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LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

REPUBLIC OF MOLDOVA

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 3 February 2014

DATA COLLECTION

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

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

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

In order to implement the Law on social assistance by the Government Decision no. 1356 of December 03, 2008 the "Structure of Information System" Social Assistance was approved. Social Assistance Automated Information System (SAAIS) 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, SAAIS is a tool for social workers, helping them to go through all needed steps to solve a case. The module of Social Services in SAAIS 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). In 2013 the SAAIS was put into operation.

The General Directorate of Criminal Prosecution has participated in a series of workshops, round tables, workshops on the nomination, namely:

- On 24.04.2013 the National Center for the Prevention of child abuse in collaboration with the Center for Investigations and Consultancy SOCIOPOLIS organized an event to launch the study report child victims of crime and legal procedures;
- On 28.05.2013 the National Center for Prevention of child abuse in collaboration with the Ministry of Justice and Social Development Center „MOVISIE” in Netherlands organized an event to launch the report on the assessment of the legal system in cases of criminal investigation of children in Moldova;
- The Ministry of Justice, as coordinator of the implementation of the Justice Sector Reform Strategy for the 2011-2016 , in order to achieve optimal action 6.3.2 page 2 of the Strategy Action Plan, approved by Parliament Decision no. 6 of 16.02.2012, "Fitting assistance and spaces for hearing children inside the courts, prosecution offices and police stations", organized a roundtable with the representatives of the implementing institutions of the justice sector, the third sector and development partners;
- The General Directorate of Criminal Prosecution participated in a study seminar entitled „Justice for Children” held at the „Stefan cel Mare” Police Academy premises, between July 1-2, 2013, in partnership with UNICEF and General Directorate of Criminal Prosecution of the General Inspectorate of Police;
- From 08.06.2013 the Directorate attended the consultative meeting on identifying opportunities for documentation of cases of docking children for sexual purposes in terms of exclusion among children in the documentary.

In 2011 the CO International Center for Women Rights Protection and Promotion "La Strada" provided two training modules entitled „Interdisciplinary approach to cases of commercial sexual exploitation of children” in order to promote the special, child hearing status of victim / witness of

sexual exploitation, involving 150 employees of the prosecution services and the department of child safety police subdivisions.

During 2012, „Terre des hommes” Foundation representative in Moldova, Lausanne-Switzerland, held four workshops for the employees of temporary placement of juveniles’ center of the Ministry of Internal Affairs, which aims to develop communication skills of children and intervention strategies for positive discipline approach for the beneficiaries of the Centre.

On November 14, 2012, under „Free, powerful and protected - towards a better system of child protection in Moldova” project held in Orhei and Leova, conducted in cooperation with the National Center for Prevention of Child Abuse, 27 employees of public order services from targeted districts were trained on effective intersectoral cooperation mechanism and monitoring assistance to child victims and potential victims of abuse, neglect, exploitation and trafficking.

Also, between 28-30 of March 2012, the NGO “Partnership for Every Child” in collaboration with the Ministry of Education, Ministry of Health and Ministry of Labor and Social Protection implemented the project „Ensuring children's right to protection from family violence, abuse and neglect”, funded by USAID, which assists the Government of the Republic of Moldova to strengthen the child protection system, ensuring growth in a family's safety and protection, held a workshop entitled „New insights for social services for children and families in Falesti, Calarasi, Ungheni, part II”, which was attended by 10 employees of public order police services (deputy commissioners, police chiefs of public order).

Between 20-31.05.2013, 45 employees of the Department of Child Safety, were trained on best practices for effective communication with children. The training of trainers was organized with the support of „Terre des hommes” Foundation Representative in Moldova, Lausanne-Switzerland, which is foreseen to expand their training activities within the territorial subdivisions of police in preventing and combating all forms of abuse, negligence, exploitation and increasing the level of safety and protection of children.

There is no specific mentioning on the data of offences in the circle of trust.

- *Include any relevant data in an Appendix.*

PREVENTION

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

Question 2: Education for children

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

For the purpose of violence prevention and regulation of the identification, documentation and intervention actions in the cases of child abuse within the education system, the Procedure of institutional organization and intervention of the staff of educational institutions in the cases of abuse, neglect, exploitation and trafficking of children (hereinafter referred to as Procedure) was

approved by the Minister's Decree no. 77 of February 22, 2013. Under the Procedure provisions, Regional/Municipal Departments for Education, Youth and Sport have assigned coordinators for the violence prevention on the regional level, whereas the directors of the educational institutions have assigned coordinators on the level of institution. Managers of pre-university institutions, teaching and nonteaching staff of all educational institutions, including kindergartens, vocational schools, and colleges, were informed of the Procedure provisions.

