



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-ES(2014)THE-MT

LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

MALTA

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 10 February 2014

Updated information registered by the Secretariat on 14 January 2016

GENERAL FRAMEWORK

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, para 83 and 84**);
- include any relevant data in an Appendix.

Data regarding the entire Child Protection Service is collected by Aġenzija Appoġġ, which is the National Agency for children, families and the community, safeguards and promotes the well-being of persons through the development and provision of psycho-social welfare services. Aġenzija Appoġġ forms part of the Foundation for Social Welfare Services, which is responsible to provide social welfare services, in particular in relation to alcohol and substance abuse and in relation to other social welfare problems prevalent in the country, especially those related to family welfare.

The data collected is not specifically on sexual abuse or specific to children in the circle of trust. Therefore the data is predominantly collected for observing the phenomenon of child abuse. No focal point has been identified with regards to statistical data on victims and offenders within the circle of trust.

In terms of processed data, the Child Protection Service inputs information concerning their cases within an Access Database. This information is then collected by the Foundation for Social Welfare Service's Research Office. The information is processed and analysed every 6 months. A Statistical Report containing the data is published every 6 months. An annual trends report is published for internal use and a Biennial Report is published online and is accessible at:

<http://fsws.gov.mt/en/fsws/Pages/research.aspx>

The data is used to reply to local Parliamentary Questions, for various local and international questionnaires e.g. WHO Questionnaire on the prevention of child maltreatment and other adverse childhood experiences (ACE), US Department of State Country Report on Human Rights Practices in Malta for 2011. From time to time, statistical data is released to the Media and is requested by the National Statistics Office for publications such as the Children's Publication. The publications are available at:

http://www.nso.gov.mt/statdoc/document_view.aspx?id=2640

The Protection of Minors (Registration) Act came into force in January 2012. It provides for the registration of sexual offenders and other offenders who commit offences of serious violence towards minors.

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11815&l=1>

PREVENTION

Question 2: Education for Children

Children are taught about sexual abuse within their circle of trust from a very young age. During primary school, Agency Sedqa (Sedqa Prevention Team) and the Child Safety Services (Education Department) deliver various talks and lessons to children to educate them about a number of matters, including sexual abuse. Children receive information about the privacy of their bodies, appropriate behaviour and skills on what to do if the behaviour of those around them becomes inappropriate or abusive. These sessions are delivered in a child friendly way through skits, games, discussions and stories. Children are able to talk about any sexual abuse to the facilitators of the sessions as well as to their guidance teachers, counsellors and other school staff whenever necessary. Children as young as 7 or 8 years old are taught about this subject. Nevertheless, more emphasis needs to be placed on informing children that sexual abuse is not only a matter that may be perpetrated by a person outside of their circle of trust but that their parents and loved ones could also abuse them. As children grow older, PSD (Personal and Social Development) lessons are carried out (especially in secondary school) dealing with the subject of sexuality and abuse. These sessions are utilized to inform children about abuse and encourage them to speak about any abuse they are suffering. Counsellors and guidance teachers remain available at all times for children to approach them.

Children are given tips on what to do when abuse occurs, including ways on how to keep safe and ask for help. They informed of helplines, social work assistance and school personnel who could help them. Follow-up meetings by school guidance and counsellors ensure that children who are suspected of being abused are listened to so as to verify whether they are in fact being abused.

Agency Appogg utilizes the Hotline Service to inform children about abuse sexual abuse and how this abuse may take place over the internet. Children are taught to keep their information private, how to set such privacy settings, to be careful about what they post online and what personal details they divulge about themselves.

Question 3: Recruitment and Screening

In Malta, most organisations and employers seeking to employ professionals to work with children request that their prospective employees present a copy of their police conduct upon application.

Chapter 518 of the Laws of Malta – Protection of Minors (Registration) Act – states in Article 4(2) that: “Any relevant entity which, against payment or otherwise, intends to employ any person or to entrust any person with a position within the entity shall, before so

employing or entrusting such person, request the competent court for information which may be registered in the Register in respect of that person.”

The above implies that any entity wishing to employ a person for paid or voluntary work must first check with the courts to check with the Register (of persons guilty of such crimes) to see if the person they seek to employ has been convicted of any acts of sexual exploitation or sexual abuse on children. This way, those professionals involved with children will be duly screened. Nevertheless, some persons go by unnoticed as those persons pending conviction are not listed on the Register. Furthermore, listing on the Registry is at the discretion of the judiciary and therefore conviction of such an offence does not automatically equate that the person would be placed on the Register.

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.

