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## **LANZAROTE CONVENTION**

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

### **Replies to the thematic questionnaire**

#### **LITHUANIA**

#### **1<sup>st</sup> thematic monitoring round**

#### **“Sexual abuse of children in the circle of trust”**

**Replies registered by the Secretariat on 29 January 2014**

**Revised replies to questions 1, 10, 11, 12, 13 and 14 registered by the Secretariat on 23 March 2015**



## DATA COLLECTION

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

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

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

While implementing Resolution No. 695 “On the approval of the list of indicators of statistical data on children” of the Government of the Republic of Lithuania as of 8 June 2004, within the framework of the 2005 Strategic Partnership Agreement, the Ministry of Social Security and Labour of the Republic of Lithuania and city (district) municipality administrations cooperate in strategic planning of social services and other child rights protection measures. Pursuant to this agreement, child rights protection services (divisions) of each municipality administration collect and enter the data on the implementation of child rights protection in municipalities in the Strategic Partnership Information System. Currently it is the Information System on Social Assistance to Families (hereinafter referred to as SPIS). The State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour has been analysing the data of reports formed in SPIS since 2006. It should be noted that SPIS reports (<http://vitrinos.spis.lt:8080/vtas.html>) indicate the number of children and cases of potential violence against children. The table presents statistics on children who suffered from violence (including sexual abuse) by municipalities and across the country, distinguishing between cases of abuse of children by other people and in the circle of trust (Annex Nr. 1).

The statistics on children victims of sexual abuse in Lithuania are accumulated and processed in accordance with the Children’s Gender Parameter, and the number of both girls and boys victims of sexual abuse is identified.

- The Information and Communications Department under the Ministry of the Interior is the manager of the Departmental Register of Criminal Acts (hereinafter referred to as the Register) (Order No. 1V-36 “Regarding the Departmental Register of Criminal Acts” of the Minister of the Interior as of 26 January 2006) and, on the basis of its data, drafts statistical reports of criminal acts, their investigation results, persons suspected (accused) of commitment of criminal acts and victims of criminal acts in the Republic of Lithuania. The purpose of the Register is to register the objects of the Register, to collect, accumulate, process, systematise, store, use and provide the Register data and documents for pre-trial investigation institutions, courts, other state institutions and agencies, natural and legal persons, and to perform other actions of handling the Register data. The aims of personal data management of the Register include the investigation and prevention of criminal acts, record of suspected (accused) persons and victims, drafting of statistical reports on criminal acts, suspected (accused) persons and victims.
- The Information and Communications Department under the Ministry of the Interior is the manager and administrator of the Register of Suspected, Accused and Convicted Persons (Regulations of the Register of Suspected, Accused and Convicted Persons approved by Resolution No. 435 “On the approval of the regulations of the Register of Suspected, Accused and Convicted Persons and the establishment of the beginning of operation thereof” of the Government of the Republic of Lithuania as of 18 April 2012). The Register objects are the following suspected, accused and convicted natural and legal persons:

- 1) natural and legal persons with regard to who a notice of suspicion has been issued;
- 2) natural persons who have been identified as suspects, when they are hiding or their whereabouts are unknown;
- 3) natural and legal persons accused in private accusation proceedings;
- 4) natural and legal persons with regard whereto procedural decisions were passed during pre-trial investigation and legal proceedings in criminal proceedings;
- 5) natural and legal persons with regard whereto procedural decisions passed in criminal proceedings are executed.
- The purpose of the Register is to register the objects of the Register, to collect, accumulate, process, systematise, store, use and provide the Register data, information and documents, and to perform other actions of handling the Register data and information. The aims of personal data management of the Register include the investigation and prevention of criminal acts, legal proceedings, execution of court judgments, performance of direct and other statutory functions of law enforcement and other state and municipal institutions and establishments.

## PREVENTION

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

### Question 2: Education for children

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

In 2007, the Ministry of Education and Science approved the Programme of Preparation for a Family and Sex Education with two purposes: education and prevention. The purpose of education is to prepare young people for life and marriage, provide knowledge about family, gender differences and similarities <...>. In certain cases that are related to specific gender differences the programme envisages organisation of individual classes for girls and boys. The purpose of prevention means the prevention of early sexual relations and related problems, sexual exploitation and harassment, as well as discrimination on grounds of sex. The pre-school and pre-primary curricula integrate topics on personal safety when dealing with strangers: refusing invitations, avoiding touching, proposals and other actions; search for support and help in the event of worry and danger. The topic of physical, emotional and sexual abuse as well as assistance in the event of abuse is integrated in the primary curriculum; sexual exploitation and trafficking in human beings as well as pornography are integrated in the basic curriculum; psychological, physical and sexual harassment and violence and their impact on health; personal limits, intimacy ratio; difficulties in making a free choice – external and internal factors; attributes of risky lifestyle; ability to resist a negative influence of the environment are integrated in secondary education.

The integral programmes of the development of generic competences and living skills of the general curricula of primary and basic education define a new content important to pupils and society and their purpose is to make the content of all subjects relevant. One of the trends of making the content of subjects relevant is to help pupils foster wellness and healthy lifestyle (Health and Living Skills Integral Programme and preventive programmes). The Programme for the Development of Living Skills has been drafted with a view to developing living skills (access online:

[http://www.smm.lt/uploads/documents/gyvenimo-igudziu-programa/Gyvenimo\\_igudziu\\_ugdymo\\_programa.pdf](http://www.smm.lt/uploads/documents/gyvenimo-igudziu-programa/Gyvenimo_igudziu_ugdymo_programa.pdf)); it specifies topics for individual age groups of children: pre-school age group, pupils of grades 1–4, 5–8 and 9–10. Depending on children's age, teachers must provide appropriate information on risk situations: how to recognise them, prevent them and where to search for help in such a situation. The aim is to develop pupils', both girls and boys, problem-solving, decision-making, creative and critical thinking, communication, self-awareness, stress coping and refusal skills. The aims regarding the pre-school age group are to "develop the ability to understand and recognise risk situations: dangerous places, unsafe own behaviour and bad intentions of others; understand that when in trouble they must tell somebody about it and ask for help". At primary school, girls and boys are taught "to evaluate dangers to their safety and understand the essence of children's exploitation"; in the junior school age group pupils are taught "to evaluate dangers to their safety, understand the essence of children's exploitation, search for help and support", whereas in the senior school age group they are taught "to resist invitation and sometimes even pressure to have sexual intercourse, understand and recognise manifestations of harassment and exploitation".