With the support of UNICEF Moldova, the first training stage of 115 local trainers was finalized. The trainers shall assist local trainers within Regional/Municipal Departments in training the teaching staff to conduct activities addressing violence prevention through interactive methods of teaching. The training programme includes the aspects of child protection against sexual abuse and sexual exploitation as well.

The Ministry of Education is the member of the interministerial working group responsible for the completion of the intersectoral cooperation mechanism of monitoring and assistance for child victims and potential victims of abuse, neglect, exploitation, and trafficking, piloted in the regions of Orhei, Leova, Ungheni and Falesti during the academic year 2012/2013.

Based on the reports issued by the Regional/Municipal Departments, the first quarterly report (March-May 2013) on the cases of child abuse and neglect was elaborated. Preliminary data shows that the teaching staff has a narrow and general understanding of violence against children, especially of sexual abuse. The majority of cases of physical and emotional abuse among students were identified and reported by the institutions. The data analysis shows that the number of reported cases of neglect, sexual abuse and labour exploitation as well as cases of abuse by adults, including abuse by the employees from the education system is comparatively low.

The Methodology on application of the Procedure is being finalized. This Methodology shall offer the support to the Regional/Municipal Departments necessary to implement the Procedure as well as to organize teacher trainings in the field of violence prevention among children and youth.

No special attention is drawn to children's education concerning the risks of sexual abuse of children in the circle of trust

Question 3: Recruitment and screening

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

In accordance with Law no. 158 of July 04, 2008 on the public office and status of civil servant may apply for a public 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 is approved.

Section 7. The center staff

From the moment of employment, every six month, 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 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 trained staff in the Training Centre have been revised and amended, being introduced a new discipline, "Ensuring the rights of children in detention."

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

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

In order to raise children awareness and eradicate victimization and to promote partnerships with civil society, the Ministry of Internal Affairs in cooperation with representatives of the International Center for Women Rights Protection and Promotion "La Strada", the National Federation of Fight "VOIEVOD" and "New Life" during summer 2012, carried out the campaign to promote healthy lifestyles, prevent and combat social vices and violence, youth camps and child health recovery within 19 camps and child health recovery. Informational and educational activities were attended by 2838 children. During the summer 2013, these activities continued within the campaign "Children together for security" in 10 camps and child health recovery, being attended by 2882 children.

In order to prevent this scourge the Ministry of Internal Affairs drafted the Provision no. 6/675 of March 19, 2013 on preventing and combating violence against children.

The police staff, responsible with the enforcement of provision in schools, during 2012 carried out 11988 information and educational activities (2011-11431) through which children were familiarized with the situation regarding crime among minors, legislation in this compartment and victimization risks they are exposed, making it submitted recommendations to avoid them.

To raise awareness on the problems of children in need and the familiarization with the situation at juvenile delinquency the police employees made 486 media sources materials, including 133 TV shows, 119 radio reports and 234 publications in the press.

The children were made familiar with the rules of behaviour in society, the risks they are exposed during the summer holidays, providing them with recommendations how to avoid risks.

During 12 months of 2013, the Ministry of Internal Affairs together with representatives of the International Center for Women Rights Protection and Promotion, "La Strada" and the (NGO) "Moms for Life" launched two campaigns in order to encourage promotion of healthy lifestyle among young generation, to prevent and combat social vices and violence, entitled "An informed child - A protected child" and "Children together safety".

10.090 Informational and educational activities through which children were made familiar with the situation regarding crime among minor aged persons, legislation criminal offenses in this section and the risks of victimization are exposed, making it submitted recommendations to avoid them were in organized in pre-university institutions during 12 months of 2013 by the police staff.

303 media sources, including 91 television shows, 58 radio and 154 publications reporting in the press were made to raise awareness on issues such as children's risk, familiarity with the situation at juvenile delinquency, by juvenile inspectors' materials.

The International Children's Day is based on the initiation of activities to promote the welfare of children around the world, while the fest also invites us to remember the good times of childhood and enjoy every day and moment of life, with children.

