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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**

### **REPUBLIC OF MOLDOVA**

**Revised replies to all questions registered by the Secretariat on 4 April 2023**

**Revised replies to questions 16a and 16d registered by the Secretariat on 10 September 2014**

**Replies registered by the Secretariat on 3 February 2014**



## GENERAL FRAMEWORK

### **Question 1: Definition of “child”**

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

According to Art. 1 Para. (2) of Law No. 338 of 15 December 1994 “On the Rights of the Child”, a person is considered a child from birth until the age of 18.

Same definition for the “child” is provided in Art. 51 Para. (1) of the Family Code of the RM - the person who has not reached the age of 18 years is considered a child.

Also, the definition for the “child” is provided in Art. 3 of the Law No.140/2013 “On the special protection of children at risk and children separated from parents”, which defines the “child” as person who has not reached the age of 18 and does not have full exercise capacity.

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

The corresponding measure is provided in case of child trafficking by the Government Decision No. 948 of 07.08.2008, which approves the “Regulation on the procedure for repatriation of children and adults - victims of human trafficking, illegal trafficking of migrants and unaccompanied children”, and states in point 10 that "in case the age of the person identified abroad is not known for sure, but there are reasons to believe that it is a child, the person will be treated as a child, and offered all the special protection measures stipulated by the Regulation and the instruments on the rights and protection of children up to establishment of the exact age."

- 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.*

The Criminal Code of the Republic of Moldova provides criminal liability for consensual sexual activities with a person known to be under the age of 16 years in Art. 174 and Art. 175. Article 174 criminalizes the consensual “sexual act” (i.e. penetration) and art. 175 criminalizes the consensual "actions of sexual character" which are non-penetrative forms of obtaining sexual gratification.

### **Question 2: Non-discrimination**

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

The Constitution of Republic of Moldova ensures that the integral volume of rights and freedoms of all persons are provided without discrimination. This provision also applies to children, and the state guarantees the rights of all children. The non-discrimination provision is a part of the most national laws, which stipulate the prohibition of discrimination and establishes a series of measures to combat it.

The Constitution of the Republic of Moldova provides in Art. 32 Para. (3) that "are forbidden and punishable by law, denying and slandering the State and the nation, any instigation to a war of aggression, hatred, racial or religious hatred, **incitement to discrimination**, territorial separatism, public violence, and other actions threatening constitutional order."

According to Art. 3 of the Law No 338 of December 15, 1994 "On the Rights of the Child", "**all children have equal rights** regardless of race, nationality, ethnic origin, sex, language, religion, wealth or social origin" and according to Art. 6 of the same law, "the State shall protect the inviolability of the person of the child, **protect him/her from any form of exploitation, discrimination**, physical and psychological violence, shall not admit cruel behaviour, rude, disparaging, insults and maltreatment, involvement in criminal activity, initiation into drinking, illicit use of narcotic drugs and psychotropic practice games gambling, begging, inducement or coercion to practice any unlawful sexual activity, exploitation of prostitution or other unlawful sexual practices, pornography and pornographic material including parental or guardianship to relatives." In this regard in the process of development of the legal framework for the establishment and operation of social services provided to children one of the core principles is the principle of non-discrimination while the child is supported and encouraged to develop the skills to successfully control his emotions in any situation of discrimination.

The Law No. 140 of June 14, 2013 "On special protection of children at risk and children separated from their parents" provides in Art. 2 that "children are protected from discrimination, regardless of race, colour, sex, language, religion, political or otherwise, nationality, ethnic or social origin, obtained by birth status, financial situation, the degree and type of disability, specific aspects of upbringing and education of children, their parents, legal representatives or legal responsables (family, educational institution, social service, medical facility, community, etc.)."

The general framework law in the matter of non-discrimination is the Law no. 121 of 25 May 2012 "On ensuring equality", whose purpose is to prevent and combat discrimination, as well as to ensure the equality of all persons on the territory of the Republic of Moldova in the political, economic, social, cultural spheres, as well as other spheres of life, without distinction of race, colour, nationality, ethnic origin, language, religion or beliefs, sex, age, disability, opinion, political affiliation or any other similar criterion.

### **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;*

The Law No. 140 of 14 June 2013 "For special protection of children at risk and children separated from their Parents" has the following main objectives:

- Regulating the duties and responsibilities of trusteeship local and territorial social assistance structures on the identification, assessment, assistance, referral, monitoring and recording of children at risk;
- Establishing the procedure for self-notification and registration of complaints about children at risk;
- Nationally uniform procedures for assessing and tracking children at risk;
- Determining mandatory cooperation guardianship of child protection authorities in different local and regional administrative - territorial units;

- Define a number of basic terms used in the child protection system, which until now were used with different meanings, among which the notions of: children at risk, children separated from parents, abandoned children, violence against children, neglect, etc.

On June 1, 2022 by the Government Decision No. 347/2022 was approved the National Program for Child Protection for the years 2022-2026. Thus, the general objectives of the national program propose another approach for the process of establishing the priorities of developing the child protection system - one based on the impact through records, strong institutions, an informed and active society, as well as through consolidated capabilities of efficient reaction. This approach puts at the center of change the child and his superior interest, starting from the learned lessons that indicate the need to quickly adjust the normative framework, which would facilitate the prompt reaction to the child's needs and support in overcoming the crisis situation. The National Program, through its Action Plan, shall implement a general objective that refers to ensuring zero tolerance from adults and children compared to any form of violence against children (including sexual abuse).

The Government Decision No. 270/2014 "On approval of the instructions regarding the intersectorial cooperation for identifying, evaluating, reference, assistance and monitoring of victims, potential victims of violence, neglect, exploitation and trafficking" concerns the employees of central and local public authorities, of the structures, institutions and services within them or which subordinate to them. The services in the fields of social assistance, education, health protection, and law enforcement shall cooperate in order to prevent and combat violence, abuse, neglect, and child trafficking, through the assistance services in social, educational, public order and medical areas.

The Government Decision No. 143/2018 "On the approval of Instruction regarding the intersectorial cooperation for the primary prevention of risks for child welfare" provides the objectives of the mechanism:

- 1) strengthening the intervention of the employees of the universal services to meet the needs of the child;
- 2) ensuring a holistic approach in observing and removing the signs of concern in order to improve child welfare;
- 3) reducing the need for protection interventions through primary prevention actions;
- 4) using the potential of the family in raising the child and contributing to his development.

On November 25, 2022, the Common Order of the Ministry of Labour and Social Protection, the Ministry of Education and Research, and the Ministry of Health was signed, by which the corresponding working tools were approved:

- The child welfare observation sheet;
- The child welfare evaluation sheet;
- The actions planning sheet for the primary prevention of the risks regarding the child welfare.

The sheets are available online in Romanian:

[https://social.gov.md/wp-content/uploads/2022/12/Ordin-comun-MMPS\\_MS\\_MEC\\_privind-aprobarea-Fiselor-de-observare-evaluare-si-planificare\\_96\\_1006\\_1158-din-25.11.2022.pdf](https://social.gov.md/wp-content/uploads/2022/12/Ordin-comun-MMPS_MS_MEC_privind-aprobarea-Fiselor-de-observare-evaluare-si-planificare_96_1006_1158-din-25.11.2022.pdf)

*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;*

On 06 December 2021, by Law No.211, the Parliament has adopted the Strategy on ensuring the independence and integrity of the justice sector for the years 2022-2025 and the Action Plan for its implementation. The Strategy has the aim of improving the legislation in order to ensure the rights of victims in the case of sexual offenses, including by adjustment of normative framework to the Lanzarote Convention.

By Government Decision No. 347 of 01.06.2022, was approved the latest National Program for Child Protection for the years 2022-2026 and the Action Plan for its implementation. The National Program and the Action Plan include protecting children from sexual abuse and exploitation.

*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.*

Several guidelines were elaborated and approved in the area of child protection and child-friendly justice:

- training material on intervention in cases of sexual exploitation and sexual abuse of children, available online in Romanian:

<https://social.gov.md/wp-content/uploads/2022/02/Materiale-de-instruire-privind-interven%C8%9Bia-%C3%AEn-cazurile-de-exploatare-sexual%C4%83-%C8%99i-abuz-sexual-asupra-copiilor.pdf>

- A guide on “juvenile justice” was elaborated for judges and prosecutors in 2014;

- The guide for practical application of the mechanism of intersectoral cooperation for identifying, evaluating, reference, assistance and monitoring of victims and potential victims of violence, neglect, exploitation and traffic was approved in 2021 by a common order of the Ministry of Labor and Social Protection, Ministry of Health, Ministry of Internal Affairs and Ministry of Education and Research;

- In 2017, the National Council for the State Guaranteed Legal Assistance approved “The quality standards of the activity of lawyers who provide legal assistance in the contravention cases with the involvement of children” and “The quality standards of the activity of lawyers who provide legal assistance in civil cases with the involvement of children”;

- “The Methodological Guide on the instrumentation of cases involving child victims or witnesses” was approved by the Order of the General Prosecutor’s Office No.25/25 of 03.08.2018.

The content of these guidelines is based on the national legislative framework, the international standards in the field, such as the Lanzarote Convention, and the good practices.

#### **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);*

A guide for child and youth participation was developed by national experts in cooperation with the European Youth Exchange Moldova, National Center of Resources for the Youth and the UNICEF. The guide is available online in Romanian:

[https://drepturilecopilului.md/files/publications/Participare\\_ghid.pdf](https://drepturilecopilului.md/files/publications/Participare_ghid.pdf)

- b. *In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (Article 14, para. 1).*

The main legislative and other normative acts that promote the participation of children in the development and the implementation of all types of state policies, programmes or other initiatives are the following:

- The Law No. 215/2016 “On youth” promotes youth participation in decision making process. According to Art. 2, 4 of the law, “a young person” includes persons aged from 14 (who are also children) to 35. The law sets up in Art. 3, letter d) as a principal of youth policies the participation - active involvement of young people in the process of decision making, public consultations, carrying out activities that occur in society and which concern them directly or indirectly.