The General Programme on Human Safety approved by Order No. V-1159 of the Minister of Education and Science of the Republic of Lithuania as of 18 July 2012 includes the topics of sexual exploitation and sexual abuse into primary, basic and secondary education curricula (area of educational activity: "Psychological preparation for threats and dangers") and pupils' achievements. The General Programme on Health Education approved by Order No. V-1290 of the Minister of Education and Science of the Republic of Lithuania as of 31 August 2012 defines the area of social health and envisages pupils' achievements (attitudes, abilities, knowledge and understanding) and the scope of content in the area of prevention of risky behaviour with regard to primary, basic and secondary education.

The project of national importance "Development of efficiency and quality of assistance to pupils. Stage II" includes the organisation of training "Sexual crimes against children, prevention and intervention at school" which is intended to provide psychologists and social pedagogues of Lithuanian municipal pedagogical-psychological services and schools with new knowledge and skills, improve their professional competence to recognise and solve cases of sexual abuse of children (including trafficking in human beings, web threats, etc.), when carrying out prevention of sexual crimes against children at school. During project implementation, the competence of 240 specialists when dealing with topics on sexual abuse of children at school will be improved. To date 166 specialists have already been trained; the major share of training participants were women.

### **Question 3: Recruitment and screening**

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

See response to Question 9 of the General Overview Questionnaire.

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

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

The General Programme on Human Safety approved by Order No. V-1159 of the Minister of Education and Science of the Republic of Lithuania as of 18 July 2012 includes the topics of sexual exploitation and sexual abuse into primary, basic and secondary education curricula (area of educational activity: “Psychological preparation for threats and dangers”) and pupils’ achievements. The General Programme on Health Education approved by Order No. V-1290 of the Minister of Education and Science of the Republic of Lithuania as of 31 August 2012 defines the area of social health and envisages pupils’ achievements (attitudes, abilities, knowledge and understanding) and the scope of content in the area of prevention of risky behaviour with regard to primary, basic and secondary education.

#### **Question 5: Specialised training**

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

**Regarding persons working in the judicial sector.** Pursuant to the Regulations of Prosecutor Specialisation in Criminal Proceedings approved by Order No. I-60 of the Prosecutor General of the Republic of Lithuania as of 2 June 2010, prosecutors specialised in juvenile justice have been appointed to prosecutor’s offices of all levels. Prosecutors’ specialisation in juvenile justice in the Prosecutor General’s Office of the Republic of Lithuania and local prosecutor’s offices has also been stipulated in the Recommendations Regarding Prosecutors’ Specialisation in Criminal Proceedings and Allocation of Pre-Trial Investigations for Prosecutors.

Prosecutors specialised in juvenile justice upgraded their qualification by participating in interinstitutional professional development programmes organised by the National Court Administration Training Centre, which were designed with regard to the gender equality principle (25 academic hours’ seminar “Juvenile justice” held on 5–8 December 2011; 24 academic hours’ seminars “Juvenile justice” held on 19–22 March 2012 and on 17–19 December 2012), international conferences and trainings organised by the Public Institution Children Support Centre (conference “Strengthening of protection of children from care home against violence and sexual abuse in Lithuania. Interinstitutional approach” held on 5 November 2010; 40 per cent of males and 60 per cent of females upgraded their qualification in training; conference “A child – victim of violence: interinstitutional approach and international experience” held in 2011; training “Examination of children, victims of abuse and witnesses. Methods and recommendations how to deal with children” held in 2012; national conference “Let’s protect early childhood” held on 28 September 2012. General children’s examination methods were discussed during the training, without differentiating between girls’ and boys’ examination). On 15 November 2013 the Prosecutor General’s Office together with the Lithuanian Police Training Centre and the National Court Administration organised general training for specialised prosecutors, judges and pre-trial investigation officers. 8 academic hours’ long training included lectures of specialists-practitioners on the following topics: Children’s participation in criminal proceedings; Children’s sexual

exploitation on the Internet; Interinstitutional cooperation; Children's sexual abuse in the circle of trust.

**Regarding persons working in the law enforcement sector.** Several special trainings related to abuse of children were held for police officers in the Lithuanian Police School in 2012–2013:

a) seminars "Implementation of the Concept of the National Policy of Child Welfare in the practice of police officers". The main topics included: child rights protection in Lithuanian and international law; police cooperation with institutions working in the area of child welfare; police officers' actions ensuring child rights protection; the legal status of a minor in criminal and administrative proceedings; forms and methods of prevention of children's rights violations; communication with children of different age and gender, peculiarities of the interrogation of minors. In 2012, 33 police officers (both males and females) participated in the above trainings; in 2013 – 29 police officers;

b) seminars "Prevention of violence against children and assistance for children". The main topics included: international and Lithuanian legal acts regulating child rights protection and their application; police cooperation with institutions working in the area of child rights protection when implementing the National Programme for the Prevention of Abuse of Children and Assistance to Children; reasons and forms of abuse of children (emotional, sexual, existential, religious abuse); abuse and bullying at school, reasons for the appearance of these phenomena and prevention; forms and methods of prevention of abuse of children; recommendations for officers dealing with children victims of abuse. In 2012, 67 police officers attended training;

c) seminars "Protection of abuse in the circle of trust". The main topics included: concept, types, forms and causes of domestic violence; analysis of the situation of domestic violence against women; the Republic of Lithuania Law on Protection from Domestic Violence; the Description of the Procedure for Moving Out of Perpetrator from the Place of Residence; foreign best practice when providing assistance to victims of violence; the Description of the Procedure for Police Officer Control as the Enforced Measure for Ensuring Protection of a Victim of Violence as Awarded by Court Judgement; institutions providing assistance and support for victims of violence; specialised help centres providing specialised integral assistance. 201 police officers participated in training in 2012; 142 police officers in 2013 (before 1 October).

In 2013, the Lithuanian Police School also designed a new programme of special training modules "Activity of a specialist from the Prevention Department of Public Police (police officer for minor affairs)". The programme includes the following topics: forms of abuse of children; domestic violence and abuse, reasons and prevention; violence, abuse and bullying at school, reasons and prevention; work with children victims of sexual abuse; work with children with special needs; forms and methods of prevention of child rights violations. Training under this programme will be held as of 2014.