In this context, on June 1, while celebrating the International Children's Day, the Ministry of Internal Affairs, with its expertise in child protection, has conducted several activities. Thus, on 31.05.2013 in the Central Sports Club "Dinamo" an entertaining cultural program dedicated to International Children's Day was held, in which 600 children of subordinated subdivisions employee participated.

In this period in 35 administrative units 102 fun cultural activities were conducted entitled "Dad, Mom and I"; "Street Art" " exhibition of photographs of children, games, flash mobs, which were attended by 27 106 children of the police inspectorate staff attended.

In order to exploit the event dedicated to "International Day of Children Victims of bullying - June 4 "and awareness of its importance, the Ministry of Internal Affairs, during 03 - 06/04/2013, performed within the territorial police inspectorates an event entitled "Open Doors Day", where the visitors were children and their parents.

The scope of work is changing the perception of the young generation, over the police that it is not a repressive body, but it is a specialized public institution of the state, which has the mission of defending fundamental human rights and freedoms by keeping activities, insurance and restoration order and public security, the prevention, investigation and discovery of crimes and offenses, thus raising the confidence level of society, promoting a positive image among citizens.

Thus, in 42 police stations were deployed 52 visits involving 1965 children and parents, who were made familiar with the reception, recording incoming calls from citizens and organization, guidance and appropriate reaction, as well as its equipment.

Children had the opportunity to speak with police staff in the field of child rights protection and victims of bullying, received recommendations to avoiding risks.

Question 5: Specialised training

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

In order to specialize the prosecutors on justice for children, as well as raising the efficiency of prosecutors specialized in children's issues, including issues related to the circle of trust, the

General Prosecutor, in cooperation with The National Institute of Justice, permanently organizes continuous trainings for prosecutors specialized in children's problems.

These subjects of seminars and trainings are: "Juvenile Justice: juvenile standards and procedures, specific ability and knowledge in working with minors", "The audition of child victims/witnesses of abuse, of sexual exploitation etc."

In the 2011 by CO International Center Protection and Promotion of Women's Rights "La Strada" were organized two training modules entitled "Interdisciplinary approach to cases of commercial sexual exploitation of children", in order to promote the special child hearing status of victim / witness of sexual exploitation, were involved 150 employees of the prosecution services and the child safety unit from police subdivisions.

During 2012, by the Terre des Hommes Switzerland Foundation, representation in Moldova, have been organized four training workshops for employees of temporary placement of juveniles Centre subordinated to the Ministry of Internal Affairs, which aimed to develop communication skills with children and intervention strategies for positive discipline approach of Center beneficiaries.

On November 14, 2012, in the context of the project "Free, powerful and protected - for a better system of child protection in Moldova" held in Orhei and Leova regions, conducted trainings in cooperation with the National Center for Prevention of Child Abuse, where were trained 27 employees of public order services from districts targeted on effective intersectoral cooperation mechanism and monitoring assistance to child victims and potential victims of abuse, neglect, exploitation and trafficking, one of the subject being related to cases and possible offences, danger in the circle of trust.

Also, in March, between 28 and 30, in 2012 by CO "Partnerships for Every Child" in collaboration with the Ministry of Education, Ministry of Health and Ministry of Labour, Social Protection and Family has been implemented the project: "Ensuring children's right to protection from family violence, abuse and neglect", funded by USAID, which provides assistance to the government of the Republic of Moldova in strengthening child protection system and ensuring his/her growth in a safe and protective family environment, and has been organized a workshop entitled "New insights in providing social services for children and families from Falesti, Calarasi, Ungheni part II", which was attended by 10 employees of public order service (deputy commissioners, police chiefs public order).

During the period 20.05.2013-31.05.2013, 45 employees of the Department of Child Safety, were trained on best practices for effective communication with children. This training was organized with the support of Terre des hommes Foundation Representation in Moldova, Lausanne-Switzerland, which will expand their training activities in the subdivisions of the police to prevent and combat all forms of abuse, negligence, exploitation and to increase the level of safety and protection of children in any possible environment.

In order to extend the field of training, in the period 25 November - 10 December 10, 2013, were organized 11 regional workshops attended by 654 employees of Community Interaction Unit, which will expand their training activities within police subdivisions on "Effective communication with children", in order to identify the needs of the children and the possible cases of child abuse in families or at school, in the circle of friends and relatives.

The beneficiaries of this training were public security chiefs, deputy chiefs, chiefs of Community interaction, Heads police stations and inspectors from main subdivisions of police stations, which will then instruct subordinates, creating effective communication skills with children and their application in functional exercise.