There has not been any recent awareness raising occasions or events targeted particularly at sexual abuse with the child’s circle of trust. There nevertheless have been a number of occasions when Sedqa Prevention Team spoke to children and raised awareness about child sexual abuse without such the above mentioned focus. In 2012 the Commissioner for Children began a campaign (Kiko u l-Id – translated version of Kiko and the Hand) to create more awareness about sexual abuse with children (<http://www.timesofmalta.com/articles/view/20120601/local/book-to-help-prevent-sexual-violence-against-children-launched.422299#.UtVnk RDvDo>) along with a guide to help parents identify such abuse.

Further emphasis is needed on raising awareness with children about sexual abuse however.

SEDQA’s intervention in this regard happens almost exclusively through the B.A.B.E.S. programme delivered to Year 3 pupils (7 year olds). One of the sessions particularly focus on the private body parts of the children and about whom and in which circumstances other persons could have access to their private body parts. This is done mainly through the medium of story-telling and hand puppets.

Should any of the children disclose any form of abuse, our facilitators are to report immediately to the head of school as the person responsible of the place where the disclosure would have taken place. The facilitators would also report this to their line manager at sedqa. All this is covered through a protocol as part of the SAFE Schools Programme. Sedqa’s responsibility is to trace the referral and ensure that it has been passed on to the authorities responsible as per protocol mentioned above.

SEDQA also provides training to students against sexual abuse by imparting skills aimed to obtain a better positive self-image, positive self-esteem, good communication with parents and assertiveness. SEDQA also provides parental skills to improve communication between parents and children. It is well known that the more resilient factors a child has, the less probable is that an episode of attempted sexual abuse goes unreported.

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**).

No such legislative or other measures are currently in force in relation to such specialised training. Social Workers working within Child Protection Service are given the same generic training in social work and eventually receive informal training through observations, mentoring and assistance from colleagues. This is in no way a form of specialised training on such matters.

Training initiatives are provided internally Police officers dealing with these types of investigations. They also gain experience throughout their work, how to deal in the best manner with these vulnerable victims and difficult situations.

There has also been a common practice established between social workers within Agenzija Appogg and the police when investigating a report of violence on children. In cases of child abuse reported to the police, it is ensured that the child is interviewed once in order to avoid further victimization.

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

The participation of children has yet to utilize in relation to the development of such policies programmes and/or other initiatives in relation to the sexual abuse of children in the circle of trust. The programme explained above undertaken by the Commissioner for Children involved the media but not so much focus was placed on the fact that such abuse may be perpetrated by those within the child's circle of trust. More emphasis on the aspect of raising awareness and programme development and implementation are necessary with all the stakeholders mentioned in this question, especially with 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**).

At the moment, no specific intervention programmes or measures designed to evaluate and prevent the risk of sexual offences being committed exist at the moment in Malta. Nevertheless, those persons who approach social services seeking help or are identified as having the potential of being abusive are encouraged to seek counselling and/or therapy to deal with this issue. When a person is identified as having the potential of causing a sexual offence, he is referred immediately to therapy while Child Protection Services ensures the protection from harm of those children around him/her. No mandatory therapy or programmes exist and the need for specific programmes designed at intervening with abusive or potentially abusive persons who perpetrate sexual abuse on children is needed.

PROTECTION

Question 8: Reporting suspicion of sexual abuse

The Protection of Minors (Registration) Act has introduced an obligation on any officer or any person who may in any way be involved in the management of a relevant entity and who becomes aware of the commission of a scheduled offence which is committed in the relevant entity to report the fact to the Commissioner of Police. Failure to do so would render such officer liable to criminal prosecution.

Child Protection Services strives at creating important networks with professionals working with children in order to encourage them to report cases of suspected child sexual abuse whenever these emerge. This is done through regular meetings with school staff, professionals and other entities working with children. Furthermore, training sessions have been given to such professionals in order to raise awareness of abuse from the child's circle of trust and the need to report such occurrences.

The media has also been utilised on a couple of occasions to emphasise with the general public the importance of reporting such suspected abuse.

Question 9: Assistance to and special protection for victims

- a. National law provides 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 through the issue of an interim care order in virtue of article 5 of the Children and Young Persons (Care Orders) Act of a care order in virtue of article 4 of the said Act. An interim care order is valid for twenty one days and may or may not be followed by a care order which is for an indefinite duration. The conditions and duration of the care order are determined by a Children and Young Persons

Advisory Board who, upon the information provided by assigned social workers make recommendations to the competent Minister entrusted with the care of such minors, depending on the best interest of the child.

If criminal proceedings are pending the court may, if it so deems appropriate and with the consent of the alleged perpetrator, submit the accused to a treatment order in order for him or her to benefit from therapeutic assistance.