Art. 6 of the Law (Multilateral participation and development) provides in Para.(1) the following:

The state ensures the participation of young people in the decision making process by:

- a) supporting the creation of the participation structures of young people at national and local level, their financing within the limits of the available budgets;
- b) the involvement of young people in the process of elaborating, making and implementing decisions;
- c) financial support of the initiatives of young people through grant programs, carried out at central and local level, within the limit of the available budgets;
- d) recognition and validation of volunteering activities and their contribution to the development of the country;
- e) development of the network of peer-to-peer educators in different fields concerning young people.

- The participation of youth in decision making is also promoted by the National Youth Sector Development Strategy 2020, and is included in the new drafted Strategy for the development of youth sector for years “Youth 2030” and the corresponding actions plan, which was approved by the Government on 29.03.2023.

The National Youth Council of Moldova has developed in 2019 in cooperation with the UNICEF a Guide for youth participation in the community, available in Romanian at: <http://cntm.md/sites/default/files/Ghid%20participarea%20tinerilor%20%5Bprint%5D.pdf>

## **Question 5: Specialised bodies/mechanisms**

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

### **The institution of Parliamentary Advocates**

The Center for Human Rights of Moldova (CpDOM) is an institution similar to the European and international institutions of the ombudsperson/ombudsman. It is established and operates under the Law on the Parliamentary Advocates No. 1349-XIII of 17.10.1997 since April 1998. It is an important non-judicial mechanism of defending human rights in the Republic of Moldova.

Under provisions of Article 34 of the above-mentioned Law, the Center for Human Rights presents the Parliament a report on the observance of human rights in the Republic of Moldova during the previous year, at the beginning of each year, up to March 15. The report includes a chapter on the situation of child rights observance.

Under Articles 4, 5 paragraphs (1) and (2), 6 paragraph (1) and 9 paragraph (1) letters d) and e) of the Law on the Parliamentary Advocates No. 1349-XIII of 17.10.1997, the Parliament of the Republic of Moldova adopted the decision No. 222-XVI of 30.10.2008. Through this decision, the position of Parliamentary Advocate (ombudsman) for the protection of children's rights was established.

The mission of the Parliamentary Advocate for children's rights is to promote and protect the rights and interests of children and young people under the age of 18. The Parliamentary Advocate for children's rights exerts its duties in order to assure that local and central public authorities and people in positions of responsibility at all levels respect children's constitutional rights and freedoms and to fulfil the provisions of the UN Convention on the rights of the child at national level.

The basic **duties** of the Parliamentary Advocate for children's rights consist of:

- examining petitions, citizens' hearing and restoration of their rights;
- verifying information on mass or severe child's rights violation;
- delivering objections and proposals on citizens' rights assurance to public authorities;
- solving complaints through parties reconciliation, finding mutually acceptable solutions.

The Parliamentary Advocate for children's rights is entitled:

- to have free access to all central and local public authorities, to attend their meetings, including the meetings of their collective bodies;
- to have free access to institutions, organizations and enterprises regardless of their type of property, to public associations, police stations and places of detention within them, penitentiaries, temporary detention isolators, military units, placement centers for immigrants or asylum seekers, institutions which provide social, medical or psychiatric assistance, special schools for minors with behavioural deviance and other similar institutions;
- to have unlimited access to any information regarding the detainees' treatment and conditions of detention;
- to receive explanations from people in positions of responsibility of all levels on issues to be clarified in the process of performing the control;
- to notify the appropriate state institutions in order to carry out expertise investigations and to prepare reports on issues which are going to be examined;



- to have unlimited meetings and personal dialogues with the person staying in places mentioned in point 2, as well as with any other person who in his / her opinion could provide necessary information without witnesses and with the help of an interpreter if needed;
  - to involve independent specialists and experts in different fields, including lawyers, doctors, psychologists, representatives of the civil society in carrying out preventive visits in places of detention;
  - to cooperate with mass-media and civil society associations active in the field of child rights protection, both within and outside the country.
- 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));*

In order to implement the Law on social assistance by the Government Decision no. 1356 of December 03, 2008, the structure of Information System named "Social Assistance" was approved. Social Assistance Automated Information System (SIAAS) was created for the collection, storage, processing and distribution of the information about the beneficiaries, institutions and services of social assistance system to the central and local authorities, individuals and legal entity. Meanwhile, SIAAS is a tool for social workers, helping them to go through all the needed steps to solve a case. The module of Social Services in SIAAS is enhanced to cover the following services: child and family protection, assistance and protection of victims of domestic violence, care and protection of persons infected / affected by HIV / AIDS, care and protection of persons suffering from tuberculosis, assistance and protection of victims and potential victims of human trafficking, protection of persons with disabilities (including prosthetic, orthopaedics and rehabilitation services).

The SIAAS was put into operation in 2013.

The main documents, which ensure the collection, analysis and systematization (published yearly) of statistical data regarding children in the child protection system are:

- a) The Statistical report No. 103 – “Children at risk and children separated from parents”;
- b) The Statistical report No. 103 A – “Children in the residential system”.

Both reports are completed by the territorial structures of social assistance and are transmitted for analysis and systematization to the Ministry of Labour and Social Protection, which, subsequently transmits the generalized report per country to the National Statistics Bureau. The reports are available online in Romanian:

<https://social.gov.md/informatie-de-interes-public/rapoarte/>

On 29.06.2022, by the Government Decision No. 446 The concept of the information system in the field of child protection (SIPC) was approved.

SIPC is intended to form the state information resource regarding the registration flows, records, assistance, reference, monitoring and reporting of cases involving children, as well as for calculating the performance monitoring indicators.

SIPC is also a computer solution for case management regarding children registered by the competent authorities and for keeping record of the social services provided to children or of the protection forms identified for children, as the case may be. SIPC replaces the manual reporting processes that used paper forms, collecting data by phone, or reporting data in form of Word or Excel files.

SIPC has the following goals:

- a) ensuring a high-performance computer solution, as a support for automating the actions of the authorities responsible for the special protection of children;
- b) organizing the efficient interaction and the exchange of information between the state authorities;
- c) fast collection and processing of the information regarding the situation of the children;
- d) statistical and analytical records regarding the carried out activities and applied measures by the authorities responsible for special protection of children.

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

The data relating to the identity of persons convicted of the offences established in accordance with the Convention are stored in the criminal records database, according to the provisions of the Government Decision No. 633/2007 “On approval of the Conception of the automated information system “Register of forensic and criminological information”.

The genetic profile (DNA) of persons convicted of the offences established in accordance with the Convention is to be collected and stored according to the provisions of the Law No. 235/2017 “On judicial genetic registration”. Currently the DNA collection and examination laboratory is under development.

Both criminal records and DNA databases are administrated by the Ministry of Internal Affairs.

**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);*

By Government Decision No. 66/2022 of 19.05.2022, was approved the creation of “Specialized Commission for the coordination and monitoring of the implementation of the Council of Europe Convention of the protection of children against sexual exploitation and sexual abuse”. The Commission is established within the National Council for Human Rights of the Government, and includes representatives from the relevant ministries in charge of the protection from, prevention, and combating sexual exploitation and sexual abuse of children. The participating ministries are: Ministry of Internal Affairs, Ministry of Labour and Social Protection, Ministry of Health, Ministry of Justice, Ministry of Education and Research, Ministry of Foreign Affairs and European Integration, Ministry of Economy, Ministry of Infrastructure and Regional Development. Other institutions that are not members of the Commission are invited to participate in its meetings, depending on the topics discussed (Representatives of the Prosecutor General’s Office, of the Ombudsman’s Office, various NGOs).

The Law No. 140/2013 “On special protection of children at risk situation and children separated from parents”, as well as the Government Decision No. 270/2014 “On approval of the instructions for intersectorial cooperation for identifying, evaluating, reference, assistance and monitoring of victims and potential victims of violence, neglect, operation and traffic”

provide the obligations of the representatives of institutions in the area of educational, health, public order, social assistance, and other public authorities, in the field of child protection:

- 1) To register the cases regarding the suspected cases of violence, neglect, exploitation, or traffic of a child. Such cases may be identified following notifications received from any person or by the employees themselves, and are followed by applying the sectoral procedures.
- 2) To inform the local guardianship authority immediately by telephone, and to send within 24 hours the notification file regarding the suspected case of violence, neglect, exploitation, or traffic of a child.

Also, the Government Decision No. 270/2014 provides the obligations of employees from central and local public authorities, structures, institutions and services within such or subordinated to them, which operate in the fields of social assistance, education, health, and law enforcement.

**Chapter VI of the Law No. 140 of June, 14, 2013** on special protection of children at risk and children separated from their parents describes the cooperation in the field of child protection.

Local and regional guardianship authorities from various administrative territorial units are bound to cooperate in child protection by obtaining and transmitting information and documents required for identification, assessment, assistance and determining the status of children.

Employees of the central public authorities and local authorities, structures, institutions and services within and their subordination that operate in areas of social assistance, education, health, law enforcement bodies have to:

- a) submit complaints to the competent supervisory authority on children at risk as well as those of case of abuse, neglect or exploitation of children placed in care of social services, health, educational, cultural institutions;
- b) participate in the activity of multidisciplinary teams in the process of initial and comprehensive evaluation of the child when it is required by the local tutoring authorities and to develop and implement customized care plans;
- c) carry out measures to prevent risk situations for children.

Instructions on intersectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation, trafficking, which are in the process of finalization are aimed to assure the application a sectoral mechanism for effective cooperation based on international and national legislation, for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation, child trafficking. Instructions for the central public authorities, 1st and 2nd level local authorities, that must cooperate to prevent violence, neglect, exploitation, child trafficking, and combating them through social services, education, public order and medical services.

In order to implement provisions of the Law Nr. 45-XVI of 01 March 2007 on the prevention and combating domestic violence, the Ministry of Health has developed and approved the "Instruction on medical institutions intervention in cases of domestic violence" (Order No. 155 of 24.02.2012 " which include the following sections:

- Responsibilities of medical institutions in cases of domestic violence,
- Instructions on identifying cases of domestic violence related to:
  - psychological violence;
  - psychical violence;
  - sexual violence;

- violence against children-baby syndrome shaken baby syndrome beaten;
- violence against pregnant women;
- Instructions on completing the medical literature,
- Instructions on counselling victims of violence in the family,
- Tasks of the legal medicine service in the case of domestic violence.

In this context, the procedure of intervention of employees of medical institutions in cases of violence, the powers of medical-sanitary institutions in the framework of intersectoral collaboration mechanism with social welfare authorities and the police, including the reporting of cases of violence has been described.

