the health of people for whom are pronounced security measures or protection of minors rights, under the terms and procedure established by law."

Considering these provisions a Law was adopted for a special registry for persons convicted by a final judgment for crimes of sexual abuse of minors and paedophilia. With this law is regulated the category of personal data contained in the Register of persons convicted for crimes of sexual abuse of minors and paedophilia, the way of giving personal data on using them, the level of confidentiality and term of data storage. The Register is maintained by the Ministry of Labour and Social Policy by PI Institute for social activities. The data on convicted persons entered in the Register are publicly available.

Also in articles 103-105 are contained provisions for rehabilitation which could be performed under the law (legal rehabilitation) or based on a court decision (court rehabilitation). Rehabilitation means early termination of penalties which consists the prohibitions and the punishment of expulsion of foreigner from the country and the legal consequences of the conviction and deletion of the conviction from criminal records. Rehabilitated person is considered as untried, and the data's of deleted sentence not given to anyone. According to Article 105, paragraph 4 where is regulated the judicial rehabilitation is determined that after expiration of three years from the date of application of penalties for interdiction of profession, activity or duty and prohibition of driving a motor vehicle and temporarily expulsion foreigners from the country, as well as the penalty permanent prohibition for performing activity of a legal person, the court may decide to cease.

When is deciding on the rehabilitation, the court will take into account the behaviour of the convicted person after the conviction, the circumstance if he compensated the damage, if is returned the property benefits, as well as other circumstances relevant to this decision.

The Court may, with the request of the convicted to determine to erase from the criminal record of the conviction imprisonment: over three years to five years within five years; over five years to ten years within ten years; more than ten years to 20 years and 40 years within 20 years from the day of serving, outdated or pardoned penalty, if at that time the convicted did not commit a new crime. When is deciding on deleting the condemnation, the court shall take into account the behaviour of the convicted person after serving the sentence, the nature of the crime and other circumstances which may be important for the assessment of the justification for the deletion of the condemnation.

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

## Question 10: Preventive intervention programmes or measures

- a. *Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (Article 7, Explanatory Report, para. 64);*
- b. *Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (Articles 15 to 17). Please indicate in particular:*
  - *who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);*
  - *how the appropriate programme or measure is determined for each person;*
  - *whether there are specific programmes for young offenders;*
  - *whether persons have a right to refuse the proposed programme/measures?*

### Ministry of Justice

In Macedonian penitentiary system, in the planned treatment measures and activities are involved convicted persons with penalty of imprisonment, including those convicted for crimes - sexual abuse of children and juveniles to whom is pronounced an educational measure for referral to educational and detention centre.

During the period of admission of inmates in the EDC, by the team of the institution is made an observation of inmates and is conducted different kinds of studies in several aspects, including: criminological-penological, sociological, psychological, medical, pedagogical and other similar studies of the personality of the inmates. During this period a new method is applied - a instrument for assessment of risk of inmates that allows to the professional team to perform prediction of the risk and needs of inmates. Based on the obtained results during the observational period, the expert team prepares Program for treatment for each inmate and is done his classification at the appropriate department, or deployment in the group in order to realize the treatment activities that are planned to be realized during the serving of penalty of imprisonment.

The forms and manners of treatment of inmates are minutely regulated with the Instructions for Forms and methods of treatment of inmates (Official Gazette of RM, no. 173/11).

Furthermore, in order to improve the treatment of inmates, under IPA 2009 project entitled as "Strengthening of the capacity of the organs for implementation of law for the proper treatment of prisoners and retained persons", in progress is for preparation of General Criminogenic Program with special modules for the treatment of prisoners, adaption of the instrument for assessing risk and preparation of a brief tool for rapid screening of convicts.

General criminogenic program treats the dynamic factors that affecting over recidivism and 8-th criminogenic needs of the person. With the inclusion of inmates in the program after successful completion of the program is expected reduction of the dynamic factors which affecting over recidivism among inmates. Before starting with implementation of the program in the prison system, will be perform its evaluation in a pilot Penitentiary Institution and will precede specialized training for staff who will be involved in its implementation.

Regarding to the treatment of juvenile offenders, ongoing is a realization a Project entitled "Improving of the prison conditions for reintegration of juvenile prisoners " which is focused on the treatment of juvenile inmates in the Ohrid Prison and EDC Tetovo. The project began to be implemented in late 2013 with the support of the Netherlands Helsinki Committee which is focused on minors in certain institutions in Albania, Macedonia and Kosovo within that provides a lot of actions to improve the treatment of minors and will last three years. The project relates to improvement of the skills of the prison staff to work with minors that includes elements of YOUTURN / EQUIP Program.

Also, during the year of 2014 is signed a Memorandum of cooperation between the Department for execution of sanctions, the United Nations Development Program (UNDP) and the Ministry of Education and Science for successful implementation of the project "Promoting sustainable employment III and support of the Government in the implementation of the Operational Plan for active measures of the labor market for 2014". This project aims to facilitate the achievement of the priorities for the development of country within that has a special component to support professional trainings and their implementation in prisons and detention centres. Training for vocational education will be implemented in two facilities: Female department in the PDC Idrizovo and Detention Center Tetovo where juveniles serve educational measure.

All treatment activities carried out in penitentiary institutions, including the engagement of inmates is solely on their voluntary. Employees in the sector for re-socialization in institutions aim to motivate inmates to engage in the planned treatment activities by the possibilities of the institutions where they are serving their sentence.

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

*What steps have been taken to encourage:*

- a. *the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (Article 9, para. 2, Explanatory Report, paras. 68-73);*
- b. *the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (Article 9, para. 3, Explanatory Report, para. 74);*
- c. *the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (Article 9, para. 4, Explanatory Report, para. 75). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (Article 27, para. 5, Explanatory Report, para. 193).*

#### Ministry of Justice

Macedonian legislation contains a legal basis which provides an opportunity to use the benefits from the crime of the Convention to be used for financing of the indicated projects and programs.

Namely, with the Law on Management of Seized Property, property benefits and confiscated items in criminal procedures is regulated the management, use and disposal of temporarily confiscated property, property benefits and temporarily seized items, as well as confiscated property with absolute decision in the criminal and legal proceedings, as well as the establishment, competence, management, governance and other matters related to the Agency for management of Confiscated Property.

According to article 50 of this Law, the Agency sold the real estate and the items seized by a final decision immediately after the efficacy of decision, and received money shall be paid to the Budget of the Republic of Macedonia.

Article 51 regulates the deviation of the temporary seized assets of state authorities, civil associations and foundations, which stipulates that the Agency can certain items such as food, clothing and soft drinks to give free of charge to state authorities, civil associations and foundations, in accordance with the law that informs the Government of the Republic of Macedonia.

Also in article 52 of this Law is established that the agency may waive seized items by a final judgment of other state authorities, funds, agencies, departments, public institutions, independent regulatory body established by the Republic of Macedonia, Trade companies established by the Republic of Macedonia and other grounds of the Republic of Macedonia, as well as local government units, with the prior consent of the Government of the Republic of Macedonia.

The Agency may waive seized items for which is received consent under this law to other state authorities, funds, agencies, departments, public institutions, independent regulatory body established by the Republic of Macedonia, Trade companies established by the Republic of Macedonia and other grounds of the Republic of Macedonia, as well as local government units, with the prior consent of the Government of the Republic of Macedonia.