**Regarding persons working in the social sector.** In 2013, when implementing the measures under the National Programme for the Prevention of Violence against Children and Assistance to Children 2011–2015, the Ministry of Social Security and Labour organised training for the specialists working in the area of child rights protection (social workers dealing with families at social risk, psychologists, social pedagogues, prosecutors, investigators, etc.) on the issues of the prevention of sexual abuse of children, assistance and control. The training covered the statistics on children victims of sexual exploitation, providing sex-disaggregated data for girls and boys, methods of preventive work were also discussed, differentiating by the peculiarities of girls' and boys' physiological development, needs, age, etc.



In 2013, when implementing the Programme on Child Welfare 2013–2018, training was organised for specialists from municipal child rights protection divisions and specialists working in the area of child rights protection who are responsible for the selection, preparation and evaluation of persons wishing to become child guardians (custodians) and adoptive parents. Training topics covered the following: the concept of girls' and boys' destructive behaviour; recognition of children victims of violence and sexual abuse and evaluation of their needs, also by gender; interdepartmental and interprofessional intervention in cases of potential and real violence against children; family evaluation and planning of assistance; provision of assistance in cases of concealed or denied girl pregnancy, etc.

**Regarding persons working in the education sector.** The project of national importance "Development of efficiency and quality of assistance to pupils. Stage II" includes the organisation of training "Sexual crimes against children, prevention and intervention at school" which is intended to provide psychologists and social pedagogues of Lithuanian municipal pedagogical-psychological services and schools with new knowledge and skills, improve their professional competence to recognise and solve cases of sexual abuse of children (including trafficking in human beings, web threats, etc.), when carrying out prevention of sexual crimes against children at school. The project envisages improvement of competence of 240 specialists, with regard to the gender balance of participants, dealing with topics of sexual abuse of children at school. 166 specialists have been trained so far.

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

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

See responses to Question 4(b) and Question 11 of the General Overview Questionnaire.

#### **Question 7: Preventive intervention programmes or measures**

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

Regarding the possibilities of implementation of Article 7 of the Convention, it should be noted that the Ministry of Social Security and Labour, when planning the European Union structural support project for Child Rights Protection 2014–2020, envisaged Investment Priority "8.4. Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest". The priority has to be implemented through the objective to improve children's protection from sexual abuse and sexual exploitation to be achieved through measures such as "Implementing (adapting) intervention programmes and (or) measures for children who commit criminal acts of sexual character with regard to their age, developmental needs, etc., as well as their implementation", "Designing and applying a therapy programme for minors who have committed sexual crimes", "Designing and applying a methodology for risk evaluation of repeated criminal behaviour of minors who have committed sexual crimes". It is expected that after these measures



are implemented specialised services for girls and boys victims of sexual exploitation and sexual abuse will appear in Lithuania.

## PROTECTION

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

### Question 8: Reporting suspicion of sexual abuse

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

Article 238 of the Criminal Code of the Republic of Lithuania (hereinafter referred to as the CC) stipulates criminal liability for a failure to report a crime:

***“Article 238. Failure to report a crime***

*1. A person who, without a valid reason, fails to report to a law enforcement agency or to a court a grave crime known to him, either in progress or already committed, shall be punished by community service or by a fine or by arrest or by imprisonment for a term of up to one year.*

*2. The close relatives and family members of the perpetrator shall not be held liable for a failure to report a crime.”*

Paragraph 8 of Order No. 65 “On the approval of the procedure for the provision of information about a patient to state institutions and other establishments” of the Minister of Health of the Republic of Lithuania as of 1 February 2001 lays down as follows:

*“Following the laws and other legal acts of the Republic of Lithuania, a health care institution shall provide information about a patient upon its initiative (in the absence of a written request from the authorised institution wishing to receive information about a patient) and without a patient’s consent in the following cases:*

*1. When a crime has to be reported;*

*2. To municipal child rights protection divisions according to the child’s place of residence or the location of a health care institution immediately upon necessity to protect the child’s rights and interests, as well as in the event of reasonable suspicion of violation of the child’s rights;*

*3. In other cases.”*

The State Child Rights Protection and Adoption Service has approved the Description of the Procedure for the Provision of Information about Special Cases Related to Possible Child Rights Violations (hereinafter referred to as the Description). Pursuant to the Description, special cases are those cases where a damage (either actively or by inaction) was done to a mental and/or physical child’s health (when a child needs medical examination and/or aid) or life was taken, regardless of whether the child was injured or his life was taken by another child or a major and the case was reported to police. Special cases also include child suicide and cases related to possible sexual abuse and trafficking in children, also all cases of accidents at child care institutions during which a child was injured. Pursuant to the Description, city (district) municipal child rights protection divisions and child care institutions must report possible (suspected) sexual abuse of children to the State Child Rights Protection and Adoption Service.

### Question 9: Assistance to and special protection for victims

- a. If, and to what extent, does internal law provide for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse? If internal law so provides:
  - are the conditions and duration of such removal to be determined in accordance with the best interests of the child? (**Article 14 (3), Explanatory Report, para. 99**);
  - have legislative or other measures been taken to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care? (**Article 14 (4), Explanatory Report, para. 100**).
- b. Does internal law provide that sanctions for offences of child sexual abuse within the circle of trust include denying the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed? (**Article 27 (3) (b), Explanatory Report, para. 187**).

a) Article 132<sup>1</sup> of the Criminal Procedure Code of the Republic of Lithuania (hereinafter referred to as the CPC) stipulates a supervision measure – an obligation to live separately from the victim, i.e. the suspect may be obliged to live separately from the victim or there are reasonable grounds for considering that if the suspect lives together with the victim, he/she will attempt at unlawfully influencing the victim or commit new criminal acts against the victim or persons living together. When imposing an obligation to live separately from the victim, the suspect may also be obliged not to communicate or seek contact with the victim and persons living together and not to visit specified places visited by the victim or persons living together. A victim stays in the housing which was the permanent place of residence for the suspect and the victim.