*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;*

Chapter VI of the Law No. 140 of 14.06.2013 “On special protection of children at risk and children separated from their parents” describes the cooperation in the field of child protection.

Local and regional guardianship authorities from various administrative territorial units are bound to cooperate in child protection by obtaining and transmitting information and documents required for identification, assessment, assistance and determining the status of children.

Employees of the central public authorities and local authorities, structures, institutions and services within such, and subordinated to them, that operate in areas of social assistance, education, health, law enforcement bodies are obliged to:

- a) submit to the competent supervisory authority complaints regarding the cases of children at risk, cases of abuse, neglect or exploitation, of children placed in care of social services, or health, educational, cultural institutions;
- b) participate in the activity of multidisciplinary teams in the process of initial and comprehensive evaluation of the child when it is required by the local guardianship authorities and to develop and implement customized care plans;
- c) carry out measures to prevent risk situations for children.

In order to implement the provisions of the Law No. 45/ 2007 “On preventing and combating domestic violence”, the Ministry of Health has developed and approved the "Instruction on medical institutions intervention in cases of domestic violence" (Order No. 155 of 24.02.2012) which includes the following sections:

- Responsibilities of medical institutions in cases of domestic violence;
- Instructions on identifying cases of domestic violence related to:
  - psychological violence;
  - psychical violence;
  - sexual violence;
  - violence against children;
  - violence against pregnant women;
- Instructions on completing the medical literature;
- Instructions on counselling victims of violence in the family;
- Tasks of the legal medical service in the case of domestic violence.

By Government Decision No. 270 of 08.04.2014, "The Instruction on the intersectoral of cooperation for identifying, evaluating, reference, assistance and monitoring of victims and potential victims of violence, neglect and traffic" was approved. It concerns the employees of central and local public authorities, of the structures, institutions and services within or subordinated to such authorities, which work in the fields of social assistance, education, health, or law enforcement. According to the provisions of the Instructions, the mentioned authorities shall cooperate in order to prevent child violence, neglect, exploitation, trafficking, as well in order to combat it applying the social, educational, public order and medical services.

The Instruction establishes:

- The procedure for identifying, registering and for the initial evaluation of suspected cases of violence, neglect, exploitation and trafficking of children;
- The procedure for ensuring the urgent measures for protecting children in case of the existence of the imminent danger for his/her life and health;
- The procedure for requesting the specialized examinations in cases of violence, neglect, exploitation, trafficking of children;
- The procedure of complex evaluation and assistance of the child;
- The procedure of documenting and recording of cases;
- The examination procedures for the police and the intervention procedures for the employees of the medical-sanitary and education institutions.

Basing on the Instructions, the "Notification file" on the suspected cases of violence, neglect, exploitation and trafficking of child was approved by an inter-ministerial order of the Ministry of Labour, Social Protection and Family, the Ministry of Education, the Ministry of Health and the Ministry of Internal Affairs (Order of 08.10.2014).

The latest cooperation agreements which cover better preventing and combating sexual exploitation and sexual abuse of children, signed between the government and NGO/private sector include the following:

- Contract of 2019 between the Ministry of Labour, Social Protection and Family and the NGO "CNFACEM", regarding the functionality of the Child Helpline 116-111;
- Cooperation agreement between the Ministry of Education and Research and the NGO International Center "La Strada Moldova", of 21.10.2020, for development and implementation of Standards for protection and safety of children/pupils online, which cover preventing online sexual abuse;
- Cooperation agreement between the General Police Inspectorate and the NGO International Center "La Strada Moldova", of 19.11.2020;
- Cooperation agreement between the General Police Inspectorate and "CNPAC" - National Center for Child Abuse Prevention, of 20.05.2021;
- The educational project "Internet without worries" covers the area of preventing online sexual abuse of children. The project was launched in 2018 by the telecoms operator "Moldcell", in partnership with "Tekwill Academy Kids" (IT educational center) and NGO International Center "La Strada Moldova".

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)?*

Currently there are two projects undergoing in the Republic of Moldova on the mentioned area.

The project “Preventing and protecting children from violence including in the digital environment in the Republic of Moldova” is founded by the Council of Europe and includes as beneficiaries the National Administration of Penitentiaries, National Probation Inspectorate, Ministry of Internal Affairs, among others. Within the project, a special probational program for sexual abusers is currently developed for the probation system.

The project “Consolidation of the capacities of the Republic of Moldova to combat online child sexual abuse and exploitation” is founded by the US Department of State and administrated by NGO International Center “La Strada Moldova”. The participants include the National Administration of Penitentiaries and the Ministry of Internal Affairs.

**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.*

The representative of the Republic of Moldova participated as presenter with the topic of online sexual abuse of children, in particular of girls, at the webinar “Cyberviolence against Women” organized on 12.11.2020 within the CoE “CyberEast” project at international level. The event was particularly useful for officials and policy makers responsible for cybercrime and cybersecurity, as well as violence against women and domestic violence, criminal justice authorities (judges, prosecutors, law enforcement agencies), non-governmental organisations and researchers/academia with an interest in the subject.

Between 29-30 November 2022, the representative of the Republic of Moldova participated as presenter with the topic of online sexual abuse of children at the international conference “Promoting the role of women in preventing, investigating and prosecuting cybercrime”, organized by the CoE, EU and Costa Rica government.

## 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**).

A Memorandum of understanding was signed between the General Police Inspectorate and "PH International" for developing a training program for the pupils of the 8th and 11th grades. The training is integrated in the subject "Education for Legal Socialization" and for its delivery the General Police Inspectorate and the Ministry of Education have elaborate a Curriculum, a Guide for educators and policemen, and a Handbook for pupils of the 8th and 11th grades. The Handbook for pupils of the 11th grade covers the particular subject of preventing sexual offenses. It includes information and case studies. Also, the subject of preventing crimes in the online environment, such online sexual abuse, contains information about the risk of the use of information and modern communications technologies.

The subject "Education for Legal Socialization" for 11th grade is scheduled to be delivered to 39 classes within selected educational institutions in Chisinau and 14 districts of the country.

By Order No. 872/2021 of the Ministry of Education, Culture and Research, the Standards for protection and safety of children/pupils online were approved, which include the protection from online sexual abuse. The Ministry of Education, Culture and Research also promotes within the educational institutions the ITU Guide for protecting children in online environment.

The subject of preventing online sexual abuse of children is also covered in the online education program <http://educatieonline.md/>, in form of digital library and video recorded lessons. The service was launched in 2021 and is delivered by Chisinau City Hall in cooperation with the Ministry of Education and Research.

The NGO "CNPAC" - National Center for Child Abuse Prevention promotes since 2015, with the support of the CoE, the brochure "Kiko and the hand" dedicated to preventing child abuse of children from the earliest age. The brochure explains the rule "No touching is allowed" accessible for young children. It can be used by parents/ educators in teaching children how to make the distinction between the allowed and the forbidden touches, in order to prevent sexual abuse. In 2019, CNPAC continued to consolidate the capacities of the education system for the application of this curriculum through the piloting of a program on continuous training for teaching staff, educators, methodologists from the early education institutions, which include "Kiko and the hand". In 2019, the first training of trainers "Kiko and the hand" was organized for 23 methodologists from 18 kindergartens, using the messages and instruments

from the “Nobody touches here” Campaign. This training course is replicated in order to cover a bigger number of professionals from early education system.

A Guide for educators and policemen was elaborated within the subject “Education for Legal Socialization”.

*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**);*

The National Program for Child Protection for the years 2022-2026 and the Action Plan for its implementation include preventing actions for general public, such as: informing, awareness raising and educating population about the negative impact of all forms of violence towards children (especially physical abuse, exploitation and sexual abuse, bullying, online violence), as well as gender equality and combating gender stereotypes (that can lead to violence) among children in all environments.

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

The Law No 30 of 30.03.2013 “On the protection of children against the negative impact of information” provides in Art. 3, Para.(1), in the list of information with negative impact on children, the Letter l) – information which encourages violence and sexual exploitation, sexual abuses of children, sexual relations between children. Same Art. 3 in Para.(3) provides: It is forbidden to diffuse [...] pornographic information that encourages the violence and sexual exploitation of children or demonstrates violence.

### **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;*

In accordance with Law no. 158 of July 04, 2008 on the public office and status of civil servant may apply for a public position, person that has:

- No criminal record for offenses committed intentionally;
- Is not deprived of the right to hold certain positions or to practice certain activities, as a basic or complementary, following final court judgment ordering the ban.

According to the Government Decision No. 1018 of 13.09.2004 Framework regulation of temporary placement center for children.



Section 7. The center staff

From the moment of employment, every six months, the worker should pass the medical examination according to the standards of the Ministry of Health.

#### **Law No 547 of 21.07.1995 Law on education**

Chapter IV the staff of education

Art. 53 section 5. The conditions of employment of teaching position

People with criminal records, who committed crimes against minors, to public health and social life cannot occupy teaching, scientific, educational and administrative position in education.

Moreover, in order to ensure appropriate training for those working with children in contact with the justice system, the Ministry of Justice has proposed adjusting the legal framework in this segment, taking in consideration the results of the study conducted. However, based on research results, the amending of the legislation in this regard was considered to be unnecessary, thanks to a good specialization of the actors working with children.

Additionally, the Ministry of Justice elaborated individualized Methodology on working with minors, namely the case management method, piloted in Prison no. 10 till the end of 2013. Recently, prison employees attended to the training seminar organized with NORLAM support.

The Ministry of Justice and the UNICEF have developed the Curriculum for staff working with children in detention - "Ensuring the rights of children in detention" through the joint project "The Support to the Ministry of Justice in promoting juvenile justice reforms".

The Training Centre of the Department of Penitentiary Institutions, in collaboration with the educational, psychological and social assistance Department, has assessed the needs for trainings of those working with children in detention. Thus, the curricula for all the trained staff in the Training Centre have been revised and amended, being introduced a new discipline, "Ensuring the rights of children in detention."

The criminal record is permanent. (interinstitutional order between the Ministry of Internal Affairs, the Ministry of Justice, The Prosecution office, the Courts – nr. 198/84/111/166/10/2-40/34 of 04.05.2007)

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

Law No. 121 of 18.06.2010 on voluntary does not provide the named issues, but the screening depends on each voluntary organization recruiting conditions.