### **Question 12: Effectiveness of preventive measures and programmes**

- a. *Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;*
- b. *Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.*

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

### **Question 13: Reporting suspicion of sexual exploitation or sexual abuse**

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

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

#### Ministry of Labour and Social Policy

The special systemic *Law on Prevention, Combating and Protection against Domestic Violence* was adopted on September 15, 2014 (“Official Gazette of the Republic of Macedonia” No. 138/14).

The subjects of protection, the activities of execution, the consequences of the violence suffered and the forms of violence, specifically, sexual, psychological, physical and economic violence, are set with the definition of domestic violence.

The *Law on Prevention, Combating and Protection against Domestic Violence* particularly focuses on the protection of children from domestic violence, as children are victims not only when they suffer violence directly, but also when they witness violent relations within the family. For that reason, the Law provides that procedures for protection of children from domestic violence be conducted *ex officio* by the competent institutions. Furthermore, when the child is exposed to violent relations within the family, the Law provides that these situations be taken into account in the procedures for awarding the custody of the child to one of the parents and the procedures for regulating the contacts and meetings between the child and the parent who has perpetrated domestic violence, whilst bearing in mind the best interests of children.

The Law provides that measures for a child at risk, provided by the *Law on Justice for Children*, be taken when a child is a perpetrator of domestic violence, and that the necessary measures in the field of inspection of the exercising of the parental right and custody, provided by the *Family Law*, be taken.

As regards the institutional response, the responsibility of the officials and responsible persons for obligatory actions upon gaining any knowledge of perpetrated domestic violence is emphasized, in which cases the procedures are conducted urgently. Furthermore, the need for coordination and cooperation between all relevant institutions and associations of citizens is also emphasized. The Law particularly provides the obligation for all relevant institutions to report to and inform each other, and to exchange official documentation for specific cases.

A multisectoral expert team, composed of representatives of the Center for Social Work, the police station, the healthcare institution and the non-governmental sector, shall be set up within the Center for Social Work, in order to prepare a safety plan for protection of the victim of domestic violence, which shall be mandatory when the victim is a child.

The Law provides that the procedures be conducted and that the measures for protection against domestic violence be taken by educated professionals, who have obtained the necessary knowledge for the implementation of this Law and gender equality. Moreover, the Law also regulates the keeping of records in institutions and courts for the specific characteristics required for the monitoring of the situation of domestic violence.

#### Ministry of Interior

The Law provides that competent bodies and institutions are: the relevant ministries, the institutions working in the field of social protection, child care, internal affairs, healthcare,

employment and education, the associations registered for provision of such services, the Local Self Government Units and First Instance Civil Courts.

As regards the implementation of Integrated National Policies, the law provides that the Government of the Republic of Macedonia shall adopt a *National Strategy for Prevention, Combating and Protection against Domestic Violence* and that it shall establish a National Body for Domestic Violence. The aforesaid body is multisectoral and shall work with a mandate of five years, and shall be responsible to monitor and analyse the situations of domestic violence in the country, to coordinate the activities of all competent institutions and to propose measures for enhancement of the situations and for implementation of the planned activities.

For efficient and effective multisectoral cooperation of the competent institutions, including the associations of citizens, the law provides that the Government of the Republic of Macedonia, on the proposal of the Ministry of Labour and Social Policy, adopts a Protocol for mutual cooperation of the competent institutions for taking measures for prevention, combating and protection against domestic violence.

Under the Criminal Procedure Code, police officers from the Ministry of Interior are bound to report criminal offences that are persecuted ex officio on which they have been notified, informed or have otherwise become aware of them. The Criminal Code stipulates that in cases of failure to report a criminal offence the same shall be considered as a criminal act.

When reporting on children or minor, police officers shall respect principles of ethics and comply with certain limitations under the Child Justice Act. This is also applicable in the proceedings in which minors appear as the victims. As police usually gets first to know about a committed criminal offence or misdemeanour in which minors may be involved, the police officers are not allowed to disclose confidential data in order not to endanger proceedings and exercise adverse impact on dignity, mental and physical and social development of the minor and respect of his family.

#### **Question 14: Helplines**

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

##### Ministry of Labour and Social Policy

At the beginning of 2012, the Ministry of Labour and Social Policy launched the web-page [www.stop-pedofilija.org.mk](http://www.stop-pedofilija.org.mk) for reporting cases of sexual abuse of children and paedophilia, with the aim of raising the public awareness about the problem of sexual abuse of children and paedophilia and encouraging children who have previously suffered from child abuse and paedophilia to report it to the authorities. This web-page provides information about who could be a victim of sexual abuse and what the profile of perpetrators is, in addition to the information on the methods for detecting if a child has been exposed to sexual abuse, and, even more importantly, who and where they can turn to for help. Furthermore, the web-page contains a blog via which all visitors can ask questions to which the expert team of the Public Institution – Institute for Social Activities shall provide answers.

The number of the SOS helpline, 15 505, via which cases of abuse of children can be reported, is posted on the webpage.

## Ministry of Interior

Under the Criminal Procedure Code citizens may report offences and misdemeanours orally (personally by coming in the Police station, by using the police line 192 or by using other telecommunication means), in writing by using e-mail or other means. All the information and useful advice can be found on the web site of the Ministry of Interior.

### **Question 15: Assistance to victims**

a. *Please indicate which types of assistance described in Article 14 are provided to victims of sexual exploitation and sexual abuse of children. (Explanatory Report paras. 93-100)*

*Please specify:*

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

## Ministry of Justice

In the articles 145-153 of the Law on Rights of Children are contained provisions for the protection of child victims of crime and witnesses in criminal proceedings. Namely these provisions stipulate the following:

- In the procedure that leads to actions that are legally considered as criminal cases in which the child appears to be a victim courts, prosecutors and officials of the Ministry of Interior can act only if they have the appropriate education and have special knowledge and experience in the field of child rights and criminal law protection of children;
- For all actions that are provided by law as crimes under the Criminal Code which, according to the legal characteristics of the case the child appears as a victim of the crime, the court and other bodies involved in the procedure are obliged to take measures for the protection and assistance and to act in a way as to avoid possible adverse effects on his personality and development;
- Child victim is being examined as a witness in a manner that is not harmful on the physical and mental development and with application of specific measures of procedural protection. During taking testimony and questioning the child as a witness or victim, the police, prosecutors and the court shall take into account the personal characteristics and features of the child to protect its interests and for the correct development and
- Confrontation between the child and the suspected or the accused is not allowed if the child is a victim and witness of human trafficking, violence or sexual abuse, as well as actions that are defined by law as crimes against humanity and international law, as well as other actions provided by law such crimes because of their nature, consequences or other circumstances make the child especially very sensitive, or is situated in a particularly difficult mental condition.

According to Article 145 of this law, a child victim of a crime shall have the following rights:

- To be treated with respect for his dignity,
- To be protected from any discrimination,
- To be informed of his rights in a language understandable and appropriate for his age, and respect of the privacy right,
- To be informed parents / or / from or guardians / or / for all questions regarding to the crime relative to with the suspect, accused and the convicted,

- The child, respectively the parent / or / from or guardians / or / to participate in the criminal proceedings as damaged party by joining the criminal prosecution or for realization of the pecuniary claim for damages,
- With special protection of his safety and the safety of his family, care and attention by the authorities and entities involved in criminal proceedings,
- The right to special protection from secondary victimization or re-victimization and
- The right of psychological and other professional assistance and support from the authorities, institutions and organizations to help children victims of crimes.