Child Protection Social Workers also recommend therapy for children who are victims of sexual abuse when the court deems so as appropriate following the child's testimony in court. This occurs after the child's testimony as there are no measures in place that allow a child access to psychological assistance prior to their testimony. A number of defence lawyers contest in court that giving therapy to a child before their testimony may result in influencing the child and so prosecuting police have always requested that therapy is afforded after the child has given testimony. The child is nevertheless supported by school professionals and CPS social workers.

Psychologists are also utilised by Child Protection Services to assist in the investigation of cases of alleged sexual abuse in order to find the least harmful of ways of approaching such a delicate matter.

- b. Yes, a conviction for an offence of prostitution of a descendant under age by an ascendant, or of a spouse under age by another spouse or of a minor by a tutor, or of defilement of minors, entails the forfeiture of parental authority, or of every right over the property of the spouse and in the case of a tutor perpetual disability from holding the office of tutor. The same applies for offences relating to the producing, offering, distributing of pornography depicting minors, where the offences are committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the person under age. The Court may also order that the offender be temporarily or permanently prevented from exercising activities related to the supervision of children. This also applies in the case of convictions for offences of inducing or instigating with violence persons under age into prostitution, participating in sexual acts with a minor and other unlawful sexual activities and solicitation of persons under age.

PROSECUTION

Question 10: The offence of sexual abuse

a)

Intentional conduct in internal law is the mental capacity of the offender to understand his actions and the requisite will to execute them.

In order for a person to be found criminally responsible, one must establish that such person had the intention to commit the offence i.e. the *mens rea*. The offender must have been capable of distinguishing between right and wrong and must have intended to commit or should have been aware that he was committing the acts which constitute the elements of the offence.

b)

The term 'sexual activities' is not defined in our law but is given a wide interpretation to include any conduct with a sexual purpose and which may lead to the defilement of the minor.

It does not appear that the term 'sexual activities' is defined in the Criminal Code. The Criminal Code prohibits specific offences, such as rape, defilement of a minor, child prostitution, child pornography etc. If the nature of the conduct of the accused does not constitute the elements of any one of these specific offences but is still considered as sexual in nature, then the conduct of the accused may still be punishable by virtue of the 'umbrella' provision prohibiting unlawful sexual activities in Article 204D of the Criminal Code.

Question 11: Corporate liability

Within the context of the [BeSmartOnline!](#) Project, inter-organisational dialogue and collaboration is fostered through an Advisory Board, whereby various stakeholders in the field of internet use meet regularly to discuss how internet safety for children can be enhanced. The views of children themselves, consolidated through another structure within the project, the Youth Panel, are considered and discussed by the Advisory Board.

Question 12: Aggravating circumstances

The law provides for aggravating circumstances for each of the various offences:

In the case of rape the offence is deemed aggravated if committed by any ascendant, tutor, or institutor or when the offence is committed on the person of a brother or sister, an ascendant or descendant, another person living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence, other persons who are related to each other by consanguinity or affinity up to the third degree inclusively or when the crime is committed in the presence of, or within hearing distance of a minor.

The offence of defilement of minors or instigation thereof and the offences related to the inducing of persons under age to prostitution are deemed aggravated if committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor of the minor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the minor.

Participation in sexual activities with minors is aggravated where the offender abuses of a recognised position of trust, authority or influence over the minor and any of the following circumstances occurs:

- (i) the offender wilfully or recklessly endangered the life of the person under age;
- (ii) the offence involves violence or grievous bodily harm to such person;
- (iii) the offence is committed with the involvement of a criminal organisation

In the case of the offence of violent indecent assault, the offence shall be deemed aggravated if committed on the person of a brother or sister, an ascendant or descendant, another person living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence, other persons who are related to each other by consanguinity or affinity up to the third degree inclusively or when the crime is committed in the presence of, or within hearing distance of a minor.

Where offences relating to the producing, offering, distributing of pornography depicting minors are committed by any ascendant by consanguinity or affinity, or by the adoptive father or mother, or by the tutor, or by any other person charged, even though temporarily, with the care, education, instruction, control or custody of the minor, the offence is also deemed aggravated.