#### **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**);*

No data available.

- 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?

Several probational programs are implemented within the probation and the penitentiary system, in order to correct the delinquent behaviour and to reduce the risk of recurrence, as well as to reintegrate the convicted persons in the society. The beneficiaries of these programs are the persons convicted to sentences of deprivation and non-deprivation of liberty. The probational programs include social behaviour correction programs and social reintegration programs. The programs are carried out individually and/or in a group. The type of probationary program is established by the probation counsellor, basing on the conducted evaluations.

The following programs are implemented within the probation system. The content is adopted for persons convicted for crimes established according to the Convention:

- Probational program for decreasing the aggression;
- Program for reducing the pre-delinquent and criminal behaviours of children and adolescents at risk;
- Preparation program for release of persons executing a privation sentence;
- The program "Motivation for change";
- The psychosocial assistance program at the pre- sentence stage;
- The program of assistance and counselling of the family aggressors;
- The individual counselling program "One to One".

In addition, a special probational program for sexual aggressors is currently developed within the probation system.

**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, para. 68-73**);*

In the process of elaboration and development of normative and legislative acts, the Ministry of Labour, Social Protection and Family Protection creates technical working groups in which are involved various representatives of the centra / local authorities and civil society representatives.

The Law No. 967/2016 “On the mechanism of public consultation with civil society in the decision-making process” provides the corresponding Regulation, which states in Point 5 that all the drafts of normative acts are published for consultations on the web page of the authority which initiated the draft, as well as on the dedicated web page: <http://www.particip.gov.md/>.

Also, according to the Government Decision No. 11/2010, a National Council for Participation was established, which is composed of representatives of civil society and presents proposals on the initiatives and national strategic documents.

*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);*

In order to provide appropriate information was adopted the law No 30 of 07.03.2013 on the protection of children against the negative impact of information. (Article 4. Ban the dissemination of information containing negative personal data on children, Article 5. Limiting the spread of information with negative impact on children, Article 6. Exceptions to restrictions on dissemination of information with negative impact on children).

*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).*

The proceeds of crime are not used to finance the mentioned projects, as it is not expressly provided by the law. The funds are budgeted in each relevant institution’s budget each year, in accordance of the competencies or in the context of developing bilateral or multilateral projects or assisting programmes.

#### **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;*

The conducted activities, measures and programmes that are included in strategies or action plans are evaluated within the reporting process, which in most of the cases is conducted each year or at the end of implementation period.

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

The good practices are described as replies to other Lanzarote Committee questions, regarding the activities conducted by the state authorities, civil society and private sector.

## 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**);*

Under the Law no. 45 from March 01, 2007 on prevention and combating domestic violence, one of the basic principles of preventing and combating family violence is privacy. The victim is guaranteed rights and interests. However, people with responsibility, others who are aware of a threat to life or health of a potential victim must notify authorities responsible for the prevention and combating domestic violence. The victim has the right to physical, psychological and social rehabilitation assistance through specialized medical, psychological, legal and social action. Granting protection and assistance services is not conditioned upon the willingness of victims to make statements and attend court to prosecute the aggressor. Anyway, the right to privacy and confidentiality of information on the victim is guaranteed.

Authorities responsible for preventing and combating family violence must react promptly to any complaint and inform victims about their rights, about the authorities and institutions responsible for preventing and combating domestic violence, about the type of services and organizations that they can contact for help, about the assistance available to them, where and how to lodge a complaint, etc. Any action of the specialist in the detection of a child at-risk, a child in need, child sexual abuse or any other situation is directed to respect the best interests of the child respecting all the rules, the privacy and legal norms. According to the same principle occurs intersectoral cooperation and multidisciplinary intervention.

- 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.*

According to Law No. 140 "On special protection of children at risk and children separated from their parents", local and regional tutorial authorities provides receiving and recording complaints on violation of child rights, the matter referred for identifying children at risk. Local guardianship authority is required to take action and / or to ensure receiving and recording complaints about children who are subjected to violence, are neglected children homelessness, begging, prostitution, children are deprived of parental care and supervision due their absence from home for unknown reasons, etc. Also, local guardianship authority shall ensure evaluation of the families with children at risk and children separated from their parents.

A reporting mechanism of child sexual abuse material was developed and made available to the public. The development included several steps:

1. The Order of General Inspectorate of Police No. 480 of 29.12.2022 "For approval of the Concept of mechanism for reporting sexual abuse of children" was adopted;
2. On 23.02.2023, a Cooperation agreement "For implementation of reporting mechanism of child sexual abuse material in the Republic of Moldova" was signed between the General

Inspectorate of Police and the NGO “La Strada Moldova”. Link to the event in Romanian: <https://politia.md/ro/content/copiii-mai-protejati-fata-abuzurilor-online-un-nou-acord-semnat-intre-igp-si-la-strada>

3. In March 2023, cooperation agreements were signed between NGO “La Strada Moldova”, and telecoms provider “Moldcell”, as well as with the major hosting provider “AlexHost”;

4. A reporting form was added to the <https://siguronline.md/> website;

The next step is NGO “La Strada Moldova” to become a member of the international network of hotlines “INHOPE”.

#### **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).*

Currently the following distant information services are functional:

- The Child Helpline 116-111, administrated by the Ministry of Labour and Social Protection and implemented by NGO “CNFACEM”.  
The services of the helpline are also available via the web page <https://telefonulcopilului.md/>, Skype: TelefonulcopiluluiMoldova116111, and email: [telefonul.copilului@social.gov.md](mailto:telefonul.copilului@social.gov.md). The helpline activity is regulated by the Government Decision No. 519/2022 “On approval of the Regulation for the organization and functioning of the free telephone assistance service for children and of the minimum quality standards”.
- The website <https://siguronline.md/>, administrated by NGO International Center “La Strada Moldova”. The website provides assistance using a chat and using an audio/video communication platform;
- The telephone helpline of the NGO “CNPAC” - National Center for Child Abuse Prevention;
- The website <https://12plus.md/>, administrated by NGO “CNPAC”, which provides assistance using a chat.

#### **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.*
- 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).*

Reply to letters a - c:

According to the provisions of Art. 15 of the Government Decision No. 270/2014 "On approval of the instructions on the intersectoral cooperation in identifying, evaluating, referral, assistance and monitoring of victims and potential victims of violence, neglect, exploitation and trafficking", in case if an imminent danger to life and health of child is provoked by a parent or care giver, then the local guardianship authority undertakes the following protective measures:

1) In case if it was found that the actions that endanger the life and health of child are performed by both parents or the single parent or person who takes care of the child:

a) orders the child to be taken from parents or from the care giving person, which is also communicated to the prosecutor within 24 hours;

b) orders the urgent placement of child in the family of relatives or other people with whom he/she has established close relationships (neighbours, family friends) and who want to receive/keep the child to raise and educate him/her in their family, which is based on the written request. This measure is established basing on the need to ensure the stability and continuity in the child's care, raising and education, taking into account his ethnic, religious, cultural and linguistic identity, as well as the necessary family placement services or residential placement services. The emergency placement is applied for a period of 72 hours, with the possibility of extension up to 45 days, during which the complex evaluation of the case will be carried out;

c) submits to the court within 3 working days a request for removing the child from his parents with or without termination of parental rights.

2) If it was found that only one of the parents has abusive behaviour towards the child, presenting an imminent danger to the life and health of the child, and there are other adult members of the family who show a protective behaviour for the child, then the local guardianship authority shall submit a request to the court requesting an order of victim protection to be issued for the child within 24 hours. The agreement of the parent showing protective behaviour is not a mandatory condition for submitting the application for this protection measure. The request regarding the issuance of the protection order is submitted to the court according to the domicile/location of the child, or of the aggressor, either according to the location where the legal representatives of the child have requested assistance, or according to the location where the act of violence took place.

3) If the parent/guardian/curator that manifests protective behaviour has no solutions to ensure a safe space before the protection order is issued, then the local guardianship authority, jointly with the territorial guardianship, ensures the child's placement with the adult.

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).*

According to Article 4 of the Law 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova stipulate in par.1 that "(1) Foreigners residing legally in the Republic of Moldova have the same rights and freedoms as the citizens of the Republic of Moldova, guaranteed by

the RM Constitution and other laws, as well as rights provided in the international treaties to which the Republic of Moldova is party, with exceptions established by the legislation in force”.

Law no. 196 of July 12, 2013 on supplementing Law no. 198-XVI of July 26, 2007 on State Guaranteed Legal Aid issues the rule that ensure the right to receive qualified legal assistance to child victims. In this regard, the victim or his legal representative is able to submit an application to the territorial office, to the criminal prosecution body or to the court. Thus, represents an alternative in line to the Convention’s requirements. The action was provided in context of the National Action Plan of Justice Sector Reform Strategy (hereinafter - JSRS) in order to amend legal framework to grant the right of state guaranteed legal assistance to child victims of crimes.

## 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;

Actions under the Convention Lanzarote, committed intentionally, are considered offenses under the Criminal Code of the Republic of Moldova, as follows:

#### **Article 18 – Sexual abuse**

- Engaging in sexual activity with a child, in accordance with the relevant provisions of law, that has not reached the legal age for sexual activities:

Article 174. Sexual act with a person who has not reached the age of 16

Para. (1) The consensual sexual act, knowingly committed with a person who has not reached the age of 16.

Article 175. Actions of sexual character with a person who has not reached the age of 16

Para. (1) The consensual actions of sexual character, knowingly committed with a person who has not reached the age of 16.

The definition of “sexual act” is provided in Article 132<sup>2</sup> Para. (1) as follows:

Sexual act means the action of vaginal, anal or oral penetration of sexual nature committed with any part of the body or with any object.

The definition of “actions of sexual character” is provided in Article 132<sup>2</sup> Para. (2) as follows:

Actions of sexual character means any other ways of obtaining sexual satisfaction other than those indicated in Para. (1), as well as actions other than those that fall under Art. 173 and 287 of this Code or Art. 354 of the Contravention Code.

- Engaging in sexual activity with a child where use is made of coercion, force or threats:

Article 171. Rape

The definition of Rape is provided in Para. (1):

Para. (1) Rape, i.e. non-consensual sexual act.