In police and criminal proceedings, the child victim of a crime has the right:

- Of legal aid by lawyer before giving testimony or statement or submission of the pecuniary claim,
- On compensation for material and immaterial damage in accordance with the program of Article 151 of this law under the conditions and in the manner prescribed in article 152 of this law, if the compensation of damages cannot be provided by the convicted and
- A representative from taking the first statement, as well as during the whole procedure.

Legal aid of the child victim provides based on rule of lawyer who followed specialized training on children's rights. The training lasts at least five days per year in the country or abroad.

In Article 146 are regulated special rights of procedural protection: In addition, the law provides that a child victim had the right of special measures of procedural protection at all stages of the procedure when testify and investigation.

The court must impose a special measure of procedural protection in cases such as:

- When a child victim needs special help and protection or
- When a child is a victim of human trafficking, violence or sexual abuse, and crimes against humanity and international law or other serious crimes committed against children for which the law stipulated penalty of imprisonment over four years. In these cases, the court determined individually or together with other special measure of protection to be registered the statement of the child with video and audio recording, which will be used as proof in the further procedure. In exceptional cases, if new circumstances arises, the court may investigate again the child victim maximum once again through the use of technical means of communication.

As special measures of protection in the process during giving a statement, the court may determine:

- Using screens to protect the victim and the witness from the view of the accused,
- Concealing the identity or appearance,
- Giving testimony via videoconference,
- Removal of togas and caps,
- Exclusion of the public,
- Video and audio recording of the statement that will be used as proof,
- Video and audio recordings of the questioning that will be used as proof,
- Taking a statement through the mediation of an expert,
- Use of special technical means of communication and



- Protection of the privacy of the child and his family.

According to article 153 of this law: "If necessary, the court shall order the application of specific measures to protect the mental and physical integrity of the child."

- b. *Please specify if and to what extent internal law provides for the possibility of removing (Article 14, para. 3, Explanatory Report, para. 99):*
  - *the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;*
  - *the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.*
- c. *If internal law does provide for this:*
  - *are the conditions and duration of such removal to be determined in accordance with the best interests of the child?*
  - *are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (Article 11, Explanatory Report, paras. 87-88).*

#### Ministry of Labour and Social Policy

The *Law on Prevention, Combating and Protection against Domestic Violence* ("Official Gazette of the Republic of Macedonia" No. 138/14) especially focuses on the prevention of domestic violence, and it stipulates that the Local Self-Government Units and the associations undertake preventive measures for combating and alleviating of domestic violence, in compliance with their competences provided by law.

Preventive measures are taken by:

- promoting social and cultural values of behaviour based on equality of women and men;
- introducing programmes for non-violent behaviour from an early age in preschool institutions;
- introducing programmes for non-violent behaviour and understanding of gender equality in primary schools;
- introducing programmes for developing skills for peaceful resolution of conflicts, understanding and appreciation of the principle of equal opportunities for women and men in secondary schools;
- introducing programmes for developing skills for peaceful resolution of conflicts, respecting the dignity of the person, non-discrimination and equality between women and men in higher education institutions;
- providing expert advice and counselling within the counselling services for marriage and family, the Centres for Social Work, and other institutions;
- conducting campaigns or programmes for raising the awareness and understanding of the general public about the recognition and consequences of domestic violence;
- introducing continuous training for professionals to carry out activities within their competencies and gender-based violence;
- raising the level of responsibility of the printed and electronic media for objective reporting about cases of domestic violence, in which cases the circumstances that may be deemed as violation of human rights and dignity of the person should not be provided and any discrimination of women and men should be avoided.

## Ministry of Justice

Law of Criminal Procedure contains measures that can be taken against the accused to ensure his presence and for the smooth performance of the criminal proceedings. The law provides 7 precautionary measures one of which corresponds to the provisions of the Convention: prohibition to approach or establish or maintain contacts and relationships with certain people.

The precautionary measures may last as long is necessary, and the longest until a final judgment. The Court trough ex officio every two months reviewing whether there is a need for the duration of the precautionary measures and it can be cancelled before this period, if the need ceases to exist or if there are no legal grounds for the application.

With the decision with which is determined the precautionary measure, prohibition on approaching or establishing or maintaining contacts and relationships with certain persons, the court shall determine the distance, place or area to which the defendant should not be approached, or shall indicate more detailed information about the person or those prohibiting establishing or maintaining contacts or relationships.

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

## *Ministry of Labour and Social Policy*

The main objective of the Centres for Social Work is to enhance the protection of children victims of sexual abuse and paedophilia, to prevent further victimization of children victims, and to develop measures for protection of the rights and wellbeing of children at risk of sexual abuse and paedophilia.

When the employee of the Center for Social Work responsible for working with children victims of sexual abuse and paedophilia learns about the existence of sexual abuse of a child or paedophilia, by any means (in writing, via the telephone, through the media or during another procedure conducted before the Center for Social Work, or any other way), that employee shall act in compliance with the Law and take all necessary measures for protection of the child, sheltering thereof if necessary, provision of urgent psycho-social support to the child and close relatives thereof, provision of health care or other types of care and protection immediately after obtaining the information.

The Counselling Institution for parents and children, which puts emphasis on working with the parents of these children by strengthening their parenting capacities in relation to the fulfilling of their parental obligations, which also means support to the development of these children, was opened in the year of 2011. The Counselling Institution provides services of an advisory nature, psycho-social assistance and support to the beneficiaries. The services are implemented through three programmes, i.e. individual, parent-child and group programmes.

The beneficiaries use the services for a certain period of time, based on the assessment and the plan for intervention, and the specific objectives for the service. In order to reduce the shame and guilt relating to the parenting after surviving violence and trauma, the working on the topics during the sessions starts by giving the parents the opportunity to identify the manners in which their parenting may be affected by violence/trauma, developing skills required for dealing with their reactions to the trauma, developing positive parenting strategies that support the positive relation between a parent and a child.

## Ministry of Interior

The police play a significant role in protection of minors and it's bound to act in accordance with the Criminal Procedure Code and the Child Justice Act. Police may become aware that a criminal offence with elements of violence to the detriment of minor has been committed in the following way: directly, indirectly, and ex officio acting on their own initiative.

An interview with a minor who is a party injured by a criminal offence is conducted by a police officer who has acquired special skills and knowledge of the Child Justice Act.

During the interview presence of a parent or guardian is mandatory, but if there is a doubts that they have committed a criminal offence detrimental to the child or when it is in the best interest of the child, collection of information and date will be conducted in presence of a guardianship authority from the Social Care Center.

After collecting all the information and establishing the facts a public prosecutor trained to work with child shall be notified.