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

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

In October 2013, the Ministry of Labour, Social Protection and Family launched in partnership with the United Nations Children's Fund in Moldova and with the support of the Gas Natural Fenosa Company a campaign entitled "Protect my childhood", which aims to reduce violence against children by informing parents and families about the positive methods of discipline.

During the campaign were running two video and audio spots with the theme of child protection from violence and abuse. Also was organized a national competition of drawings in schools of the country, and was organized seminars, roundtables and anti-violence marathons.

In order to promote non-violent practices in raising and educating children in the UNICEF global campaign, in November 2013 the Ministry of Labour, Social Protection and Family participated in the launch of the campaign "Stop violence". During this campaign was presented a spot that was adapted for local audiences, whose promoter sent the following message: "Just because we cannot always see the violence against children it does not mean that the violence does not exist. Join us! Together we can stop violence against children! "

Question 7: Preventive intervention programmes or measures

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

In 2010 a cooperation agreement on the project "Ensuring children's right to protection of family violence, abuse and neglect" was signed between the Ministry of Labour, Social Protection and Family and the Association "Partnerships for Every Child".

The overall project goal is to improve the access to qualitative services of social protection, including prevention and protection systems from separation of family, violence, abuse, neglect and exploitation for a number of 100 000 vulnerable children in Moldova.

The Center for Combating Trafficking in Persons of the Ministry of Internal Affairs concluded memoranda of cooperation with the following partners: CNPAC, International Center "La Strada", the ILO and the Ministry of Labour and Social protection, stipulating various forms of assistance to victims of trafficking, including child victims of violence and sexual abuse, which have basic objectives of legal and psychological assistance and protection of victims of trafficking in human beings especially children, development of social partnership, ensuring access to quality services trafficking victims and prevention of victimization, developing tools and procedures for identification, referral, assistance and protection of victims of trafficking, strengthening professional capacities of human resources, development financing mechanism of protection and assistance to victims of trafficking, victim assistance in setting procedures for returns, etc.

In September 2011 a Memorandum of collaboration for implementation of the project "Free, powerful and protected - towards a better system of child protection in Moldova" was signed between the Ministry of Labour, Social Protection and Family, Ministry of Education, Ministry of Health, Ministry of Internal Affairs, Leova and Orhei District Councils, (NGO) the National Center

for Prevention of Child Abuse and (NGO) the Center for Information and Documentation on Child Rights.

The Center for Combating Trafficking has signed Memorandum of cooperation with the following partners:

- CNPAC, International Centre "La Strada", ILO, Ministry of Labor and Social Protection regarding various forms of assistance to victims of trafficking, including child victims of violence and sexual abuse, which have as their objective the protection and psychological and legal assistance to victims of human trafficking, especially of children, development of social partnership, ensuring access to quality services for trafficking victims and prevent victimization, developing tools and procedures for identification, referral, assistance and protection of the victims of trafficking, strengthening professional capacities of human resources, development of funding mechanisms to protect and assist victims of trafficking, support victims of the trafficking in the repatriation procedures etc.

The Ministry of Labour, Social Protection and Family in partnership with the United Nations Children's Fund has elaborated the communication Strategy to prevent and combat violence against children in the Republic of Moldova, that includes the principles of action, relevant general and targets objectives at national level that are orientated to promote the child rights, the ensure the security and protection of children from abuse.

UNICEF, the National Council for the Protection of Children's Rights, MEY and the National Centre for Prevention of Abuse against Children implemented a nationwide communication campaign titled "Childhood without Violence" in 2006 to address these problems.

Also, according to the national legislation, after getting out of the prison, the offenders are subject to a supervision period by the competent authorities and also to recovery programs

PROTECTION

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

Question 8: Reporting suspicion of sexual abuse

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

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. 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. 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.

For this purpose the seminars conducted with the police representatives in order to strengthen their communication skills aimed at encouraging the family members or friends of children to communicate the possible cases of abuse and to detect the danger from early time.