Article 56(3) of the effective Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child establishes that when parents (father, mother) or another lawful representative of a child abuses the parental authority by committing acts of violence or otherwise causing danger to the child and therefore there is a real threat to the child's health or life, the state institution for the protection of the rights of the child or a state institution for the protection of the rights of the child together with the police shall immediately take the child away from the parents or any lawful representatives of the child and transfer him for guardianship (custody) in accordance with the procedure laid down by the Civil Code. In this case a police officer shall have the rights provided for in subparagraph 3 of paragraph 1 of Article 18 of the Republic of Lithuania Law on Police Activities. Having taken away the child, the state institution for the protection of the rights of the child shall immediately notify the child's parents or other representatives of the child about this fact. Taking the child away from his parents or other lawful representatives is also regulated by the Regulations of Temporary Child Guardianship (Custody). Paragraphs 7–7.6 of the above Regulations establish that the Child Rights Protection Division or a division together with the police (where necessary and seeking to ensure public order or security of participating persons) shall immediately, upon receiving information during their working hours about the abuse of the child by parents or other lawful representatives of the child or any other abuse of parental authority which may cause a real threat to the child's health or life or about a child left unsupervised by his parents or other family members thus causing danger to the child's health and safety, or about a found child, go to the child's home or any other place of stay; evaluate the environment and threat to the child's health, life and safety; where necessary, temporarily take the child away from his parents or any other place of stay; organise temporary accommodation of the child in accordance with the procedure prescribed by these Regulations; draw up a decision of the Child Rights Protection Division regarding taking the child away from his parents or any other place of stay as well as the child's temporary accommodation act; urgently in writing inform the child's parents (if they are known) or other lawful representatives about the child's temporary taking and accommodation.

b) Article 68<sup>2</sup> of the CC stipulates a penal sanction – deprivation of the right to be employed in a certain position or to engage in a certain type of activities, i.e. the court shall award deprivation of the right to be employed in a certain position or to engage in a certain type of activities in the cases where the offender commits a criminal act in the field of his occupational and professional activities or where, considering the nature of the criminal act committed, the court comes to the conclusion that the convicted person may not preserve the right to be employed in a certain position or to engage in a certain type of activities.

## PROSECUTION

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

### Question 10: The offence of sexual abuse

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

- a. what is understood by “intentional conduct” in internal law? (**Explanatory Report, para. 117**);
- b. what is understood by “sexual activities” in internal law? (**Explanatory Report, para. 127**).

a) Intent means that when committing a criminal act, a person was aware of its dangerous nature and desired to engage therein (in the event of formal elements constituting a criminal act) or, when committing a criminal act, a person was aware of its dangerous nature and anticipated that his act or omission might cause the consequences provided for by the CC and desired that they arise (in the event of material elements constituting a criminal act) – specific intent (CC Article 15(2)); when committing a criminal act, a person was aware of its dangerous nature, anticipated that his act or omission might cause the consequences provided for by the CC and, though he did not desire that they arise, consciously allowed the consequences to arise – general intent (CC Article 15(3)):

#### **“Article 15. Premeditated Crime and Misdemeanour**

*1. A crime or misdemeanour shall be premeditated where it has been committed with a specific or general intent.*

*2. A crime or misdemeanour shall be committed with a specific intent where:*

*1) when committing it, the person was aware of the dangerous nature of the criminal act and desired to engage therein;*

*2) when committing it, the person was aware of the dangerous nature of the criminal act, anticipated that his act or omission might cause the consequences provided for by this Code and desired that they arise.*

*3. A crime or a misdemeanour shall be committed with a general intent where, when committing it, the person was aware of the dangerous nature of the criminal act, anticipated that his act or omission might cause the consequences provided for by this Code and, though he did not desire that they arise, consciously allowed the consequences to arise.”*

b) Sexual activities include sexual intercourse and any other satisfaction of sexual desires through any means of physical contact.

Article 149(1) of the CC defines rape, whereas paragraphs 3 and 4 set forth liability for the rape of a minor and a young child:

***“Article 149. Rape***

- 1. A person who has sexual intercourse with a person against his will by using physical violence or threatening the immediate use thereof or by otherwise depriving of a possibility of resistance or by taking advantage of the helpless state of the victim [...].*
- 2. A person who rapes another person with a group of accomplices [...].*
- 3. A person who rapes a minor [...].*
- 4. A person who rapes a young child [...].”*

Article 150(1) of the CC defines sexual assault, whereas paragraphs 3 and 4 set forth liability for the sexual assault of a minor and a young child:

***“Article 150. Sexual assault***

- 1. A person who, against a person's will, satisfies his sexual desires through anal, oral or interfemoral intercourse by using physical violence or by threatening the immediate use thereof or by otherwise depriving the victim of a possibility of resistance or by taking advantage of the helpless state of the victim [...].*
- 2. A person who carries out the actions provided for in paragraph 1 of this Article together with a group of accomplices [...].*
- 3. A person who carries out the actions provided for in paragraph 1 of this Article in respect of a minor [...].*
- 4. A person who carries out the actions provided for in paragraph 1 of this Article in respect of a young child [...].”*

The criminal law provides for a stricter liability (CC Article 151(2)) for compelling a child to have sexual intercourse by threatening to resort to violence or by taking advantage of a person's dependency on the abuser:

***“Article 151. Sexual abuse***

- 1. A person who, by threatening to resort to violence, using other mental coercion or by taking advantage of a person's dependency, compels the person to have sexual intercourse with or otherwise satisfy sexual desires of the offender or a third person [...].*
- 2. A person who carries out the actions provided for in paragraph 1 of this Article in respect of a minor [...].”*

Furthermore, Article 151<sup>1</sup>(3) of the CC stipulates a criminal liability with regard to father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor who has sexual intercourse or otherwise satisfied his sexual desires with that minor, in the absence of characteristics of a rape, sexual assault or sexual abuse:

***“Article 151<sup>1</sup>. Satisfaction of sexual desires by violating a minor's freedom of sexual self-determination and/or inviolability***

- 1. An adult person who has sexual intercourse or otherwise satisfied his sexual desires with a person younger than sixteen years, in the absence of characteristics of a rape, sexual assault or sexual abuse [...].*
- 2. A person who has sexual intercourse or otherwise satisfied his sexual desires with a minor upon offering, promising to provide or upon providing to him or other person in consideration money or a consideration of another form, in the absence of characteristics of a rape, sexual assault or sexual abuse [...].”*

It should be noted that Article 151<sup>1</sup>(3) defines liability for sexual abuse of the child committed by persons in the circle of trust (father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor):

- “3. A father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor who has sexual intercourse or otherwise satisfied his sexual desires with that minor, in the absence of characteristics of a rape, sexual assault or sexual abuse [...].”*

Article 152 of the CC defines liability for sexual harassment. This provision does not set forth a qualifying element when the act is committed in respect of a child; however, this act is prosecuted where a victim is *a person subordinate in office or otherwise* (e.g. a pupil dependent on a teacher; a dependant in respect to a guardian, etc.).