The above mentioned offences as well as offences of inducing or instigating with violence persons under age into prostitution, participating in sexual acts with a minor and other unlawful sexual activities and solicitation of persons under age are also deemed aggravated in the following circumstances:

- (i) when the crime is committed by any ascendant, tutor,
- (ii) when the offence is committed on the person of a brother or sister, an ascendant or descendant, another person living in the same household as the offender or who had

- lived with the offender within a period of one year preceding the offence, other persons who are related to each other by consanguinity or affinity up to the third degree inclusively or when the crime is committed in the presence of, or within hearing distance of a minor;
- (iii) if the offender lives with or is a member of the victim's family
 - (iv) when the offence is committed on a vulnerable person which is defined as:
 - i. any person under the age of fifteen years; or
 - ii. any person suffering from a physical or mental infirmity; or
 - iii. any other person considered by the court to be particularly at risk of being induced into cooperating with the offender or into surrendering to the offender's will when taking into account the person's age, maturity, health, pregnancy, disability, social or other conditions including any situation of dependence, as well as the physical or psychological consequence of the offence on that person.

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?

Yes. These factors are considered as aggravating circumstances and therefore the punishment for the offences is increased by one or two degrees.

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).**

No. The punishment is increased by one or two degrees in all cases, irrespective of whether the relationship is within the context of family relations or of a professional or voluntary activity. It lies within the discretion of the court to provide different sanctions which are within the parameters of the law.

Question 13: Best interest of the child

a)

The legislative measures that exist 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 are as follows:

Children's Advocate – The law provides for a child advocate to be appointed to a child upon the request of the child, or the parents, but remains at the discretion of the judge/magistrate.

Hearing of vulnerable witnesses by means of a contemporaneous video conference – Chapter 164 of the Laws of Malta (Police Act) Article 90 – this is used to allow children to testify in the quiet of the magistrate’s/judge’s chambers without being present in front of the perpetrator.

Amongst the functions, the Commissioner for Children seeks to ensure that the rights and interests of children are properly taken into account by government departments, local authorities, other public bodies and voluntary and public organizations when decisions on policies affecting children are taken. One of the principles with which the Commissioner is guided is that which states that all children are to be treated with dignity, respect and fairness.

(Chapter 462 of the Laws of Malta (Commissioner for Children Act, 2003) Articles 9(f), 10(b) & 17(1)).

Child Protection Services strives to ensure that the rights of the child are upheld at all moments, acting as champions and advocates for the needs and wellbeing of children in such situations.

Investigations and criminal proceedings are carried out in such a way as to take into consideration the best interests of the child as much as possible:

1. The Police shall proceed *ex officio* to institute proceedings on the basis of Article 543 of the Criminal Code;
2. The court shall appoint *ex officio* a child advocate;
3. Minors do not give evidence in the presence of the accused but *in camera* by audio and video recording.

b)

Refer to reply to Question 22(d) of the GOQ. Whereas no legal imposition is made so that a child victim of sexual abuse is represented by an independent person when the parents have a conflict of interest to assist the child, an understanding exists with the judiciary and the police prosecuting the case to allow a social worker from Child Protection Service to accompany the child during his/her testimony. Interventions by the social worker depend on the magistrate or judge and have at times ranged from the social worker not being allowed to assist the child but just remain present for the sitting to allowing the social worker to assist the child through encouragement and stating the questions in a different way to assist the child in his/her testimony. Nevertheless, the social worker’s primary role implies support to the child before and after giving witness, firstly assisting the child to understand what giving witness is like and all about and later assisting the child after giving witness to process the whole matter. This is far from an ideal situation as social workers wish to have a more active role in this aspect to assist children in a child friendly manner to make this process less traumatic. The social worker of the child is not allowed to be a part of this process as this has often been seen as a means to influence a child’s testimony.

c)

Refer to reply to Question 9(b) above. No sanctions for monitoring or supervision of convicted persons are currently in force.

Forfeiture of Parental Authority in the case of an offence under Article 197

A conviction under Article 197 of the Criminal Code (see below), shall entail **the forfeiture of every authority and right granted to the offender over the person or property of the husband or wife or of the descendant to whose prejudice the offence shall have been committed**, and, in the case of the tutor, his removal from the tutorship and his perpetual disability from holding the office of tutor:

Provided that where the rights of the offender over the person to whose prejudice the offence has been committed consists of rights of parental authority the forfeiture provided for in this sub-article shall not apply automatically but may be imposed by the court after it has considered all the circumstances of the case and in imposing such forfeiture the court may also impose conditions:

Provided further that in the cases referred to in the above proviso the court may, upon the application of the offender, and only after appointing any expert that it may deem fit to appoint, remove or vary the conditions of the forfeiture, after being satisfied that a material change in circumstances justifies such revocation or variation of conditions.