(2) letter a) knowingly committed against a minor;

(3) letter b) knowingly committed against a person who has not reached the age of 14;

Article 172. Non-consensual actions of sexual character

Para. (2) Same actions: letter a) knowingly committed against a minor;

(3) Actions provided in para. (1) or (2): letter a) knowingly committed against a person who has not reached the age of 14;



- Abuse of a recognized position of trust, authority or influence over the child, including the family;

#### Article 171. Rape

Para. (2) letter c) committed against a family member;

(3) letter a) against a person who is under the care, protection, education or treatment of the perpetrator;

#### Article 172. Non-consensual actions of sexual character

Para. (2) Same actions: letter c) committed against a family member;

(3) Actions provided in para. (1) or (2): letter b) committed against a person who is under the care, protection, education or treatment of the perpetrator;

#### Article 174. Sexual act with a person who has not reached the age of 16

Para. (1') Same action: a) committed against a person who is under the care, protection, education or treatment of the perpetrator;

#### Article 175. Actions of sexual character with a person who has not reached the age of 16

Para. (2) Same actions committed:

letter a) against a person who is under the care, protection, education or treatment of the perpetrator;

c) against a family member;

- Abusing by taking advantage of a particularly vulnerable situation of the child, especially mental or physical disability or a situation of dependence.

#### Art. 77. Aggravating Circumstances

Para. (1):

letter e) committing a crime with good knowledge against a minor or a pregnant woman or taking advantage of the known or obvious state of powerlessness, which is due to the old age, the disease, the disability or another factor;

g) committing a crime through or in the presence of minors, persons in difficulty, mentally retarded persons or persons dependent on the perpetrator;

n) committing a crime with the use of the granted trust.

### **Article 19 – Offences concerning child prostitution**

- Recruiting a child into prostitution or causing a child to participate in prostitution.

#### - Art. 206. Trafficking in Children

The recruitment, transportation, transfer, harbouring, or receipt of a child, as well as giving or receiving payments or benefits to obtain the consent of the person who exerts control over the child,

Para. (1), letter a) for the purpose of commercial or non-commercial sexual exploitation;

- Coercing a child into prostitution or exploitation of a child and taking advantage of this purpose.

- Art. 206. Trafficking in Children, Para. (2), letter a) involving physical or mental violence, the use of weapons or the threat of their use;

- and letter b) involving sexual abuse and violence;

- Resorting to child prostitution
- Art. 208<sup>2</sup>. Resorting to prostitution practiced by a child  
The benefit, in exchange of any material advantage, of sexual services provided by a person who was known with certainty that has not reached the age of 18.

### **Article 20 – Offences concerning child pornography**

- Infantile Pornography
- Art. 208<sup>1</sup>. Infantile Pornography  
The production, distribution, broadcasting, import, export, offering, sale, procurement, exchange, use, or holding of images or other representations of one or more children involved in explicit, real, or simulated sexual activities or of images or other representations of genital organs of a child, represented in a lustful or obscene manner, including in electronic version.

### **Article 21 – Offences concerning the participation of a child in pornographic performances**

- The recruitment of a child for participating at pornographic performances or determining a child to participate in it
- Art. 206. Trafficking in Children, Para. (1), letter a) for the purpose of commercial or non-commercial sexual exploitation
  - Coercing a child to participate in pornographic performances or taking advantage from the exploitation of a child for such purposes.

Depending on the modus operandi, the offence can be qualified according to one of the following articles:

- Article 172. Non-consensual actions of sexual character, Para. (2), letter a) knowingly committed against a minor, Para. (3), letter a) knowingly committed against a person who has not reached the age of 14;
- Article 175. Actions of sexual character with a person who has not reached the age of 16.
- Art. 206. Trafficking in Children, Para. (2), letter a), involving physical or mental violence, the use of weapons or the threat of their use.
  - Knowingly assisting in pornographic performances involving children
- Article 175. Actions of sexual character with a person who has not reached the age of 16.

### **Article 22 – Corruption of children**

- Determining intentional sexual purposes a child who has not reached the legal age for sexual activities, to witness sexual abuse or sexual activities without even having to attend.
- Article 175. Actions of sexual character with a person who has not reached the age of 16.

## **Article 23 – Solicitation of children for sexual purposes**

- Art. 175<sup>1</sup>. Luring a minor for sexual purposes

Para. (1) The proposal, convincing, manipulation, threat, promise to provide advantages in any form, performed including by means of information technologies or electronic communications, in order to establish a meeting with a minor, including by means of electronic communications, with the purpose of committing against him/her any crime related to sexual life, if such actions were followed by material facts leading to such a meeting,

Para. (2) Same actions committed:

- a) against a minor in a situation of helplessness, which is due to a disease or disability;
- b) by a member of the minor's family, by a person living with the minor, or by the person having the minor under one's care, custody, protection, education, or treatment;
- c) by a person who was previously convicted for a sexual offense or for other facts that are relevant to the cause.

## **Article 24 – Aiding or abetting and attempt**

Article 42. Participants

Para. (4) An instigator shall be considered a person who by any means makes another person commit a crime.

(5) An accomplice shall be considered a person who contributes to committing a crime by giving advice, indications, by provision of information, by offering means or tools or by eliminating obstacles, as well as the person who promises in advance that he/she will favour the criminal, will hide the means or tools used to commit the crime, the traces thereof, or the goods obtained through criminal means, or the person who promises in advance to purchase or to sell such goods.

Article 27. Attempt to commit a crime

The attempt to commit a crime shall be considered the intentional action or inaction directly oriented towards the commission of the crime, provided that due to reasons independent of the perpetrator's will, the crime failed to produce the expected effect.

Article 81. Application of punishment for an inchoate crime

Para. (3) The punishment for an attempt to commit a crime that does not constitute recidivism shall not exceed three quarters of the maximum term of the most severe punishment set by the corresponding article of the Special Part of this Code for the consummated crime.

(4) Life imprisonment shall not be applied for the preparation of a crime and the attempt to commit a crime.

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

*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;*

Article 173. Sexual harassment

The definition of Sexual harassment is provided in Para. (1):

(1) Sexual harassment, i.e. claiming a sexual act or another action of sexual character by physical, verbal or nonverbal behaviour, if by such an unpleasant, hostile, degrading, humiliating, discriminatory or insulting atmosphere is created to the victim, committed by taking advantage of the state of dependence of the victim or by threat, provided that the offence does not meet the elements of rape or non-consensual actions of sexual character,

Para. (2) Same action knowingly committed against a minor.

Article 177. Violation of the inviolability of personal life

Para. (3) Distributing information of sexual character, including sexual content images and recordings, including through information technologies, for the scope of revenge, hate, humiliation or injury to person's honour and dignity.

Article 220<sup>1</sup>. The exhortation, determining or facilitation of the provision of online sexual services

Para. (1) The exhortation, determining or facilitation of the provision by another person of online sexual services consisting of the presentation of the person engaged in explicit sexual activities or in the representation of sexual organs, transmitted as video images through information technologies or electronic communications, in order to obtain income directly or indirectly, if the offence does not meet the elements of trafficking in human beings or child pornography.

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

As mentioned above, the age of the minor victim plays role in determining the gravity of the offence, and depending on the age, the crime shall be qualified according to Art. 171 – Para. (2) or Para. (3), Art. 172 – Para. (2) or Para. (3), Art. 206 – Para (1)/(2) or Para. (3), as well as according to Art. 77, Para. (2), letter e) - taking advantage of the known or obvious state of powerlessness.

### **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.*

Article 21. Subject of the Crime

Para. (3) A legal entity, except for public authorities, shall be subject to criminal liability for an act set forth in criminal law if the legal entity failed to comply or complied improperly with direct legal provisions defining obligations or prohibitions to perform a certain activity, provided that one of the following conditions is applicable:

Letter a) the act was committed for the benefit of this legal entity by the natural person empowered with the legal entity's management functions, who acted independently or as part of a body of the legal entity;

b) the act was allowed, sanctioned, approved, or used by the body or the person empowered with the legal entity's management functions;

c) the act was committed due to the lack of supervision and control from the person empowered with the legal entity's management functions.

Para. (3<sup>1</sup>) A natural person is considered to be empowered with the legal entity's management functions if he has/she at least one of the following functions:

letter a) representation of the legal entity;

b) making decisions on behalf of the legal entity;

c) exercising control within the legal entity.

Para. (4) Legal entities, except for public authorities, shall be criminally liable for crimes punishable in line with the special part of this Code applicable to legal entities.

Hence, a legal person may be held liable according to Art. 206. Trafficking in Children.

**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**);

All the sanctions are criminal as follows.

**Article 18 – Sexual abuse**

Article 171. Rape

Para. (2) - shall be punished by imprisonment for 7 to 12 years.

Para. (3) - shall be punished by imprisonment for 10 to 20 years or by life imprisonment.

Article 172. Non-consensual actions of sexual character

Para. (2) - shall be punished by imprisonment for 15 to 10 years.

Para. (3) - shall be punished by imprisonment for 10 to 20 years.

Article 174. Sexual act with a person who has not reached the age of 16

Para. (1) - shall be punished by imprisonment for 2 to 5 years.

Para. (1<sup>1</sup>) - shall be punished by imprisonment for 4 to 8 years.

Article 175. Actions of sexual character with a person who has not reached the age of 16

Para. (1) - shall be punished by imprisonment for 1 to 3 years.

Para. (2) - shall be punished by imprisonment for 3 to 6 years.

**Article 19 – Offences concerning child prostitution**

- Art. 206. Trafficking in Children, Para. (1) - shall be punished by imprisonment for 10 to 12 years with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 4000 to 6000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

Para. (2) – shall be punished by imprisonment for 10 to 15 years with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in amount of 6000 to 8000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

Para.(3) – shall be punished by imprisonment for 15 to 20 years with the deprivation of the right to hold certain positions or to practice certain activities for 3 to 5 years or with life imprisonment, whereas a legal entity shall be punished by a fine in the amount of 8000 to 10000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

- Art. 2082. Resorting to Child Prostitution – shall be punished by imprisonment for 3 to 7 years.

**Article 20 – Offences concerning child pornography**

Art. 208<sup>1</sup> (Child Pornography) – shall be punished by imprisonment for 1 to 3 years whereas a legal entity shall be punished by a fine in the amount of 3000 to 5000 conventional units with the deprivation of the right to practice certain activities.