Police officers who have passed specific trainings may apply police authorizations on minors. In certain cases other police officers may apply police authorizations if the trained police officers by any circumstances are not able to do so. The proceeds involving minors are conducted in presence of a parent, guardian or a guardianship authority from the Social Care Center. In the course of 2013, the total number of reported offences against sexual freedom and moral is 151. From the total number more than a half are committed on children or more precise 83(51) cases are involving children. Statistic shows that in comparison with last year there is 63% increases in the sexual assaults on children, mainly the assaults committed are on children who haven't reached the age of 14 years, the increase on these cases is up to 47%. Statistics about criminal offence sexual abuse of a child who haven't reached the age of 14 years are committed in 70% of the cases. These offences are committed by 51(86) perpetrators on 53(91) children (victims) who haven't reached the age of 14 years.

Statistic indicators are pointing at deterioration of the conditions, comparing 2013 with 2012 there is an increase of 63% in committing this type of criminal offences.

While acting upon this cases the Ministry of Interior shows high effectiveness of 96.4%, in solving this type of cases, only three cases remained unsolved Masturbation in front of another person, sexual abuse by misconduct, production and distribution of child pornography.

Most committed criminal offence is the sexual assault on a minor who haven't reached the age of 14 years,, (corrigendum- sexual assault on a child that haven't reached the age of 14 years) 50 cases or 60% of the cases involves this type of offence, the other types of offences are presented in small number.

These types of offences are mainly committed in the urban areas, two thirds in the urban and one third in the rural areas. 65% of the offences are committed in closed facilities (houses owned by the perpetrators, weekend houses, abandoned houses, utility rooms, educational institutions), while 35% of the offences are committed in open areas.

This types of offences are manly committed during day time but for some specific cases it is not possible to determine the time of committing the offence because the offence has been committed continuously, in this cases the victims were sexually abused for longer period. In

2013, the Ministry of Interior has registered 8 offences of this type, one offence less than 2012.

Perpetrators committing this type of offences often target victims from their close environment and they previously met the victim. This facilitates the perpetrator to get close to the victim and to gain their trust. Often perpetrators are relatives, friends, neighbours, professors, stepfathers, grandfathers or acquaintances, in very small number of cases the perpetrator haven't previously met the victim.

The methods used by the perpetrators for committing the offence in 34 cases is by use of force, in four cases is by using the mental disability of the victims, in three cases the victims were offered small amount of money, in three cases were used different promises and in one by use of threat with knife and cleaver.

In large number of cases the offences were committed by individuals or one perpetrator, in three cases the offence was committed by two perpetrators, and in one case the offence was committed by group of three perpetrators. Victims of the offences are 98 children from whom 70 are females and 28 males. The youngest victim of a sexual abuse is a male at the age of 4 years. Large numbers of the perpetrators of this type of offences are at the age of 18 to 30 years:

Up till 18 years - 24 perpetrators

From 18 to 30 years -34

From 31 to 40 – 5

From 41 to 50 – 10

From 51 to 60 - 8

Above 60 – 4

The educational background of the perpetrators is usually very low, so large number 43 are with primary education, 21 with secondary education, 16 with elementary and two with high education. 55 perpetrators are unemployed, 29 are employed and one retired.

According to all the data the profile of the perpetrator is male person on the age of 20 to 30 years, low education, no qualifications, and unemployed and belongs to the lower social class. Often assaults girls, who he previously met or the victim is part of his social environment.

### Ministry of Justice

International cooperation is performed in accordance with the provisions of the Law on international cooperation in criminal matters, except if with international agreement ratified in accordance with the Constitution of the Republic of Macedonia or with legal act which regulates the criminal proceedings in an international court whose jurisdiction recognizes the Republic of Macedonia, otherwise is not regulated. This legislative provision indicates that, although there is no explicit legal provision in this law, is applicable the provision of article 38 paragraph 2 of the Convention.

With this law is determined the manner of the national competent authority of RM, upon appeals or request of a competent foreign organ. Namely, the home competent authority shall act upon the request or appeal in accordance with the national law, except is not regulated otherwise with an international agreement. Upon the request of a foreign competent authority with who Macedonia has not signed a contract for international

cooperation, the national competent authority will act if the foreign competent authority gives a written guarantee that it will act upon such request at the national competent authority.

Important is the provision of article 42 paragraph 2 of this law, which corresponds to the provisions of the Convention and suggests that: "If to a foreign competent authority is filed pecuniary claim, the national judicial authority shall act as such a request is submitted in proceedings before national judicial authority". According to the Law on Criminal Procedure, the victim of a crime for to whom is prescribed an imprisonment of at least four years has the right to file a pecuniary claim, if there is severe psycho-physics damage or serious consequences of crime. Pecuniary claim can refer on compensation for damage, returning objects or in annulling certain legal work.

## PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

### Question 16: Criminal law offences

- a. *Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;*
- b. *Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;*

#### Ministry of Justice

The crimes of sexual abuse of children are contained in the Criminal Code in Title 19: Crimes against sexual freedom and sexual morality. The subjective side of these actions are intentions, respectively intentional execution of these actions are punished. Thus, according to article 13: "The crime was committed with intent when the perpetrator was aware of his act and loved his performance or was aware that because of his doing or not doing can be a damaging effect, but agreed for it to be happen". This provision determinates the contents of both types intentionally: direct - when the perpetrator was aware of his work and loved his performance - and eventual intent- when he was aware that because of his act or not doing can be a damaging effect. Their common element is awareness of the work and the will of its execution, in direct intentionally defined as wanting of the act and to the eventually as agreeing with its consequences. Besides intention, in subjective existence of separate legal descriptions of the crimes are contained special subjective elements that express the psychological relationship of the perpetrator to his act as: intention, motivation and awareness of others etc. The premeditation is will for direct targeting of action to accomplish a certain goal.

- c. *Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;*

#### Ministry of Justice

Sexual exploitation is incriminated and in the crime under Article 418 g: trafficking with minors. In addition, the crime is done by:

(1) A person who procures a child to perform sexual acts or provide performing sexual acts with a child or recruits, transports, transfers, buys, sells or offers for sale, acquires, provides, shelter or receives a child for exploitation by using in sexual activity for money or other compensation or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriages, forced fertilization, illegal adoption or extortion as a mediator according to adopt a child, illicit transplantation of human organs, shall be punished with imprisonment of at least eight years. "

(2) A person who the crime of paragraph 1 shall do by force, serious threat, with misleading or other forms of coercion, abduction, fraud, abuse of his position or pregnancy, helplessness or physical or mental disability of another, or with giving or receiving of money or benefits to achieve the consent of a person who have control over another person, shall be punished with imprisonment of at least ten years.

(3) A person who uses or allows another to use sexual services or other exploitation of a minor for whom he knew or was obligated to know that is a victim of human trafficking, shall be punished with imprisonment of at least eight years.

(4) A person who takes or destroys an identity card, passport or someone else's identification document to commit a crime referred to paragraphs 1 and 2, shall be punished with imprisonment of at least four years.

(5) If the crimes referred to paragraphs (1), (2), (3) and (4) of this article is committed by an official in the performance of duty, shall be punished with imprisonment of at least ten years.

(6) The consent of a minor with the actions provided in paragraph 1, it is not important for the existence of the crime of 1 paragraph.

(7) If the crime of this article is done by a legal person, shall be punished by a fine.

(8) Used real estates, items and vehicles used for performing the crime will be deducted.