Criminal Code, Article 197 (1) – Prostituting of descendant under age by ascendant:

*(1) Any ascendant by consanguinity or affinity who, by the use of violence or by threats, compels, or, by deceit, **induces any descendant under age to prostitution**, shall, on conviction, be liable to imprisonment for a term from three to six years, with or without solitary confinement.*

Criminal Code, Article 197 (2) - Prostituting of spouse under age or of minor by husband or wife or tutor:

*(2) The same punishment shall be applied to any husband or wife or tutor who, by the use of violence or by threats, compels, or, by deceit, **induces to prostitution his or her spouse under age or the minor under his or her tutorship.***

Offenders may also be deprived, by the Civil Court, wholly or in part, of the rights of parental authority (**Civil Code, Article 154 (1)**).

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**);

If the person is arraigned in court such a framework is in place to limit the re-traumatisation of children through court proceedings. However, the situation is not an ideal one. In certain cases the police may use police bail limitedly.

The courts and the prosecuting police attempt to limit the amount of times children give their testimony (usually limited to one session) and offer the protections mentioned above. Psychological assistance is offered usually post testimony and social work and school support remains ongoing.

The police always ensure that the victim is protected during the investigation process as well as in the criminal proceedings. Generally once an alleged perpetrator is charged in court, the prosecution request an immediate protection order on the victim and the family. Social workers or/and members of victim support unit are also involved in order to support and assist the victim. It is worth noting that a protection order can be imposed at any stage during the court proceedings, even included in the court judgement. Breach of this protection order is a crime punishable by a fine or/and imprisonment.

Please refer to question 13 regarding video conferencing – a child is allowed to give testimony in the presence of the magistrate/judge alone, while the alleged perpetrator, prosecution and lawyers watch this testimony over a video recording. Lawyers are not allowed to ask questions directly to the child and these questions are asked to the magistrate/judge and then asked to the child in a more child friendly manner. However, the physical layout of the court does not allow for the best use of this system as the child must pass through the court room in front of the alleged perpetrator before entering the judge's chambers. Most (if not all) cases involving child sexual abuse are heard without the public being allowed access.

Audio-recording or video-recording of evidence;

Minors give evidence only once during trial;

Protection Orders;

Bail Conditions;

In camera proceedings

Child Advocate in the cases mentioned in Article 14 of the Victims of Crime Act;

Questioning of minors at the Police station should be done by Police officers of the same sex, where possible and appropriate;

Social support - Please liaise with the Department of Social Welfare on any support provided from their end in this regard.

- 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);**

Such a measure is already in place; however there are instances where the law provides otherwise for example in cases of defilement of minors.

It can be safely said that nearly all cases of child abuse are initiated ex-officio, that is, without the need of the complaint of the injured party. Therefore if there is a third party report, the police must verify the report and investigation without any victim statement or accusation. Furthermore the law provides for instances where the case can be stayed before a court of law.

Article 543 of the Criminal Code states that:

It shall be lawful for the Police to institute proceedings even without the complaint of the private party in any of the following cases:

(e) in the case of any offence involving domestic violence: Provided that for the purposes of this paragraph "domestic violence" shall have the same meaning assigned to it by article 2 of the Domestic Violence Act¹

Provided further that it shall be lawful, after proceedings have commenced before the court in virtue of this article for an offence mentioned in this paragraph, for an alleged victim of an offence involving domestic violence to request the court to stay proceedings against the alleged perpetrator, and when such a request is made the court may decide and direct the continuation of proceedings against the alleged perpetrator, giving particular consideration to the best interests of any minors involved, and shall cause such request and decision to be registered in the records of the case.

Criminal proceedings may be instituted ex officio and may continue if the victim has withdrawn his or her statement in those circumstances where the law specifically provides for this, namely when the offence is committed with abuse of parental authority or tutorship, or when the crime is accompanied with public violence, domestic violence, or with any other offence affecting public order. Domestic violence is defined as any act of violence, even if only verbal, perpetrated by a household member upon another household member and includes any omission which causes physical or moral harm to the other. The term "household member" includes persons living in the same household as the offender or who had lived with the offender within a period of one year preceding the offence, parents and their children, persons who are related to each other either by consanguinity or affinity up to the third degree inclusively.

The Criminal Code does not expressly provide that the complaint of the person under age is required in order for criminal proceedings to be instituted against the offender in the case of offences established in accordance with the Convention. The Police shall proceed *ex officio* to institute proceedings on the basis of Article 543 of the Criminal Code.

¹ "domestic violence" means any act of violence, even if only verbal, perpetrated by a household member upon another household member and includes any omission which causes physical or moral harm to the other.

- 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).**

Criminal Code, Article 531 - Sittings to be held with closed doors;

A child victim gives evidence by audio-recording and by video-recording in criminal proceedings.