## **Article 21 – Offences concerning the participation of a child in pornographic performances and Article 22 – Corruption of children**

Above-mentioned sanctions for Art. 172, 175, 206.

## **Article 23 of the Convention – Solicitation of children for sexual purposes**

Art. 175<sup>1</sup>. Luring a minor for sexual purposes

Para. (1) - shall be punished by imprisonment for 2 to 6 years.

Para. (2) - shall be punished by imprisonment for 3 to 8 years.

*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).*

The possibility of taking into account final sentences passed by another Party in relation to any criminal offence is established according to Art. 558 of the Criminal Procedure Code, as follows:

Art. 558. Cases and conditions for recognition of criminal case decisions

Para. (1) The final criminal case decisions pronounced by foreign courts, as well as those that are likely to produce legal effects according to the criminal law of the Republic of Moldova, may be recognized by the national court, at the approach of the Minister of Justice or of the General Prosecutor, basing on an international treaty or an agreement of reciprocity.

(2) The criminal case decision of a foreign court can be recognized only if the following conditions are respected:

1) the decision was pronounced by a competent court;

2) the decision does not contravene the public order in the Republic of Moldova;

3) the decision can produce legal effects in the country according to the national criminal law.

(3) The decisions of the International Criminal Court shall be executed on the territory of the Republic of Moldova without the process of recognition by the national court.

### **Question 19: Jurisdiction**

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

The rules are provided in Art. 11 of the Criminal code:

Article 11. Application of Criminal Law in Space

Para. (1) All persons who committed crimes in the territory of the Republic of Moldova shall be held criminally liable under this Code.

(2) Citizens of the Republic of Moldova and stateless persons with permanent domiciles in the territory of the Republic of Moldova who commit crimes outside the territory of the country shall be liable for criminal responsibility hereunder.

(3) If not convicted in a foreign state, foreign citizens and stateless persons without permanent domiciles in the territory of the Republic of Moldova who commit crimes outside the territory of the Republic of Moldova shall be criminally liable under this Code and shall be subject to criminal liability in the territory of the Republic of Moldova provided that the crimes committed

are adverse to the interests of the Republic of Moldova or to the peace and security of humanity, or constitute war crimes including crimes set forth in the international treaties to which the Republic of Moldova is a party.

(4) Criminal law shall not apply to crimes committed by the diplomatic representatives of foreign states or by other persons who under international treaties are not subject to the criminal jurisdiction of the Republic of Moldova.

(5) Crimes committed in the territorial waters or the air space of the Republic of Moldova are considered to be committed in the territory of the Republic of Moldova. The person who committed a crime on a sea craft or aircraft registered in a harbour or airport of the Republic of Moldova and located outside the water or air space of the Republic of Moldova, may be subject to criminal liability under this Code provided that the international treaties to which the Republic of Moldova is a party do not provide otherwise.

(6) Persons who commit crimes on board a military sea craft or aircraft belonging to the Republic of Moldova, irrespective of its location, shall be held criminally liable under this Code.

(7) Criminal punishments and criminal records for crimes committed outside the territory of the Republic of Moldova shall be taken into consideration hereunder in individualizing the punishment for a new crime committed by the same person on the territory of the Republic of Moldova as well as in settling issues related to amnesty in conditions of reciprocity based on a court decision.

### **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**).*

According to Art. 77, Para. (1) of the Criminal code (Aggravating Circumstances) are considered:

- a) the commission of a crime by a person who previously was convicted for a similar crime or of other acts relevant to the case;
- b) severe consequences caused by the commission of the crime;
- c) the commission of a crime with any form of participation;
- e) committing a crime with good knowledge against a minor or a pregnant woman or taking advantage of the known or obvious state of powerlessness, which is due to the old age, the disease, the disability or another factor;
- g) committing a crime through or in the presence of minors, persons in difficulty, mentally retarded persons or persons dependent on the perpetrator;
- h) the commission of a crime through extremely cruel acts or humiliation of the victim;
- i) the commission of a crime by means that pose a great social danger;
- k) the commission of crime with the use of weapons, ammunition, explosive substances, or similar devices, specially prepared technical devices, noxious and radioactive substances, medical and other chemical/pharmaceutical preparations, and the use of physical and mental coercion;
- n) committing a crime with the use of the granted trust.

Para. (2) If the circumstances mentioned in par. (1) are also set forth in the corresponding articles of the Special Part of this Code as crime components, they may not be concurrently considered as aggravating circumstances.

### **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;*

The Criminal procedure legislation of the Republic of Moldova guarantees accessible justice, age appropriate, rapid, adapted to and focused on the needs and rights of children, including the rights to due process, to participate in and understand the procedures, the right to private and family life and the integrity and dignity.

Art. 10 Para. (6) of the Criminal Procedure Code emphasizes the importance of ensuring the best interests of the child in the decision about him, including when involved in criminal proceedings. Art. 10 Para. (6) code of criminal procedure guarantees the interests of the child victim / witness at any stage of the criminal process.

According to Art. 52 Para (1) point 29) of the CPC, the Prosecutor has the following duty within the criminal prosecution, among other duties:

29) informs the victim or injured party about the support services he/she can benefit (medical assistance, psychological counselling, shelter services, legal assistance) and general conditions for granting such services.

According to Art. 57 Para (2) point 14<sup>2</sup>) of the CPC, the Officer of criminal prosecutions has the following duty, among other duties:

29) informs the victim or injured party about the support services he/she can benefit (medical assistance, psychological counselling, shelter services, legal assistance) and general conditions for granting such services.

According to Art. 58 of the CPC, the victim also benefits from the following rights:

Para. (3) Point 4) - to be informed by the criminal prosecution body, prosecutor or, as the case may be, by the court about the settlement of his/her complaint, about all the adopted decisions that refer to his/her rights and interests; to receive for free copies of such decisions, as well as of the decision to terminate or dismiss the criminal process in the respective case, not to start the criminal prosecution, the copy of the sentence, decision or of another final court decision;

(4) The victim of a particularly serious or exceptionally serious crime against the person, [...] the victim of sexual or domestic violence, the victim of trafficking in human beings and the victim of child trafficking, regardless of whether he/she is recognized as an injured party or civil part, also has the following rights:

- 1) to be consulted by a lawyer throughout the criminal trial as the other parties in the trial;
- 2) to be assisted, according to the law, by a lawyer providing legal assistance of the state;
- 3) to be accompanied by a trusted person, along with his/her lawyer, at all investigations, including closed court hearings;
- 4) to receive a judicial decision on the material compensation for the damage caused by the crime.
- 5) to be informed about the support services that he/she can benefit (medical assistance, psychological counselling, shelter services, legal assistance) and the general conditions for receiving such services.
- 6) to be heard in the presence of a lawyer, under conditions of respect for dignity and intimacy.



According to Art. 110<sup>1</sup> Para (1) of CPC, hearing of a minor witness in the criminal cases regarding sexual offenses, regarding the trafficking of children or the domestic violence, as well as in other cases in which the interests of justice or the minor require, under the conditions of Art. 109 Para. (5), will be carried out by the investigating judge in specially arranged spaces, equipped with audio/video recording means, through an interviewer. The minor's hearing will be carried out in limited terms.

According to Art. 111 Para (2) of CPC, the injured party in the case of a crime of sexual character or of a crime of domestic violence is heard in the presence of a lawyer and, as the case may be, in the presence of the psychologist.

Article 481<sup>1</sup> guarantees the rights of the witness / victim minor, including: to be represented at all stages of a legal representative and a lawyer to be confidential in all stages of criminal proceedings, to be silent and not to incriminate himself or his relatives, dispose of other procedural rights of the witness provided in Article 90 CPC. According to Art. 58, Para. (11), all the conditions of witness interrogation are also applicable to the victim.

In case where children were not participants in the legal process from among the persons mentioned in Article 77, the governing body of the prosecution / prosecutor will call the office as legal representative in the board of Tutors/guardians. Tutoring / Guardianship authority must be represented by a person with knowledge and training in child protection issues, focusing on the rights and needs of the child victim / witness and outcomes trial.

Legal representative of the victim is not entitled to take action against the interests of the person they represent, as provided in Article 78 Para. (5) CPC.

Where there are grounds to believe that the actions compromise the interests of the child bring legal representative, the legal representative may be removed from the criminal and replaced with another, when it is possible either by the board of guardians. Replacing the legal representative is by ordinance orphan motivated criminal investigation / prosecutor, both to carry out the hearing, and after hearing of the child.

Minor witness is entitled to be represented at the hearing by a lawyer, according to Article 481<sup>1</sup> of the Criminal Procedure Code, which will represent the interests benefiting from the status of procedural rights and obligations provided in Article 92 CPC.

Child victim / injured party under Article 58 Para. (3), Article 60 Para. (1) point 18), shall be entitled to be represented by a lawyer, legal aid guaranteed by state, under the law (the law on legal assistance guaranteed by the state).

Until the hearing itself the victim / witness minor, shall explain the rights and obligations provided in Article 90 CPC, including statements cope truthful minor witness oath.

In accordance with Article 479 CPC, the audition of the victim / witness minor cannot last more than 2 hours without interruption, and in total cannot exceed more than 4 hours per day.

An important component of the mechanism for resolving complaints about acts of domestic violence is the procedure for obtaining requesting and victim protection measures against manifestations aggressor stipulated in Articles 13 to 14 of the law on preventing and combating domestic violence.

Legislation allows that use of both civil proceedings and criminal proceedings. Protective measures shall be determined by the court on the issue of closing the path issue protection orders. The protection ordinance aims to provide physical and mental integrity of the person, in respect of which dominate the danger of being affected by either form of violence.

The law no. 45 of 01.03.2007 on prevention and combating domestic violence, obligates the central authority bodies, within their powers, in cooperation with non - governmental organizations in the field, educational programs for parents and children preventing and combating violence to provide counselling activities for psychological and psychosocial rehabilitation of child victims of domestic violence.

In accordance with provisions of par. (6), art. 8 of the act, police duties, certain responsibilities include activities aimed at preventing and combating domestic violence, protect victims of domestic violence and the violent suppression of the aggressors, issues covered and lit. n) Art. 21 of Law no. 320 of 27.12.2012 on the work of the police and police status.