Also, in article 119 point (24) is contained definition of child pornography: "under the child pornography means pornographic material that visually displays obvious sexual acts with a minor or older person who looks like a minor, or show minor or adult person seems like a minor in apparent sexual position, or realistic images that show obvious sexual acts with a minor or show minor or adult person who looks like a minor in apparent sexual position."

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

### Ministry of Justice

The age of the child is not the only circumstance that determines the severity of the crime. The age of the child in combination with other aggravating circumstances contribute crime to have harder or qualified form. For e.g. Paragraph 2 of article 188 and paragraph 2 of article 191-A.

### Sexual Abuse (Article 18)

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
  - use is made of coercion, force or threats;

- abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
- abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

### Ministry of Justice

Acts of sexual abuse are contained in criminal cases under Article 188: Sexual assault of a child under 14 and Article 189: Statutory rape by abuse of exhibition.

In addition, in Article 188 are incriminated the following actions:

- (1) A person who commits statutory rape or other sexual act on a minor under 14 years, shall be punished with imprisonment of at least twelve years.
- (2) If because of crime from paragraph 1, is stand serious bodily injury, death or other serious consequences or the crime is committed by several persons or in an especially cruel or degrading manner, shall be punished with imprisonment of at least fifteen years.
- (2) To the perpetrator of the crime under paragraph (2) of this article, the court shall impose a prohibition on performing profession, activity or duty under the terms of article 38-B of this Code.

In article 189 incriminated are the following actions:

- (1) A person who with abusing their position will indicate statutory rape or other sexual acts who against him is in relation of subordinate or dependent or with the same mistreats him, intimidating or treating him in a manner that degrades human dignity and the human person, shall be punished with imprisonment of at least five years.
- (2) If the crime under paragraph (1) of this article shall perform blood relatives in a straight line or a brother or sister, teacher, educator, adoptive parent, guardian, stepfather, stepmother, doctor or other person by abusing of position or by performing family violence commits statutory rape or other sexual acts with a child under 14 years who has been entrusted to him for learning, education, custody or care, shall be punished with imprisonment of at least ten years. "
- (3) To the perpetrator of the crime under paragraph (2), the court shall impose a prohibition on performing profession, activity or duty under the terms of article 38-B of this Code.

### Child Prostitution (Article 19)

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

### Ministry of Justice

In article 191 is contained the crime of Child prostitution:

- (1) A person who recruits, induces, encourages or entices a child under 14 years on prostitution or mediate, teach or participate in teaching the other for prostitution, or allowing to another to use his sexual services, or in otherwise use sexual activity in order to realize financial or other benefit, shall be punished with imprisonment of at least four years.
- (2) If the offense under paragraph (1) of this Article is committed by force or serious threat to attack the life or body of the child or a close person, shall be punished with imprisonment of at least eight years.

(3) If the crime referred to paragraphs (1) and (2) of this article is committed against a child less than 14 years, shall be punished with imprisonment of at least ten years.

(4) A person who organizes the crimes referred to paragraphs (1), (2) and (3) of this article, or crimes will commit while family violence shall be punished with imprisonment of at least ten years.

#### Child Pornography (*Article 20*)

1. Producing child pornography;
2. Offering or making available child pornography;
3. Distributing or transmitting child pornography;
4. Procuring child pornography for oneself or for another person;
5. Possessing child pornography;
6. Knowingly obtaining access, through information and communication technologies, to child pornography.

#### Ministry of Justice

Article 20 is embedded in article 193-A: Production and distribution of child pornography: While it provides punishment of the following actions:

(1) A person who produces child pornography in order for its distribution or transfer or offers or otherwise making available child pornography shall be punished with imprisonment of at least five years.

(2) A person who purchased child pornography for himself or another or possess child pornography, shall be punished with imprisonment from five to eight years.

(3) If the crimes referred to paragraphs (1) and (2) of this article is committed through computeric systems or other means of mass communication, shall be punished with imprisonment of at least eight years.

(4) If the crime of this article is performed by a legal person, shall be punished by a fine.

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

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

#### Ministry of Justice

Article 21 of the Convention is incorporated in Article 193: Showing pornographic material to a child

(1) A person who will sell, display or with public displays to a child under 14 years or in otherwise makes available pictures, audio-visual or other items with pornographic content or shows him a pornographic performance, as well as he who participate to the show will be punished with imprisonment of six months to three years.

(2) If the crime is committed by the means of public information, the perpetrator shall be punished with imprisonment of three to five years.



(3) If the penalty of paragraph 2 shall be punished any person who abuses a child under 14 years for production of audiovisual images or other items with pornographic content or pornographic performance.

(4) If the crime under paragraph (3) of this article is committed against a child less than 14 years, the perpetrator shall be punished with imprisonment of at least four years.

(5) A person who forces a child under 14 years of making and recording images or other items with pornographic content or for pornographic performance, shall be punished with imprisonment of at least eight years.

(6) If the crime under paragraph (4) of this article is committed against a child less than 14 years, the perpetrator shall be punished with imprisonment of at least ten years.

(7) If the crime of this article is performed by a legal person, shall be punished by a fine.

(8) The objects of the paragraphs (1), (2), (3), (4), (5), (6) and (7) of this article will be deducted.

### Corruption of Children (*Article 22*)

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

#### Ministry of Justice

Crime under Article 190: Satisfying sexual passions to another, corresponds to article 20 of the Convention:

(1) A person who performs before another sexual act in a public place, shall be punished by a fine or imprisonment up to one year.

(2) A person who before a child that did not reached the age of 14 years performed a sexual act or cited before him or another to perform such an act, shall be punished with imprisonment of three to eight years.

(3) A person who before a child that did not reached age of 14 perform a sexual act or cited before him or another to perform such an act, shall be punished with imprisonment of at least four years. "

### Solicitation of Children for Sexual Purposes ("grooming") (*Article 23*)

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

#### Ministry of Justice

Article 23 is embedded in Article 193-B: Enticement of statutory rape or other sexual act on a child under 14 years.

Crime commits the one who: "He who through means of computer-communication with scheduling a meeting or otherwise entices a child less than 14 years of statutory rape or other sexual act or the production of child pornography and if with that intention is realized immediate meeting with minor, shall be punished with imprisonment from one to five years.

### Aiding or abetting and attempt (*Article 24*)

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

#### Ministry of Justice

In terms of implementation of this article of the Convention relating to the crimes, this Convention, according to the Criminal Code of the Republic of Macedonia, are applied the provisions of the General Part of the Criminal Code relating to: Attempt of crime: Article 19, Joint perpetration: Article 22 Encouraging: Article 23 and Helping: Article 24.

### Question 17: Corporate liability

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

#### Ministry of Justice

The criminal liability of legal persons in the Criminal Code of the Republic of Macedonia was introduced in 2004 and is regulated in Articles 28 a, b and c. It is based on the principle of presumed liability for legal entities, whose basis is the act or omission of proper supervision by the authorities of the management, the responsible or other person authorized to act on behalf of the legal person. The responsibility of the legal person does not exclude criminal responsibility of the individual as the perpetrator of the crime. (Article 28 paragraph 1 b) .The legal person respond for the crime committed under the following conditions: First, in the specific part for the committed crime to be prescribed the responsibility of the legal entity. Second, the crime to be done by a responsible person of the entity and third the offense is committed in the name, for the account or benefit of a legal person.