***“Article 152. Sexual harassment***

*1. A person who, in seeking sexual contact or satisfaction, harasses a person subordinate to him in office or otherwise by vulgar or comparable actions or by making offers or hints shall be considered to have committed a misdemeanour [...].”*

Article 153 of the CC provides for a liability for sexual molestation of a young child which may be committed in various forms not only by performing sexual acts with a child but also by performing these acts in the presence of a young child.

***“Article 153. Sexual molestation of a young child***

*A person who molests a young child shall be punished by restriction of liberty or by arrest or by imprisonment for a term of up to five years.”*

It should be noted that Chapter XXI of the CC does not cover all criminalised acts where children are protected against sexual exploitation. Protection against sexual exploitation is provided for in Chapter XLIV on crimes and misdemeanours against morality (Articles 307, 308 and 309) and Article 162 of Chapter XXIII on crimes and misdemeanours against a child and a family.

***“Article 307. Gaining profit from another person’s prostitution***

*1. A person who gained profit from another person’s prostitution or from procurement for prostitution [...].  
2. A person who organises or is in charge of prostitution or transports a person with his consent for prostitution to the Republic of Lithuania or from the Republic of Lithuania [...].”*

Article 307 of the CC also sets forth liability for committing an act with respect of a minor.

*“3. A person who gains profit from prostitution of a minor person, or organises or is in charge of prostitution of a minor, or has been using a minor otherwise for prostitution purposes [...].”*

Involvement of a minor in prostitution is considered a criminal act in the national law (Article 308(2) of the CC).

***“Article 308. Involvement in prostitution***

*2. A person who involves in prostitution a person dependent on him financially, subordinate in office or otherwise or involves a person in prostitution by using physical or mental coercion or by deceit [...].”*

The provision stipulating liability for the possession of pornographic material also lays down qualifying circumstances where pornographic material displays a child or a young child as well as pornographic material *presenting a person as a child*:

***“Article 309. Possession of pornographic material***

*1. A person who, for the purpose of distribution, produces or acquires pornographic material or distributes such material [...].  
2. A person who produces, acquires, stores, demonstrates, advertises or distributes pornographic material displaying a child or presenting a person as a child, or taking advantage of information or communication technologies or other means acquires or provides access to material of pornographic content displaying a child or presenting a person as a child [...].  
3. A person who, for the purpose of distribution, produces or acquires or distributes a large quantity of pornographic material displaying a young child [...].”*

***“Article 162. Use of a child for pornography***

*1. A person who recruits, involves or forces a child to participate in events of pornographic character, or uses a child for the production of pornographic material or gains profit from such activities of the child [...].”*

## Question 11: Corporate liability

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

The national legal framework provides that a legal entity may be held liable for an act of sexual abuse of children. Liability of a legal entity is stipulated regarding the following acts of sexual abuse as defined in the CC:

**“Article 149. Rape**

*6. A legal entity shall also be held liable for an act provided for in paragraphs 3 and 4 of this Article.”*

Article 149(3) of the CC provides for liability for raping a minor, and paragraph 4 of the same article provides for liability for raping a young child.

**“Article 150. Sexual assault**

*6. A legal entity shall also be held liable for an act provided for in paragraphs 3 and 4 of this Article.”*

Article 150(3) of the CC provides for liability for sexual assault with respect to a minor, and paragraph 4 of the same article provides for sexual assault with respect to a young child.

**“Article 151. Sexual abuse**

*4. A legal entity shall also be held liable for an act provided for in paragraph 2 of this Article.”*

Article 151(2) of the CC provides for liability for compelling a minor to have sexual intercourse.

**“Article 151<sup>1</sup>. Satisfaction of sexual desires by violating a minor’s freedom of sexual self-determination and/or inviolability**

*4. A legal entity shall also be held liable for the acts provided for in this Article.”*

A legal entity shall also be held liable in cases where a child is used for the production of pornographic material or is involved in pornographic events:

**“Article 162. Use of a child for pornography**

*3. A legal entity shall also be held liable for an act provided for in this Article.”*

## Question 12: Aggravating circumstances

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

In internal law the circumstance that a *person from the child’s circle of trust* committed an act of the category under discussion (abuse of sexual nature) shall not be held an aggravating circumstance or a factor affecting the size of sanction.

It should be noted that in the national law Article 60 of the CC provides for an exhaustive list of aggravating circumstances and the court cannot consider the circumstances other than those specified in Article 60 of the CC as aggravating.

Regarding criminal law, only Article 151<sup>1</sup> of the CC defines liability for sexual abuse of the child committed by *persons in the circle of trust* (father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor). This law also provides for a stricter punishment:

**“Article 151<sup>1</sup>. Satisfaction of sexual desires by violating a minor’s freedom of sexual self-determination and/or inviolability**



3. A father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor who has sexual intercourse or otherwise satisfied his sexual desires with that minor, in the absence of characteristics of a rape, sexual assault or sexual abuse [...].”

Also, Paragraph 1 (6) of the Article 60 of CC stipulates an aggravating circumstance where an act was committed with respect to a minor having taken advantage of his dependence or by abuse of trust, authority or influence.

Furthermore, Article 151<sup>1</sup>(3) of the CC stipulates a criminal liability with regard to father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor who had sexual intercourse or otherwise satisfied his sexual desires with that minor, in the absence of characteristics of a rape, sexual assault or sexual abuse.

### Question 13: Best interest of the child

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

a) In Lithuania all cases where victims are children are heard with respect to the interests and rights of the child. First, cases of crimes and misdemeanours against freedom of sexual self-determination and inviolability may be heard *in camera* (Article 9(3) of the CPC).

#### “Article 9. Public hearing

[...]