A key factor in preventing and combating domestic violence are awareness activities and public information on gender-based violence, both at national and local levels to eliminate all forms of violence against women, raising awareness of the existing legal and regulatory framework for preventing and combating domestic violence, protecting victims, and mobilizing local and central authorities, NGOs and the community to actively participate in the prevention and fight against this scourge.

With the entry into force of the Law no. 45 -XVI of 01.03.2007 on prevention and combating domestic violence, the legislation in Moldova has been harmonized. According to Law no. 167 of July 9, 2010, in force since 03 September 2010 no changes in the Criminal Code, Criminal Procedure Code, the Civil Code, Family Code, Law no. 320 of 27.12.2012 on the work of the police and police status, Law no. 45 -XVI of 01.03.2007 on prevention and combating domestic violence and other national laws have been made.

The Penal Code was completed with art. 133<sup>1</sup> (family member), which mentions the marital status of subjects of domestic violence.

Simultaneously the criminal law was supplemented by a new Article 2011 (Domestic Violence), which specifies that 'domestic violence' is a crime and family violence is sanctioned.

By entry into force of these penalties, the notification of the police is not just made only by the victims of domestic violence, but also by authorized specialists with expertise in the relevant field, civil society, and other person who have information about acts of domestic violence.

Regarding to this, the society acknowledges that domestic violence is not a private family matter, but this is the problem of the state and the entire community.

According to this, the Ministry of Internal Affairs issued methodical instructions for the intervention of internal affairs in preventing and combating domestic violence cases, approved by order no. 275 of 14.08.2012.

Also, in every police station in Moldova, a person is designated for each segment to prevent and combat domestic violence. This person, according to the Head of Community interaction, ensures planning of prevention, creates viable partnership with local authorities and community members, conducts ongoing analysis of the causes and conditions that led to the commission of domestic violence events, plans measures to prevent the acts of violence, provides records of aggressors, manages documentation and supervision aimed at issuing

protection orders, provides referral procedure under NRS and civil society organizations, empowered with enhanced capabilities to prevent, application of intervention measures and the fight against domestic violence and abuse against women and children.

Thus, due to the legal work in this matter, mainly based on effective prevention activities on awareness raising, capacity building of police in the fight against violence, involving multidisciplinary team members and representatives of the NGO sector and enhancing awareness of society to act, to relate and to identify any antisocial behaviours committed between family members.

Simultaneously, the community services staff interactions during 12 months of 2013 intervened jointly with multidisciplinary teams in solving of 235 (year 2012-147) cases of domestic violence and the other 86 (year 2012-145) cases referred to other authorities and bodies for providing advisory services, according to functional skills. Also in 15 (year 2012-2013) domestic violence cases have been reported to the authorities, where the Court found minor victims of domestic violence.

As a preventive measure, to ensure the protection of victims of domestic violence, the police employees during 12 months of this year oversaw 448 (year 2012-408) protection orders issued by courts. Following surveillance protection orders issued by courts, it had been violated 61 (year 2012-89) protection orders and for violating the restrictions applied to the perpetrators by the police have been initiated 53 (year 2012-79) misdemeanour proceedings under Art. 318 of the Contravention Code. Accordingly, for non- intentional or avoiding enforcement of the court decision in the sense of repeated violations of the restrictions, were initiated 8 (year 2012-10) orders to protect victims of domestic violence from abusers under the criminal constituent elements of a crime under art. 320 of the Criminal Code.

*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));*

There is a number of regulatory procedures to ensure the protection of children's rights, namely:

- Children's rights as a victim or witness in all phases of criminal proceedings (Art. 10 para. (6) was amended by PA 73 of 12.04.2012);
- Denied access to the courtroom to the press or public, the whole process or part of the process, the interests of juveniles or the protection of the private life of the parties so require trial (Article 18, para. (2));
- Hearing testimony minor (victim or witness) in the process of the court in closed session (Article 18 para. (2<sup>1</sup>));
- Representation of child victims will be made by a legal representative (Article 58 al.(10) amended by LP66 from 05.04.12) which can be parents, adoptive parents, tutors or guardians (Article 77, para. (1));
- Hearing a minor in criminal cases on crimes of sexual nature of child trafficking or domestic violence, as well as in other cases where the interests of justice or the minor so require, shall be made in specially equipped rooms by means of audio - video through a psycho (art.110<sup>1</sup> Para. (1)).
- No minor is required to participate in the confrontation with the accused for crimes against the integrity of the physical and / or moral (article 113, para. (6)).

Article 215 of the Criminal Procedure Code requires the prosecuting authority and the court to take steps to insure the safety of trial participants and others, if there are sufficient grounds to believe that the victim, witness or other person involved in the process, and their family members or close relatives may be or are threatened with death, violence, deterioration or destruction of property or other unlawful acts.

Also, another guarantee that ensures the rights of children is provided by art. 215<sup>1</sup> Criminal Procedure Code, introduced by Law no. 167 of 09.07.2010, which provides a number of safeguards to victims of domestic violence, including an order that the suspect, accused; defendant shall not contact the victim, children or other dependents of.

*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));*

The law no. 45 of 01.03.2007 on prevention and combating domestic violence, obligates the central authority bodies, within their powers, in cooperation with non - governmental organizations in the field, educational programs for parents and children preventing and combating violence to provide counselling activities for psychological and psychosocial rehabilitation of child victims of domestic violence.

In accordance with provisions of par. (6), art. 8 of the act, police duties, certain responsibilities include activities aimed at preventing and combating domestic violence, protect victims of domestic violence and the violent suppression of the aggressors, issues covered and lit. n) Art. 21 of Law no. 320 of 27.12.2012 on the work of the police and police status.

Until the hearing itself the victim / witness minor, shall explain the rights and obligations provided in Article 90 CPC, including statements cope truthful minor witness oath.

In accordance with Article 479 CPC, the audition of the victim / witness minor cannot last more than 2 hours without interruption, and in total cannot exceed more than 4 hours per day.

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

Privacy and identity of victims are protected. Recording, storage and use of personal data on the victim shall be in accordance with the Law on the protection of personal data.

To protect the privacy, identity and image of child victim in Article 18 Para. (2<sup>1</sup>) is provided that if a minor is the victim or witness, the court will hear his statements in a closed session.

Moreover, given the provisions of Article 4 of the Law on the protection of children against the negative impact of information, one cannot publish information containing personal data of a child who is the victim of an offense or offenses, or of a child and has caused injury or tried to do, either sinus or made a suicide attempt and children presenting photos or videos about it in the context of negative shocks phenomena, which allows identification of children.

- 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));*

Article 215<sup>1</sup> of the CPC provides the Protection measures applied to victims of domestic violence or victims of sexual offenses", as follows:

Para (1) If during the criminal process, it is found that the victim of domestic violence or victim of sexual offenses is in danger of being subject to violence or other illegal actions, including destruction of his/her goods, the criminal prosecution body or the prosecutor is obliged to intervene uninterruptedly to ensure the protection measures.

(2) The application for obtaining the protection measures may be submitted by the criminal prosecution body or by the prosecutor and based on the request of the injured party.

(3) The court, by conclusion, shall issue, within 24 hours of receiving the request, a protection ordinance, by which it can provide protection to the victim and its children, applying to the suspect, the accused, or the defendant one or more of the following measures:

- a) the obligation to temporarily leave the common home or to stay away from the victim's dwelling, regardless of the right of ownership over the goods;
- b) the obligation to stay away from the place of the victim, at a distance that would ensure victim's security, excluding any visual contact with him/her or his/her children, with other people dependent on him/her;
- c) the prohibition of any contact, including by telephone, by correspondence or in any other way, with the victim or with its children, with other persons dependent on him/her;
- d) the prohibition to approach certain places: the work place of the victim, the place of study of the children, other determined places that the protected person frequents;
- e) limiting the unilateral disposition by the common goods;

The safety of victims and witnesses in criminal proceedings is also provided by the General Police Inspectorate, provided by the Government Decision no. 283 of 04.24.2013 approving the Regulation on organization and operation of the General Police Inspectorate. Paragraph 3) In order to ensure the investigation of crimes and offenses, prosecution and ensure the administration of justice, letter h) provides measures to protect witnesses and other participants in the criminal law;

- 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));*

No, but the person that is released temporary from detention or custody will be supervised by the competent authorities and included in all relevant recovery programs needed.

- g. *Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (Article 31, para. 1, letter (g));*

The Criminal Procedure Code of the Republic of Moldova provides hearing children in special circumstances, outstanding general procedure to protect them from the risk of secondary victimization.

According to Art. 109 Para. (5) of CPC, the witness minor will be heard in criminal cases concerning sexual offenses, concerning child trafficking or domestic violence, and in other cases where the interests of justice or the juvenile prosecutor requires, in terms of Article 110<sup>1</sup>. According to Art. 58 Para. (11) of CPC, The victim is heard under the conditions provided by this code for hearing of witness.

*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).*

Law no. 196 of July 12, 2013 on supplementing Law no. 198-XVI of July 26, 2007 on State Guaranteed Legal Aid issues the rule that ensure the right to receive qualified legal assistance to child victims.

In this regard, the victim or his legal representative is able to submit an application to the territorial office, to the criminal prosecution body or to the court. Thus, represents an alternative in line to the Convention's requirements.

The action was provided in context of the National Action Plan of Justice Sector Reform Strategy (hereinafter - JSRS) in order to amend legal framework to grant the right of state guaranteed legal assistance to child victims of crimes.

**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);*

The Criminal Procedure Code of the Republic of Moldova provides hearing children in special circumstances, outstanding general procedure to protect them from the risk of secondary victimization.

According to Art. 109 Para. (5) of CPC, the witness minor will be heard in criminal cases concerning sexual offenses, concerning child trafficking or domestic violence, and in other cases where the interests of justice or the juvenile prosecutor requires, in terms of Article 110<sup>1</sup>.

Special hearing conditions are stipulated by Article 110<sup>1</sup> Criminal Procedure Code, and consist of hearing the minor witness by the judge in special places, equipped with audiovisual recording media and with the presence of a psycho-pedagogue (psychologist).