The legal entity is also responsible for a crime committed by his employee or agent of the legal entity which has achieved significant benefits or other inflicted considerable damage under the conditions regulated with the article 28-a.

According to Article 96-a and b of the Criminal Code of the Republic of Macedonia:

"For the crimes of legal entities as a penalty is imposed fine.

Under the conditions established by this Code the court, when will evaluate that the legal person has abused his position and there is a danger in the future to repeat the rime, may impose one or more of the following secondary sanctions:

- 1) Prohibition of getting license, license, concession, authorization or other right established by a special law;
- 2) Prohibition on participation in procedures for public tender, the award of public contracts and contracts for public - private partnership;
- 3) Prohibition on the establishment of new legal entities;
- 4) Prohibition to use subsidies and other favorable loans;
- 5) Prohibition on the use of funding for political parties from the Budget of the Republic of Macedonia;
- 6) Revocation of a license, license, concession, authorization or other right established by a special law;

- 7) Temporary prohibition of professional activity;
- 8) Permanent prohibition of performing of certain activities and
- 9) Termination of the legal entity. "

The concept of a legal person is regulated in article 122 paragraph 6 of the Criminal Code, as "A legal entity shall mean: the Republic of Macedonia, units of the local governments, political parties, public enterprises, trade companies, institutions and other organizations, funds, financial organizations and other legally certain organizations registered as legal entities and other communities and organizations to whom is recognized the status of a legal person.

### **Question 18: Sanctions and measures**

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

#### Ministry of Justice

For crimes of sexual abuse to children can be sentenced the following penalties under the Criminal code of the Republic of Macedonia: imprisonment and a prohibition on performing profession, activity or duty. Imprisonment can be only imposed as a main penalty. The penalty prohibition on performing profession, activity or duty may be imposed only as a minor penalty together with imprisonment or probation that is determined imprisonment.

The prison cannot be shorter than 30 days, nor more than 20 years. For crimes that entails a punishment of life imprisonment, may be imposed as long-term imprisonment of 40 years. If for the crime with intent is prescribed prison sentence of 20 years, for severe forms of this crime may be prescribed penalty of life imprisonment.

To the perpetrators of crimes may be imposed following security measures:

- 1) Compulsory psychiatric treatment and keeping in a health institution
- 2) Compulsory psychiatric treatment in liberty,
- 3) Compulsory treatment of alcoholics and drug addicts and
- 4) Medical-pharmacological treatment of perpetrators of sexual assault of a child under 14.

Article 65 regulates the conditions under which is imposed the measure of medical-pharmacological treatment:

(1) To the perpetrator of the crime of sexual assault on a child under 14 when there is a danger of continuing to perform such crimes, the court may impose a measure of medical-pharmacological treatment.

(2) If for the act is prescribed life imprisonment, the court may impose a sentence of 40 years if he agreed to the medical-pharmacological treatment that will last the rest of his life or the time at which according to the court's assessment is necessary to last the treatment.

(3) If for the crime is prescribed long-term imprisonment of 40 years, the court may impose to the perpetrator sentence of 20 years if he agreed to medical-pharmacological treatment that will last the rest of his life or at time based on the court evaluation is necessary to last the treatment.

(4) If for the crime is prescribed imprisonment of 20 years, the court may impose to the perpetrator minimum sentence prescribed for the crime if he agreed to the medical-pharmacological treatment that will last the rest of his life or the time at which according to the assessment of the court is required to last the treatment.

(5) The measure under paragraph (1) of this article shall be performed on freedom in specialized medical institutions after serving his imprisonment punishment, and the supervisor of the execution of the measure is implemented by the Directorate for Execution of Sanctions. The Directorate for Execution of Sanctions at least once in six months informs the court for the enforcement of the measure under paragraph (1) of this article and for the need for its continuation or termination.

(6) If the perpetrator in cases under paragraph (2), (3) and (4) of this article shall not be subjected to medical-pharmacological treatment or voluntarily leave the treatment, the court may determine the forced measure to perform in a health or other specialized institution.

(7) An exception from paragraphs (2), (3) and (4) of this article, the court without the consent of the perpetrator necessarily will impose the measure under paragraph (1) of this article if the perpetrator commits the crime in return. The measure of medical-pharmacological treatment will last until the end of the life of the perpetrator or the time at which according to the assessment of the court is required to last the treatment.

(8) The manner of execution of the measure of medical-pharmacological treatment closely is regulated by the Law on Execution of Sanctions.

For crimes of legal entities as a main penalty is imposed fine. Secondary sanctions are imposed under foreseeable in Article 96-A and B: See answer to question no.17.

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

Ministry of Justice

See answer to question no.20

### **Question 19: Jurisdiction**

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

Ministry of Justice

In relation to the validity of the criminal law, the Criminal Code of the Republic of Macedonia accepts the principle of territoriality (Article 116), real (protected) principle (Article 117), the active principle (Article 118) and passive (Article 119) personality and universal principle (Article 119 paragraph 2).

Real protective principle is contained in Article 117 where is regulated the validity of the criminal law for certain crimes committed in abroad. Is determined that: "The criminal law is applicable for anyone who in abroad will commits a crime under Article 268 of this Code, if the counterfeiting concerns to national money and articles 305 to 326, 357 to 359-a, 394-a to

394-g, and 403 to 422 of this code." With the amendments of the Criminal Code in April 2014 is made expanding of the application of the national criminal legislation for crimes: against state, corruption and other crimes of abusing of official duty as well as the crimes of international crimes in accordance with the obligations of RM contained in the international conventions and recommendations for establishing jurisdiction to prosecute these cases regardless of the law of the country where are performed. In this direction, this provision indicates that for these acts committed in abroad is applied the Macedonian criminal law whether the case is provided for the legislation of the country where it is made and whether that to the perpetrator it is tried abroad. This means that it's not valid the principle of double incrimination and non bis idem.

In the articles 118 and 119 is contained the principle of active and passive personality:

Thus, the article 118 governs the validity of the criminal legislation for Macedonian citizen who commits a crime in abroad.

Namely, in this provision is contained the active principle (national) personality which provides that: "The criminal law is applicable to a citizen of the Republic of Macedonia and when abroad will commit any crime, except for the crimes listed in article 117, if he finds himself in the territory of the Republic of Macedonia or is extradited. "

The article 119 governs the validity of the criminal law for a foreigner who commits a crime abroad:

In addition, in paragraph 1 is contained the principle of passive personality in which the Macedonian criminal legislation is valid for an foreigner who outside of the territory of the Republic of Macedonia will do criminal act against her or against her citizen and when are not concerned cases covered by article 117, if will be caught in the territory of the RM or be extradited.

In paragraph 2 of this article is contained the universal principle: "The criminal law is valid and for a foreigner who against a foreign country or a foreigner will commit criminal act abroad for which under that legislation can be punished with five years or heavier penalty, when will be caught in the territory of the Republic of Macedonia, and will not be extradited to the foreign country. If with this Code is not provided otherwise, the court in this case cannot impose heavier penalty than the punishment that is prescribed by the law of the country where the crime was committed."

In article 120 is regulated the scope of application of the principle of double incrimination and non bis idem.