3. In addition to the cases referred to in par. 1 of this Article closed court hearings may be held in relation to criminal activities the accused or the victims of which are persons under 18 years of age, to cases of crime or criminal offence against the freedom of sexual self-determination or inviolability of a person, also other cases in view of preventing publication of the data related to the private life of the parties to the proceedings, or where due to the public hearing of the case the victim may suffer a psychic trauma, or when questioning witnesses or victims subject to the anonymity requirement. [...].”

A different examination procedure applies when a child participates in criminal proceedings, i.e. when examination is carried out during a pre-trial investigation, a juvenile witness or a victim under eighteen years of age is, as a rule, examined during a pre-trial investigation not more than once. A video and audio recording may be made during their examination. Where a suspect or his counsel for defence participates in the questioning of a juvenile witness or a victim under eighteen years of age, a pre-trial judge must ensure that no unauthorised impact is exerted with respect to a witness or a victim. A juvenile witness or a victim under eighteen years of age is summoned to a sentencing hearing only in exceptional cases. If a suspect may exert impact on a juvenile witness or a victim under eighteen years of age, a pre-trial judge will not allow the suspect to participate in the examination by a ruling. For the protection of a juvenile witness or a victim under eighteen years of age a pre-trial judge by a ruling may prohibit the suspect and other participants of the proceedings, with the exception of a representative from a state child rights protection institution or a psychologist, to be present in the premises where examination is carried out. In this case, a video



and audio recording must be made, and the suspect and other participants of the proceedings must be provided with the conditions to watch and hear the examination from other premises as well as to put questions to the examined person through the pre-trial judge. If it is impossible to create the conditions for the suspect and other participants of the proceedings to watch and hear the examination from other premises, the examination is carried out in the absence of the suspect and other participants of the proceedings. A video and audio recording made during this examination is demonstrated to the suspect and other participants of the proceedings immediately after the examination, and they have the right to put questions to the examined person through the pre-trial judge. A representative of a juvenile witness or a victim under eighteen years of age has the right to participate in his examination. Upon the request of the participants of the proceedings or upon the initiative of a pre-trial investigation officer, prosecutor or pre-trial judge, a representative from a state child rights protection institution or a psychologist must be summoned to the examination of a juvenile witness or a victim under eighteen years of age, who help to question a minor with regard to his social and psychological maturity (Article 186 of the CPC).

***“Article 186. Questioning of a juvenile witness and victim***

- 1. A juvenile witness or a victim under eighteen years of age shall be examined by the pre-trial judge in accordance with the procedure prescribed in Article 184(3)(4)(5) of this Code when requested so to the best interests of the child by his representative, prosecutor or counsel for the defence or in cases specified in Article 184(1) of this Code.*
- 2. In the course of a pre-trial investigation a witness or a victim under 18 years of age may be questioned not more than once. In the cases where a repeat questioning of a witness or a victim under 18 years of age is necessary for the purpose of a pre-trial investigation, such persons shall be ordinarily questioned by the same person. The questioning of such persons may be recorded by audio and video recording means. Where a suspect or his defence attorney is present at a questioning of a witness or a victim under 18 years of age, the judge of the pre-trial investigation shall ensure that such witness or a victim is not subject to any undue influence. Witness and victims under 18 years of age shall be summoned to the trial hearing in exceptional cases only.*
- 3. If a suspect may exert impact on a juvenile witness or a victim under eighteen years of age, a pre-trial judge shall not allow the suspect to participate in the examination by a ruling. The prosecutor shall inform the suspect and his counsel for defence about the ruling passed by a pre-trial judge prohibiting participation in the examination by handing in a copy of the ruling.*
- 4. For the purpose of protection of the interests of a witness or a victim under 18 years of age, according to the decision of the pre-trial judge, the suspect or other participants of the proceedings, except a representative of the State children's rights protection institution or a psychologist, may be prohibited from being present in the room where the questioning is conducted. In that case the questioning shall be necessarily recorded by video and audio recording means, and the suspect and other participants of the proceedings shall be provided conditions to observe and hear the questioning from another room, and ask questions to the person being questioned through the pre-trial judge. Where it is not possible to provide conditions for the suspect and other participants of the proceedings to observe and hear the questioning from another room, the questioning shall be conducted without their participation. The video or audio recording recorded during such a questioning shall be demonstrated immediately after the questioning to the suspect and other participants of the proceedings, who may ask questions to the person being questioned through the pre-trial judge.*
- 5. A representative of a juvenile witness or a victim under eighteen years of age shall have the right to participate in his examination. Upon the request of the participants of the proceedings or upon the initiative of a pre-trial investigation officer, prosecutor or pre-trial judge, a representative from a state child rights protection institution or a psychologist shall be summoned to the examination of a juvenile witness or a victim under eighteen years of age, who help to question a minor with regard to his social and psychological maturity.”*

A representative of a juvenile victim under eighteen years of age has to participate in his examination at court. A victim of such an age and his representative may participate only in part of the hearing under a court ruling. If a court examination might cause a mental trauma or have any other severe consequences to a juvenile victim under eighteen years of age, a victim may not be

questioned at the sentencing hearing. In this case the testimony given by a victim to a pre-trial judge must be read out at court (Article 283(3) of the CPC).

***“Article 283. Procedure of examination of a victim***

*[...]*

*3. Where a victim is under 18 years of age, his representative shall be necessarily present at his questioning. According to a ruling of the court a victim of under 18 years of age or his representative may participate in only a part of the case hearing time. Where because of the questioning at the hearing a victim under 18 years of age may suffer a mental trauma or other severe consequences, it may be decided not to question such victim at the trial hearing. In this case the statements of the victim given to the judge of the pre-trial investigation shall be read out loud, or a video or audio recording recorded during the pre-trial investigation shall be demonstrated at the hearing. Where a victim under 18 years of age is summoned to the court hearing, for the purpose of protection of his interests, according to the decision of the judge or the court, the defendant or other participants of the proceedings, except a representative of the State children's rights protection institution or a psychologist, may be prohibited from being present in the room where the questioning is conducted. In that case the questioning shall be necessarily recorded by video and audio recording means, and the defendant and other participants of the proceedings shall be provided conditions to observe and hear the questioning from another room, and ask questions to the person being questioned through the judge or the court. [...]*”

Also, there are new CPC provisions on court examination by means of audio and video remote transmission equipment:

Article 279 Paragraph 6 A witness who is in the manner established by law covered by means of protection against the effect of a crime, also a witness who for other reasons is not able to arrive to the trial hearing, may be questioned using audio or video remote transmission means.