The judge, who under the laws of criminal procedure, is the judicial body with its own powers of prosecution. In this way it is ensured that the judicial review of procedural actions conducted under criminal investigation exclude the possibility of offering this immediate need of the child witness/victim later in the courtroom and to avoid victimization. The assurance that the suspect, their counsel, the injured party (for the hearing child witness of the crime) and the prosecutor to observe the hearing child and to ask questions through the judge and psycho-pedagogue (psychologist) may exclude the need for repeated hearings.

The educational psychologist is in direct contact with the child during the hearing. The Psychologist's task is to adjust the formal procedures associated with hearing in the criminal process to the specific children of victim / witness to help the child to expose pertinent information to the investigated case. He favours the listening process and obtains relevant information and also investigates the case and helps to ensure compliance with the best

interests of the child. Knowing the specifics of the child's age, the psychopedagogue / psychologist will adapt to the needs and possibilities of the child.

The presence of the psychologist is even more motivated in situations where the child's expression of the traumatic event cannot be applied in the form of a declaration on the grounds that it is unable to translate into words what happened, because their language is not as developed or feelings of fear or emotion felt due to court proceedings to determine inhibition and its inability to make a statement, without the support of specialists.

The same conditions of special hearing, the hearing child witness, apply also to the testimony of the child victim/injured part under Art. 58 Para. (11), Art. 60 Para. (5) and Art. 111 Para. (2) CPC.

Art. 110<sup>1</sup> Para. (5) CPC guarantees that the minor hearing should avoid causing any adverse effect on its mood.

The Audio juvenile witness statements are recorded by audio and video and in a report in accordance with Article 260 and 261. The Judge Court seals the informational support that was recorded with witness statement and kept the original along with a copy of the report.

One of the essential goals of achieving hearing child witness/victim of crime in special conditions is to reduce the number of interviews the child to one that is not forcing child relationship often traumatic experience.

*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);*

The investigations or prosecutions of offences established in accordance with the Convention are not dependent upon the report or accusation made by a victim and the proceedings may continue even if the victim has withdrawn his or her statement. This is provided by the fact that such crimes are not included in the list of crimes whose criminal prosecution can be started only basing on victim's complaint, under Art. 276 Para. (1) CPC.

The Law on Preventing and Combating Domestic Violence stipulates that domestic violence is any intentional act or omission, except the self-defence or defence of others verbally or physically manifested through physical, sexual, psychological, spiritual or by causing economic or material or moral, committed by a family member against other family members, including against children, and against common or personal property.

The state law mentions that government authorities' cooperation with civil society and international organizations on the basic principles of preventing and combating domestic violence in Moldova with legality, equality, privacy, access to justice and the protection and security of the victim.

Also art. 110<sup>1</sup> of the Criminal Procedure Code provides special hearing of all cases of juvenile witness. Art. 18 para.(2) of the Criminal Procedure Code provides that a minor is the victim or witness, the court will hear his statements in a closed meeting.

- 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**);

If the child has reached the age of majority, there will be no change in the proceeding (Parliament law No 122 of 14.03.2003 Code of Criminal Procedure of the Republic of Moldova).

- 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;

Under the Family Code parents are the legal representatives of children and acting on their behalf in relation to all natural and legal persons, including public authorities and courts without the need for special powers. In case of conflict of interests between parents and children, guardianship/tutoring authority is required to appoint a representative to defend the rights and interests of the child. When the child is taken from parents without loss of parental rights, parents lose the right to communicate with him/her, to personally attend his/her education and to represent his/her interests. In cases where the child is deprived of parental care (parents are deprived of parental rights, incompetent or missing, and in other cases), children's rights to education are provided by the guardianship/tutoring authority.

According to the Civil Code of guardian/tutor and trustee powers over the person admitted to an institution of public welfare, education, treatment or a similar institution are exercised by those institutions, unless the person has a guardian/tutor or curator. Also, in case of placement of person that is under guardianship/tutorship or trusteeship in an institution of public welfare, education, treatment or other similar institution, guardian/tutor or guardianship/tutoring authority issued curator of his obligations if it is not contrary to the interests of person that is under guardianship/tutorship or trusteeship.

- 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;

In legal proceedings participates the International Association "La Strada", "Amicii", under the provisions of the existing Memoranda of Understanding

- 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**);

The use of covert operations is allowed in relation to the investigation of the offences is established in the Law on Special Investigation Activity No 59 from 29.03.2012. Chapter III – measures special investigation.

Section 1 - The procedure for disposal of special investigative measures

Article 18. Special investigative measures

2) the authorization of the prosecutor:

d) undercover investigation;



#### Article 30. Undercover investigation

(1) undercover investigation should be authorized during discovery that there is crime.

(2) undercover investigation is ordered by ordinance, which will indicate:

a) special measure authorized investigation;

b) the period for which special measure authorized investigation;

c) the identity of an undercover investigator assigned and which activities it will perform;

d) the person subjected to special investigations or their identification if they are known.

(3) If it considers the need to use undercover investigator, technical devices to obtain photographs or audio or video recordings, the prosecutor notifies the judge to issue a conclusion for conducting special investigative measure.

(4) undercover investigators are employees specifically designated for this purpose, the Ministry of Interior, Intelligence and Security, Center for Combating Economic Crimes and Corruption, Department of the Ministry of Justice prisons or are people trained to perform a special action specific investigations. Investigators undercover investigation carried out special measure in the order determined during the prosecutor.

(4) undercover investigators are employees specifically designated for this purpose, the Ministry of Interior, Intelligence and Security, National Anti-Corruption Center, Department of the Ministry of Justice prisons or are people trained to perform a specific special investigative measures. Investigators undercover investigation carried out special measure in the order determined during the prosecutor.

(5) undercover investigator collects data and information it provides, in part, to the extent authorized the special prosecutor investigation.

(6) undercover investigator is prohibited from committing crimes cause.

(7) public authorities can use or provide any documents or undercover investigator objects necessary for the special measure authorized investigation. The person who uses or provides documents or objects not responsible for it.

(8) undercover investigators can be heard as witnesses in criminal proceedings. For good reasons, the undercover investigator can be heard in the Law on protection of witnesses and other participants in criminal proceedings.

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

The Centre for Combating Informational crimes of the National Investigations Inspectorate of the General Police Inspectorate is connected to the international "ICSE" (International Child Sexual Exploitation) managed by the ICPO Interpol, are registered in multiple workspaces and international forums available only to law enforcement agencies, which are made available to users specialized software designed to examine materials containing child pornography images.

The Centre received more products specialized program area as a result of participation in international trainings.

### **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.

According to Government Decision No. 708/2019, the Barnahus model was implemented in the Republic of Moldova, by approving the Framework Regulation on the organization and functioning of the Regional center of integrated assistance of victims/witnesses of offenses and Minimum quality standards of quality.

According to the GD, three regional centers for the northern, central and southern areas of the Republic of Moldova are to be established, being located in the municipalities of Balti, Chisinau and Cahul. The first regional center, for the northern area of the country, was opened in 2022 in Balti and is already functional.

The purpose of the centers is to provide services to child victims/witnesses of sexual offenses, of child trafficking or of domestic violence, of crimes against life and/or health, as well as other cases where the interests of justice or child requires it, such as when the crime has or can have a serious impact on child's physical and/or mental integrity. Also, the child's trusted person (non-offending parent, or other family member) can benefit from certain types of assistance such as crisis psychological assistance, legal assistance.

The centers shall provide specialized assistance and shall ensure prevention of revictimization and/or avoiding child trauma in the process of collecting evidence in criminal cases. Additional to other services, hearings of children under special conditions shall be conducted within these centers.

Following the Government Decision, the following normative acts were adopted:

- Operational Manual, approved by Order No. 18 of 15.02.222 of the Minister of Labour and Social Protection, available online in Romanian:

[https://social.gov.md/wp-content/uploads/2022/02/Ordin-nr.-18\\_15.02.2022\\_Manual-operational-Barnahus.pdf](https://social.gov.md/wp-content/uploads/2022/02/Ordin-nr.-18_15.02.2022_Manual-operational-Barnahus.pdf)

- MoU between the Ministry of Labor and Social Protection, the Ministry of Health, the Ministry of Justice, the General Inspectorate of Police, the Superior Council of Magistracy, the General Prosecutor's Office, National for State Guaranteed Legal Aid and Forensic Medicine Center (signed on May 20, 2022).

In accordance with the normative provisions, in the Barnahus-type Center, specialized assistance is provided by two categories of staff: directly employed by the service provider and professionals who are employed by their own institutions and provide assistance in the Center on an as-needed basis.

According to Art. 371 of the Criminal Procedure Code:

“(1<sup>1</sup>) In the case when a minor has given statements in accordance with the provisions of article 110<sup>1</sup> from the present Code, reading of these statements, audio-visual recording will replace hearing the minor in person, in order to reduce the possible trauma, unless, given the circumstances, the court will consider that the child should give evidence in the court. The repeated hearings should be avoided wherever possible.”

*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;*

Child hearing room is designed to reduce secondary victimization of children victim - witness of the abuse / sexual exploitation during the criminal prosecution and the trial of the case by implementing an efficient and sustainable child protection, based on the specialized individually approach to each case.

The hearing room is equipped with audio and video system, which records the hearing process, thus the recorded material is distributed and watched, live, by the actors sited in the viewing room. The viewing room is equipped with audiovisual equipment for reception and registration, which allows the participants in the room to view in live transmission the hearing of child.

*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).*

In accordance with Article No 18 para. (2<sup>1</sup>) of the Criminal Procedure Code, in the process in which a minor is a victim or a witness, the court will hear his/her statements in a closed meeting.

According to Art. 110, Para.(5) of CPC, the witness can be heard by means of a closed circuit teleconference, having the image and voice disturbed so that he/she cannot be recognized.

According to Art. 110, Para.(7) of CPC, the statements of the juvenile witness who was heard in special conditions are recorded by audio and video and attached to a report in accordance with Article 260 and 261. The Court seals the informational support with the recorded of child witness statement and stores the original along with a copy of the report.

The purpose of the child victim - witness hearing, according to the Article 110 is to get the child testimony in a non – intrusive way, as precise as possible, taking into account the specific age. Thus helping in the taking decision process in criminal justice and assuring the supreme interest of the child.

An important aspect is the communication between the hearing and the view room, the circumstances under which the child and the abuser can meet in a corridor or common space are excluded.