Relative to the territoriality principle, the prohibition of non bis idem is set as relative prohibition: with approval of public prosecutor of RM, prosecution in RM can be taken prosecution also in the case when against the perpetrator is conducted or completed criminal proceedings in abroad (Article 119 paragraph 1).

In paragraph 2 of Article 119 prohibition on re-trial is consistently implemented:

"In the cases of articles 118 and 119 will not be taken prosecution if:

- 1) The perpetrator completely has served the punishment for that is convicted abroad
- 2) Against the perpetrator in abroad is applied an appropriate security measure, which consists of deprivation of liberty,
- 3) The perpetrator is freed in abroad by a final judgment or the punishment is outdated or forgiven and

4) For a crime under international law is prosecuted upon the request of the victim, and such claim is not been filed. "

The principle of double incrimination is positioned as relative in active and passive personal principle and universal principles and is regulated in paragraph 3 of this article: "In the cases of articles 118 and 119 will be undertake prosecution, only when for the crime is punishable under the law of country in which the crime was committed. When in the cases of Article 118 and 119 paragraph 1 under the law of the country where the crime was committed for that crime is not punished, can be initiated prosecution only after the approval of the Prosecutor of the Republic of Macedonia. "

Only upon the approval of the Prosecutor of the Republic of Macedonia, in the Republic of Macedonia can be taken prosecute based on cases of Article 119, paragraph 2, regardless of the law of the country where the crime was committed, if is talked for the crime at the time when it is done is considered as a crime under general principles of law recognized by the international community. (Article 119 paragraph 4).

In paragraph 5 is regulated the proxy jurisdiction: "In the cases of article 116, the prosecution of a foreigner may, under condition of reciprocity, to be handed to the foreign country."

## **Question 20: Aggravating Circumstances**

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

### Ministry of Justice

Article 39 of the Criminal Code contains general rules for measurement of punishment. General provision for measurement of punishment under paragraph 2 of this article obliges the court to take into consideration all the circumstances that effects the penalty to be less than or greater (mitigating and aggravating circumstances), and in particular: the level of criminal responsibility, the motives of which the crime was committed, the strength of the threat or violation of protected goods, the circumstances under which the crime was committed, the contribution of the victim in the performing of crime, the former life of the perpetrator, his personal situation and his conduct after the crime is committed, and other circumstances relating to the personality of perpetrator.

In this law does not differentiate the mitigating from the aggravating circumstances, but leaves to the court such assessment that does not preclude the possibility the court to take into account the circumstances of which is referred article 28 of the Convention.

Also, paragraph 5 of this article of the Criminal Code refers to the following: "During measurement of the punishment, court shall consider separately whether a crime is committed against a person or group of persons or property, directly or indirectly, because of their membership of a particular sex, race, colour, gender, belonging to a marginalized group, ethnicity, language, nationality, ethnic origin, religion or belief, other beliefs, education, political affiliation, personal or social status, mental or physical disability, age, family or marital status, economic status, health status, or any other grounds provided by law or by international agreement. "

## Question 21: Measures of protection for the child victim

- a. Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (Article 31, para. 1, letter (a) and para. 2). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;
- b. Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (Article 31, para. 1, letter (c));
- c. What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (Article 31, para. 1, letter (d));
- d. Please describe the measures taken to protect the privacy, the identity and the image of child victims (Article 31, para. 1, letter (e));
- e. Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (Article 31, para. 1, letter (f));
- f. Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (Article 31, para. 1, letter (b));
- g. Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (Article 31, para. 1, letter (g));
- h. Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (Article 31, para. 3).

### Ministry of Justice

In the articles 145-153 of the Law on Justice for Children is contained provisions for the protection of child victims of crime and witnesses in criminal proceedings:

According to Article 145 of the Law on Justice for Children:

(1) The child victim of a crime shall have the following rights:

- with him to be treated with respect for his dignity,
- to be protected from any discrimination,
- to be informed of their rights in a language understandable and appropriate for his age, as well as respect of the right of privacy,
- to be informed parents / or / from or guardians / or / for all questions relating to crime and related to the suspect, accused and convicted,

- The child, respectively the parents / or / from or guardians / or / to participate in criminal proceedings as damaged by joining to the criminal prosecution or for realization of the pecuniary claim for damages,
- With special protection of his safety and the safety of his family, care and attention by the authorities and entities which participates in the criminal proceedings,
- Right of special protection from secondary victimization or re-victimization and
- The right of psychological and other professional assistance and support from the authorities, institutions and organizations to help children victims of crimes.

Police, prosecutors and court acts with special care against the child-victim of a crime by giving them these lessons and take care of his interests when making a decision on criminal prosecution against the accused for which is compiled a written note or process verbal.

According to these provisions, in the police and criminal procedure, the child victim of a crime has the right:

- On legal aid of lawyer before giving testimony or statement or submission of pecuniary claim,
- On compensation for material and immaterial damage in accordance with the program of article 151 of this law and under the conditions and in the manner prescribed in article 152 of this law, if the compensation of damages cannot be provided by the convicted and
- On a representative from taking the first statement, as well as during the whole procedure.

Legal aid the child victim provides based on a rule lawyer who followed specialized training for the rights of children. The training lasts at least five days per year in the country or in abroad.

Article 146 provides that the child victim had the right to special measures of process protection when giving testimony and examination in all stages of the procedure. The court must impose a special measure of procedural protection, including:

- when the child victim have need of special care and protection or
- when the child is a victim of trafficking, violence or sexual abuse, and crimes against humanity and international law or other serious crimes committed against children for which the law stipulated penalty of over four years.

In these cases, the court determined individually or together with other special measure of protection to record the statement of the child with the video and soundtrack, which will be used as evidence in the procedure. In exceptional cases, if appears new circumstances, the court may re-examine the child victim up again through the use of technical means of communication.

Court, the prosecution and the police are obliged to inform the child victim's rights in this article, the latest before his first trial and for it they constitute an official record or process verbal.

Special rights of this article are referred and to children witnesses.

As special measures of protection in the process during giving a statement, the court may determine:

- Using of screens to protect the victim and the witness of the view of the accused,
- Concealing the identity or appearance,



- Giving testimony via videoconference,
- Removal of togas and caps,
- Exclusion of the public,
- Video and audio recording of the statement that will be used as evidence,
- Video and audio recordings of the questioning that will be used as evidence,
- Taking a statement through the mediation of an expert,
- Use of special technical means of communication and
- Protection of the privacy of the child and his family.

The law provides that the procedure for criminal cases in which the child victim is urgent, the court exclude the public from the part of the procedure where is reproduced the record of the statement and the questioning of the child victim or is applied other special measure of procedural protection in taking testimony or hearing or are conducting procedural actions that may harm his personality and its development. Child victim is being examined as a witness in a manner that not effect on his physical and mental development and with application of specific measures of procedural protection.

In taking testimony and questioning of the child as a witness or victim, the police, the prosecutors and the court shall take into account the personal characteristics and features of the child to protect its interests and its proper development.

In this context also are and the provisions of articles 4 and 12 of the Law on Justice for children with which is determined the following:

(1) The child has the right to be informed by all institutions who come into contact with him, for his rights that involves duties and responsibilities prescribed by the Convention of the Rights of the Child and other international documents on the rights of children with this law and other laws.