Article 283 Paragraph 2 A victim shall be questioned and his testimony shall be read following the rules governing the questioning of witnesses and the reading of the testimony of witnesses.

c) Article 72<sup>1</sup> of the CC lays down a penal sanction – a prohibition to approach the victim, i.e. a court may impose a prohibition to approach the victim where this is necessary with a view to protecting the legitimate interests of the victim (Article 72<sup>1</sup>(1) of the CC). Upon imposition of prohibition to approach the victim, the offender shall be prohibited, until the expiry of a time limit laid down by a court, from communicating and seeking contacts with the victim, visiting the indicated places at which the victim is usually present (Article 72<sup>1</sup>(2) of the CC). Upon imposition of prohibition to approach the victim and where the offender and the victim share the same residential premises, a court shall place the offender under the obligation to live separately until the expiry of a time limit laid down by the court or until solving of the issue of granting of the right to live in those residential premises to the victim or to the offender (Article 72<sup>1</sup>(3) of the CC).

Article 72<sup>2</sup> of the CC lays down a penal sanction – participation in the programmes addressing violent behaviour, i.e. a court shall place under the obligation to participate in violence correction programmes the persons who have committed criminal acts in respect of a close relative or family member. This instruction must be complied with within a time limit laid down by the court.

## **Question 14: Child-friendly justice**

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

- b. Which legislative or other measures been taken to ensure that investigations or prosecution of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (**Article 32, Explanatory Report, para. 230**);
- c. Have legislative or other measures been taken to ensure that a judge, in a criminal trial regarding an offence which can be considered to involve sexual abuse of a child within the circle of trust, may order the hearing to take place without the presence of the public or that the victim may be heard in the courtroom without being present? (**Article 36, para. 2 and Explanatory Report, para. 242**).

**a) "Article 72<sup>1</sup>. Prohibition to approach the victim**

*1. A court may impose a prohibition to approach the victim where this is necessary with a view to protecting the legitimate interests of the victim.*

*2. Upon imposition of prohibition to approach the victim, the offender shall be prohibited, until the expiry of a time limit laid down by a court, from communicating and seeking contacts with the victim, visiting the indicated places at which the victim is usually present.*

*3. Upon imposition of prohibition to approach the victim and where the offender and the victim share the same residential premises, a court shall place the offender under the obligation to live separately until the expiry of a time limit laid down by the court or until solving of the issue of granting of the right to live in those residential premises to the victim or to the offender."*

**"Article 72<sup>2</sup>. Participation in the programmes addressing violent behaviour**

*A court shall place under the obligation to participate in violence correction programmes the persons who have committed criminal acts in respect of a close relative or family member. This instruction must be complied with within a time limit laid down by the court.*

**CPC:**

**Article 132<sup>(1)</sup>. Obligation to live separately from the victim**

*1. The suspect may be obliged to live separately from the victim or there are reasonable grounds for considering that if the suspect lives together with the victim, he/she will attempt at unlawfully influencing the victim or commit new criminal acts against the victim or persons living together. When imposing an obligation to live separately from the victim, the suspect may also be obliged not to communicate or seek contact with the victim and persons living together and not to visit specified places visited by the victim or persons living together. A victim stays in the housing which was the permanent place of residence for the suspect and the victim.*

*2. During a pre-trial investigation, a pre-trial judge shall impose an obligation to live separately from the victim by a ruling upon the prosecutor's request.*

*3. When a supervision measure, i.e. an obligation to live separately from the victim, is imposed, the suspect shall be warned that failure to fulfil this obligation might result in the imposition of a different supervision measure."*

b) If criminal acts of sexual character as well as acts related to pornography and prostitution were committed in respect to a young child or a minor, a pre-trial investigation shall in all cases be initiated in accordance with the general procedure, i.e. the victim's complaint or a statement of his lawful representative or a prosecutor's request shall not be considered a prerequisite for initiating a pre-trial investigation (Article 166 of the CPC, Article 167 of the CPC, Article 407 of the CPC, Article 149 of the CC, Article 150 of the CC, Article 151 of the CC, Article 151<sup>1</sup> of the CC, Article 153 of the CC, Article 157 of the CC, Article 162 of the CC, Article 307 of the CC, Article 308 of the CC, Article 309 of the CC).

On 15 December 2011, the Republic of Lithuania Law on Protection against Domestic Violence took effect. Its purpose is to protect persons against domestic violence, promptly respond to arising

threats, undertake prevention measures and provide appropriate assistance. Pursuant to the law, domestic environment shall mean the environment comprising the persons currently or previously linked by marriage, partnership, affinity or other close relations, also the persons having a common domicile and a common household. Violence shall mean an intentional physical (causing physical pain, health impairment), mental (threatening to cause health impairment, murder, abduct a child, terrorisation), sexual, economic or another influence exerted on a person by an act or omission as a result whereof the person suffers physical, property or non-pecuniary damage. Pursuant to the law, domestic violence is attributable to the category of public prosecution. In this case criminal proceedings do not depend on the will of the victim of violence to initiate them or not. It means that having established the fact of domestic physical, mental, sexual, economic or another violence a pre-trial investigation shall be initiated, regardless of whether a complaint has been filed by the victim of domestic violence or not.

c) Public court hearing is one of the principles of the rule of law, stipulated in the Constitution of the Republic of Lithuania (Article 31(2), Article 117(1)) and the Criminal Procedure Code of the Republic of Lithuania (Article 9(1)).

However, Article 9(3) of the CPC lays down that the hearing of cases concerning crimes and misdemeanours against sexual independence and integrity may be private. The CPC provides for a possibility for cases to be heard in court *in camera*, if the victims are under eighteen years of age.

Also, if video and audio recording was made in the pre-trial investigation, a recording may be demonstrated at the sentencing hearing during the examination of the evidence. If a child is summoned to a hearing, he should be provided with the possibilities not to stay in the same premises together with other participants of the proceedings and provided with the conditions to carry out the child's examination by means of video and audio recording equipment (see response to Question 13(a) of the first questionnaire).