Question 9: Assistance to and special protection for victims

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

Under Law no. 45 of March 01, 2007 on prevention and combating domestic violence in cases of violence and / or abuse the following protective measures shall apply. The court shall, within 24 hours of receiving the request, issue an order of protection, which can assist the victim, applying to the aggressor the following measures:

a) an order to temporarily leave the joint dwelling or stay away from the victim's home without deciding on the ownership of the goods;

b) an order to stay away from the victim;

c) the obligation not to contact with the victim, children or other dependents to the victim;

d) prohibition of visiting the place of work and living of the victim;

e) an order, until the case is resolved, to contribute to the maintenance of children which he/she has in common with the victim;

f) an order to pay costs and damages caused by acts of violence, including medical expenses and the replacement or repair of destroyed or damaged property;

g) limiting unilateral disposal of common goods;

h) order to participate in a special program of treatment or counselling if such action is determined by the court to be necessary to reduce or eliminate violence;

i) establishment of a temporary visitation of children;

j) prohibition to keep and wear arms.

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

Law/Criminal Code provides penalties for offenses against minors:

The criminal order:

- Custodial
- Deprivation of the right to occupy certain positions or engage in certain activities

PROSECUTION

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

Question 10: The offence of sexual abuse

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

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

The "acts committed with intent", according to art. 17 of the Penal Code shall be considered "offense committed is considered intentional if the person who committed it realized the harmful nature of its action or inaction, foresaw harmful or admission wished consciously, occurrence of such consequences."

- b. what is understood by "sexual activities" in internal law? (**Explanatory Report, para. 127**).

It is used the term "sexual abuse" means "attracting and involving a child by another person in a child's sexual activity against their will."

Question 11: Corporate liability

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

The assumption rape (art. 171 CC), violent actions of sexual nature (art. 172 CC), and two scales are fixed: under 14 years and between 14 and 18 years, constituting aggravating Art. 171 CC and art. 172 CC.

- Art. 171 line 2 letter b) Rape, i.e. sexual intercourse committed by the physical or mental coercion of the person, or by taking advantage of the victim's incapacity to defend himself/herself or to express himself/herself.

- Art. 172 line 2 letter b) Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person or by taking advantage of the person's incapacity to defend himself/herself or to express himself/herself.

- Art. 172 line 3 letter a) Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person or by taking advantage of the person's incapacity to defend himself/herself, committed to a juvenile under the age of 14;
- abuse of a recognized position of trust, authority or influence over the child, including the family;
- Art. 171 line e letter b²) rape committed against a family member:
- Art. 171 line 3 letter a) rape of a person under the care, custody, protection, education, or treatment of the perpetrator;
- Art. 172 line 2 letter b²) Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person or by taking advantage of the person's incapacity to defend himself/herself or to express his/her, committed against a family member;
- Art. 172 line 3 letter a) Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person or by taking advantage of the person's incapacity to defend himself/herself or to express his/her, of a person under the care, custody, protection, education, or treatment of the perpetrator;

Question 12: Aggravating circumstances

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

Law No 73 of 12.04.2012 on amending and supplementing certain acts stipulates: committed against children who are in care under protection, protected, educated, offender treatment"

Question 13: Best interest of the child

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

According to art. 10 para. 6 Code of Criminal Procedure "Respect for the rights, freedoms and human dignity" - for when a minor victim or witness will act to meet its interests at any stage of the criminal process.

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

No additional information

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

Under the Family Code, a parent may be deprived of parental rights if he/she:

- a) avoids the exercise of parental obligations, including the payment of alimony;
- b) refuses to take the child from the hospital or other institution of healing, education, a social institution or a similar one;
- c) abuses their parental rights;
- d) behaves with cruelty to the child, applying physical or mental violence, threatens the child's sexual inviolability;
- e) by immoral behaviour, adversely affects the child;
- f) suffers from chronic alcoholism or drug addiction;
- g) committed premeditated offenses against life and health of children or spouse, as well as ;
- h) in other cases when it is necessary to respect the interest of a child .

Upon request of the guardianship/tutoring authority, the court may decide to take children from their parents without the deprivation of parental rights if children are in situation of danger to life and health.

According to Law no. 140 for special protection of children at risk and children separated from their parents if, as a result of the initial assessment of the child by authority investigating, there is immediate danger to the life or health of the child, guardianship/tutoring authority in whose place of location is the child immediately available shall take the child from the parents or caregivers, and communicate about it to the prosecutor within maximum 24 hours. Local guardianship/tutoring authority within 3 working days will bring an action in court for deprivation of parental rights or taking away of children from their parents without their deprivation of parental rights. If this requirement is not fulfilled, the child will be returned to parents immediately.

Question 14: Child-friendly justice

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

In any case, no matter who the perpetrator is, 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. No 109 line 5 of CCP, if the witness minor is aged under 14 years 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 110¹.

Special hearing conditions are stipulated by Article 110¹ 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).