(2) The child has the right to be heard and examined and instructed for rights in this procedure and the procedure itself.

(3) In any judicial and extrajudicial proceedings where participates, the child has the right actively to participate in making decision in his life and to give his opinion. The child or his legal representative has the right to be informed about the course of proceedings and the right of complaints about the protection of the rights before the Ombudsman and other institutions that have the authority to take care of children's rights.

Matter of free legal assistance is regulated by the Law on Free Legal Aid, which aims to ensure equal access of citizens and other persons specified in this law to the institutions of the system, the introduction, realization and for provide effective legal assistance, in accordance with principle of equal access to justice.

Free legal aid is approved in all judicial and administrative proceedings, if it solves the issue of interest for legal assistance, and for rights in the area of social, health, pension and disability insurance, labour, protection of children, victims of family violence, protection of victims of criminal acts, the protection of victims of trafficking, recognizing the right of asylum and property rights. It is realized as preliminary legal aid and legal assistance in administrative and judicial proceedings. In the provision of legal aid are included 34 regional offices of the Ministry of Justice and authorized associations. Lawyers provide legal assistance in the judicial and administrative proceedings.

With the amendments of this law in 2011 and in February 2014 is expanded the category of beneficiaries of free legal aid for: people-applicants of the right of asylum, children at risk and children for whom there are grounds that has committed an act which is provided by law as a crime or offense in the proceedings to protect their rights and interests to the Ministry of Internal Affairs and the Center for social Work in cases and under the conditions stipulated by the law for rights of children.

Free legal aid is financed from the budget of the Ministry of Justice. Financial funds are intended for payment of the award of attorneys for legal aid in accordance with the Tariff for awards and compensation costs for the work of lawyers by 30% or 50% in the proceedings against children and compensation costs of the authorized Association for a legal aid in accordance with the Tariff for compensation of costs for the operation of civil associations to perform preliminary legal aid.

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

- a. *What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (Article 30, para. 2, Explanatory Report, paras. 211-215);*
- b. *Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (Article 32, Explanatory Report, para. 230).*
- c. *Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (Article 33, Explanatory Report, paras. 231-232);*
- d. *Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (Article 31, para. 4). Please also describe under which conditions it is possible;*

### Ministry of Justice

Article 232 of the Criminal Procedure has a legal basis under article 31, paragraph 4 of the Convention. This Article provides the examination of particularly vulnerable victims and witnesses.

In addition, in paragraph 1 is provided that: "The damaged and witness for whom the body that lead the procedure will find that regardless of age, health, nature or consequences from crime, respectively from other circumstances of the case are particularly vulnerable, minor victim of trafficking, violence or sexual abuse, and that the examination at the premises of the authority that lead procedure would have harmful consequences for their mental and physical health will be examined in the manner prescribed in this article.

When the authority that lead the procedure finds that it is necessary for helping of the victim or witness of paragraph (1) of this article, shall assign a representative during the investigation.

The questions of the damaged and witness of paragraph (1) of this article may be assigned only through the authority that leads the proceedings, which in respect of such person should be treated with special care to avoid the harmful consequences of the criminal proceedings on his personality, body and mental health.

The investigation of the victim and witness of paragraph (1) of this article can be performed with the help of a psychologist, social worker or other professional, and the authority that leads the procedure may decide the person to be investigated trough use of technical means for transfer picture and sound, without the presence of the parties and other participants in the proceedings in the room where is the witness or victim, so that the parties, advocate and persons entitled to ask questions, they do through the authority that leads the procedure, psychologist, teacher, social worker or other professional.

During investigation of the victim or witness of paragraph (1) of this article, the court may exclude the public.

The damaged or witness in paragraph (1) of this Article shall not face the defendant and other witnesses only upon their request. "

A similar provision contains and article 9 of the Law on Prevention, obstruction and protection from family violence:

"The victim has the right to choose the person who will accompany to the proceedings.

The companion can be any adult person, other than the person who is the perpetrator of family violence in the procedure. Companion helps the victim on protecting its integrity in the proceedings before the officials and institutions, and to help find a solution for his case and provide support to victims.

Official who performs the procedure, stops the companion to accompany the victim, in case when does not meet the requirements of paragraph 2 of this article, and if he determines that the companion cannot support the victim from paragraph 3 of this article, due to family relations or other relationship with the victim or perpetrator of family violence. Children and people with limited or no legal capacity, in proceedings before the competent institutions are accompanied by a parent or guardian. "

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

#### Ministry of Justice

Article 145 paragraph 1, indent 8 by the Law of the Justice for children regulates the right of the victim of psychological and other professional assistance and support from the authorities, institutions and organizations to help children victims of crimes

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

## Ministry of Justice

In Articles 252 -271 of the Law of Criminal Procedure are contained provisions for special investigative measures.

When is likely that will be provided information and proofs necessary for successful leading of the criminal procedure, which otherwise cannot collect, is possible to undertake the following special investigative measures:

- 1) Monitoring and recording of the phones and other electronic communications in the procedure established by a separate law;
- 2) Monitoring and recording at home, gated or fenced space that belongs to that home or business space designated as private or in vehicle and entering in these premises in order to create the conditions for the interception of communications;
- 3) Secretly monitoring and recording of persons and objects with technical means outside of home or business space marked as private;
- 4) Secret viewing and searching in a computer system;
- 5) Automatic or otherwise, search and comparison of personal data;
- 6) Insight in the realized telephone and other electronic communications,
- 7) Simulated purchase of items;
- 8) Simulated giving and receiving bribes;
- 9) Controlled delivery and transportation of persons and objects;
- 10) The use of undercover agents for monitoring and collecting information's and data's;
- 11) Opening a simulated bank account and
- 12) Simulated registration of legal entities or using of existing legal entities for data collection.

In Article 253 are determined the crimes that may be determined special investigative measures where these are crimes of sexual abuse of children, showing pornographic material to a minor under article 193; Production and distribution of child pornography in article 193-a and swindling of statutory rape or other sexual act on a minor under 14 years of article 193-b. Investigation measures are determined by order of a judge of the previous procedure or the public prosecutor. The order may refer to a person who: has committed a crime, take action to commit a crime or preparing a crime.

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

## Ministry of Justice

Article 149 paragraph 1 of the Law on Justice for children in accordance with paragraph 2 of article 30 of the Convention: "For all actions provided by law as crimes under the Criminal Code which according to the legal characteristics of the case the child appears as a victim, the court and other authorities involved in the procedure are obliged to take measures for protection and assistance and to act in a way that will avoid possible adverse effects on his personality and development."

### Question 23: Child friendly interviewing and proceedings

- a. Please describe how interviews (*Article 35*) with child victims are carried out, indicating in particular whether:
- they take place without unjustified delay after the facts have been reported to the competent authorities;
  - they take place, where necessary, in premises designed or adapted for this purpose;
  - they are carried out by professionals trained for this purpose;
  - the same persons are, if possible and where appropriate, conducting all interviews with the child;
  - the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;
  - the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.
- b. Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;
- c. Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (*Article 36*).

#### Ministry of Justice

The provision of Article 36 of the Convention corresponds with articles 145-153 of the Law on Justice for Children: See answer contained in question no. 21 and 22-g.