***“Article 9. Public hearing***

*1. Cases shall in all courts be heard publicly, except for cases, where these contradict the interests of keeping the state, official, professional or commercial secret.*

*3. In addition to the cases referred to in para 1 of this Article closed court hearings may be held in relation to criminal offences of the accused or the victims thereof, which are persons under 18 years of age, to cases of crime or misdemeanour against the freedom of sexual self-determination or inviolability of a person, also other cases in view of preventing publication of the data related to the private life of the parties to the proceedings, or where due to the public hearing of the case the victim may suffer a mental trauma or other severe consequences, also when questioning witnesses or victims subject to the anonymity requirement.*

*4. A case may be heard in camera only under a court ruling. A ruling to hear the case in camera may be passed with regard to full case hearing at court or to its individual parts. Cases shall be heard in camera in accordance with all rules of proceedings.*

*5. Persons under sixteen years of age who are not accused persons, victims or witnesses shall not be allowed to the court hearing.”*

Following the provisions of the abovementioned CPC article, the court hearing the case may, upon its own initiative or at the request of the parties of the proceedings, decide to hear the case in camera regardless of the mutual relations between the victim of a criminal act and the offender. In practice courts hear all cases where children are victims of criminal acts of sexual character in camera.

Seeking to reduce traumatising of a child victim of crime in criminal proceedings, the national law also provides for the organisation of criminal proceedings in such a way that a child is examined by a pre-trial judge during a pre-trial investigation not more than once and is not summoned to a court hearing. The same provisions apply to a minor witness.

***“Article 186. Questioning of a juvenile witness and victim***

*1. A juvenile witness or a victim under eighteen years of age shall be examined by the pre-trial judge in accordance with the procedure prescribed in Article 184(3)(4)(5) of this Code when requested so to the best interests of the child by his representative, prosecutor or counsel for the defence or in cases specified in Article 184(1) of this Code.*

*2. In the course of a pre-trial investigation a witness or a victim under 18 years of age may generally be questioned not more than once. In the cases where a repeat questioning of a witness or a victim under 18 years of age is necessary for the purpose of a pre-trial investigation, such persons shall be ordinarily questioned by the same person. The questioning of such persons may be recorded by audio and video recording means. Where a suspect or his defence attorney is present at a questioning of a witness or a victim under 18 years of age, the judge of the pre-trial investigation shall ensure that such witness or a victim is not subject to any undue influence. Witness and victims under 18 years of age shall be summoned to the trial hearing in exceptional cases only.*

*3. If a suspect may exert impact on a juvenile witness or a victim under eighteen years of age, a pre-trial judge shall not allow the suspect to participate in the examination by a ruling. The prosecutor shall inform the suspect and his counsel for defence about the ruling passed by a pre-trial judge prohibiting participation in the examination by handing in a copy of the ruling.*

*4. For the purpose of protection of the interests of a witness or a victim under 18 years of age, according to the decision of the pre-trial judge, the suspect or other participants of the proceedings, except a representative of the State children's rights protection institution or a psychologist, may be prohibited from being present in the room where the questioning is conducted. In that case the questioning shall be necessarily recorded by video and audio recording means, and the suspect and other participants of the proceedings shall be provided conditions to observe and hear the questioning from another room, and ask questions to the person being questioned through the pre-trial judge. Where it is not possible to provide conditions for the suspect and other participants of the proceedings to observe and hear the questioning from another room, the questioning shall be conducted without their participation. The video or audio recording recorded during such a questioning shall be demonstrated immediately after the questioning to the suspect and other participants of the proceedings, who may ask questions to the person being questioned through the pre-trial judge.”*

### Overview of the situation of violence against children

Child rights protection offices (CRPO) collect and analyse reports about children who experience violence and abuse and children who commit acts of violence, initiate the necessary specialists' and institutions' assistance to these children and their parents, and apply to the respective law enforcement institutions regarding administrative action or criminal proceedings with respect to the person who poses threat to the child's safety and health. According to the data of CRPO, 1 365 children experienced violence in 2013 (1 454 total recorded cases of violence), whereas in 2012, 1 343 cases of violence against children were recorded. The number of children victims of violence has been growing over recent three years. The analysis of the data on distribution of violence according to gender reveals that in 2013, boys and girls equally experienced violence: 729 cases of violence against boys and 725 cases of violence against girls.

The annually increasing number of cases of violence against children and the number of children victims of violence shows that maybe not only violence against children has been exerted more frequently, but also victims of violence or other persons (neighbours, relatives, school staff, medical staff, etc.) have been more frequently reporting cases of domestic and other violence.

According to the CRPO data, the biggest number of violence recorded in 2013 concerned physical violence (717 cases), the respective figures in 2012 and 2011 were 667 and 698 cases. In 2013, the number of recorded cases of psychological violence was 647, in 2012 – 592, in 2011 – 547. Compared to other forms of violence, sexual abuse is most difficult to evaluate and disclose: 90 cases of sexual child abuse were established in 2013, 84 cases in 2012, and 102 cases in 2011.

#### Distribution of the types of violence against children according to the age groups

Age groups	Number of cases of possible violence against children	Sexual abuse	Physical violence	Psychological violence
0–3 years	158	6	31	121
4–6 years	213	15	54	144
7–9 years	209	8	96	105
10–14 years	554	33	330	191
15–17 years	320	28	206	89

*Data of the State Child Rights Protection and Adoption Service*

In 2013, girls suffered from sexual abuse 9 times more often than boys; boys more often suffered from physical violence; whereas psychological violence was almost equally exerted against girls and boys in 2012, like in 2011.

Close family members (parents or either of them, brothers, sisters) have been mainly exerting violence against children over years. In 2013, physical violence against children was mainly caused by close adult persons – 417 cases (in total, 717 cases of physical violence); there were 564 cases of domestic psychological violence (in total, 647 cases of psychological violence); children were mainly sexually abused by adult strangers (e.g. their mothers' cohabitants) and close adults (e.g. family members).

#### **Violence against children according to perpetrators of violence**

Type of violence	Perpetrators of violence			
	Adult strangers	Underage strangers	Close adult persons	Close underage persons
Sexual abuse	45	15	21	9
Physical violence	121	141	417	38
Psychological violence	60	14	564	9

*Data of the State Child Rights Protection and Adoption Service*