According to a draft law amending on the Criminal Procedure Code, the Article No 371 of the Criminal Procedure Code will be supplemented by paragraph (1) with the following content:

“(1) In the case when a minor, under the age of 14, has given statements in accordance with the provisions of article 110 from the present Code, the reading of these statements, audiovisual recording will replace the minor hearing 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.”

In order to avoid the contact and possible additional trauma, under Law no. 45 of March 01, 2007 on prevention and combating domestic violence in cases of violence and / or abuse the following protective measures shall apply. The court shall, within 24 hours of receiving the request, issue an order of protection, which can assist the victim, applying to the aggressor the following measures:

- a) an order to temporarily leave the joint dwelling or stay away from the victim's home without deciding on the ownership of the goods;
- b) an order to stay away from the victim;
- c) the obligation not to contact with the victim, children or other dependents to the victim;
- d) prohibition of visiting the place of work and living of the victim;
- e) an order, until the case is resolved, to contribute to the maintenance of children which he/she has in common with the victim;
- f) an order to pay costs and damages caused by acts of violence, including medical expenses and the replacement or repair of destroyed or damaged property;
- g) limiting unilateral disposal of common goods;
- h) order to participate in a special program of treatment or counselling if such action is determined by the court to be necessary to reduce or eliminate violence;
- i) establishment of a temporary visitation of children;
- j) prohibition to keep and wear arms.

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

The cases related to the procedure of submitting a report or accusation is stipulated in the article 276 of the Criminal Procedure Code of the Republic of Moldova.

„Article 276. Initiating of criminal investigation based on the complaint of victim

(1) prosecution is started only upon the preliminary complaint of the victim for the offenses provided to in Articles 152 para. (1), 153, 155, 157, 161, 173, 177, 179 para. (1) and (2), 193, 194, 197 para. (1), paragraph 198. (1), 200, 202, 203, 204 para. (1), 2461, 274 of the Criminal Code, as well as of the thefts committed by juveniles, by spouse, relatives, in the damage of custodian, or the person who lives with the victim or is housed by it. At the reconciliation of the victim with the suspect, culprit or defendant, in the cases mentioned in this paragraph, the prosecution process is terminated. Procedure, in such processes, is general.

1¹) By derogation from the provisions of paragraphs. (1) where the prosecution authority directly detects or is notified about commission of or preparation for the commission of offenses referred to in art. 1852, exception for offenses in para. (23), and art. 1853 of the Criminal Code, it shall notify the holder of rights or empowered authority under the law on the protection of geographical indications, designations of origins and traditional specialties guaranteed about them. If the holder of rights or empowered authority under

the law on the protection of geographical indications, designations of origins and guaranteed traditional specialties, within 15 working days of reception of notice, do not make the preliminary complaint, the prosecution authority do not start the prosecution, according with the provisions of this Code.

(2) If, after the crime, have suffered more people, the start of prosecution is made even preliminary complaint is submitted only by one of the victims.

(3) If the commission of an offense was attended by several offenders, even if only preliminary complaint was filed only against one of the offenders, prosecution is carried out on all offenders.

(4) If the victim listed in a lawsuit, concerning of an offense under par. (1), because of the inability or limited exercise capacity, state of helplessness and dependence on suspicion or, otherwise, is not able to defend their rights and interests, the prosecutor starts prosecution even if the victim did not file a complaint.

(5) At the reconciliation of the victim with the suspect, culprit or defendant, in the cases referred to in para. (1) the prosecution process is terminated. Reconciliation is personal and do effect only if it taken until the final court decision. In cases of domestic violence, the prosecutor or the court will examine if the victim reconciliation is freely expressed, ensuring that the victim had real access to assistance and protection.

6) For incapable persons, the reconciliation can be done only by their legal representatives. People with limited exercise capacity can reconcile with the consent of their legal representatives. The reconciliation can take place if the prosecution was initiated by the prosecutor from office.

(7) Reconciliation of parties can take place through mediation.”

In any other case, not stipulated in Art. 276 of the CPC, the prosecutor has the right to continue the criminal proceedings against the perpetrator, cases of sexual abuse against children being also included in the serious offences and the prosecutor have the necessary competences in this regard.

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

In accordance with Article No 18 para. 2¹ 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.

The minor's statements heard in the terms of Article 110 of the Criminal Procedure Code will be recorded by audiovisual means and will be also recorded in a written report. The court seals the information support that was recorded with the witness and keeps the original with 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.