



T-ES(2016)GEN-HU

LANZAROTE CONVENTION

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

Replies to the general overview questionnaire

HUNGARY

Replies registered by the Secretariat on 14 June 2016

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”?*

Several concepts are used for persons under the age of 18 by branches of Hungarian Law.

Pursuant to Section 5 Act XXXI of 1997 Protection of Children and the Administration of Guardianship (hereinafter referred to as Child Protection Act) 'child' shall mean any minor under Section 2:10 paragraph (1) of Act V of 2013 on the Civil Code (hereinafter referred to as Civil Code). Section 2:10 of the Civil Code stipulates the minority as follows:

- (1) Persons who have not yet reached the age of eighteen years shall be deemed minors. Married minors are considered to be of legal age.
- (2) If the marriage is annulled by court order owing to the lack of capacity or in the absence of the guardian authority's consent where it is required due to minority, adulthood acquired by marriage shall no longer apply.
- (3) The dissolution of this marriage shall not affect adulthood acquired by marriage.

On the other hand there is a distinction between a child and a juvenile according to Act C of 2012 on the Criminal Code (hereinafter referred to as Criminal Code). Section 16 defines childhood as a ground for total exemption from criminal responsibility, on the basis of which persons under the age of 14 years at the time the criminal offense was committed shall be precluded from punishability, with the exception of perpetrators of certain very serious criminal offences (such as homicide, voluntary manslaughter etc.), if they were over the age of 12 years at the time the criminal offence was committed, and if having the capacity to understand the nature and consequences of their acts. It means that, as a general rule, the minimum age of criminal responsibility is 14 years.

Furthermore, in respect of application of the Criminal Code, any person between the age of 12 and 18 years at the time of committing a criminal offense is considered to be a 'juvenile offender'. To juveniles the provisions of the Criminal Code shall apply with some exceptions set out therein, which are favorable to them in comparison with the basic provisions that shall apply to adults.

Therefore relevant Hungarian regulations concerning the notion of child are in compliance with the wording of the Lanzarote Convention.

- 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**?*

In order to protect the best interest of the child a presumption is being applied during the criminal proceedings according to which as long as the offender's/victim's age has not been proven, and claims or seems to be a minor he/she shall be considered as a minor. Therefore rights ensured to children under Act XIX of 1998 on the Criminal Proceedings (hereinafter referred to as Criminal Proceedings Code) are ensured to persons who are not proven to be over 18 years of 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.*

Pursuant to Hungarian Civil law minors under 14 years of age lack legal capacity. Minors however between 14 and 18 years have limited legal capacity therefore the minimum age for consensual sexual activities is 14 years. The Criminal Code however provides an extensive protection for children under 12 years of age – as pointed out in reply to Question 16.

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. protect the rights of victims.*

Pursuant to Article XV of the Fundamental Law everyone shall be equal before the law. Every human being shall have legal capacity. (2) Hungary shall guarantee the fundamental rights to everyone without discrimination and in particular without discrimination on grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status. Provisions of the Fundamental Law are applicable to any person.

Article XVI of the Fundamental Law ensures the rights of the child which are set out by specific pieces of legislation.

Article XVI reads as follows:

- (1) Every child has the right to adequate protection and care for the appropriate physical, mental and moral development.
- (2) Parents have the right to choose the way of their children's upbringing.
- (3) Parents are bound to taking care of their children. Education of children is included to this obligation.

By virtue of the abovementioned constitutional requirements it would not be possible to implement any international obligation in a way that would discriminate the enjoyment of rights in respect of specific groups of people.

Rights of child witnesses/ victims are protected by the Criminal Proceedings Code.

Question 3: Overview of the implementation

Please indicate (without entering into details):

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

Under Hungarian law children are protected of violence (including abuse and sexual exploitation). Pursuant to Section 6 of the Child Protection Act the following rights of the child shall be ensured:

(5) Children have the right to have their human dignity maintained and to be protected against abuse - either physical, sexual or psychological -, negligence and informational harm. No children shall be subject to torture, corporal punishment or any other cruel, inhuman or degrading punishment or treatment.

(5a) Children have the right to be treated by experts acting to protect them who shall apply uniform principles and methodology - in particular those acting in order to recognise and terminate abusive situations.

(6) Children have the right to have access to media programmes that are in line with their development and help to extend their knowledge and protect the values of the Hungarian language and culture. They also have the right to be protected against adverse effects such as incitement to hatred, violence and pornography.

Section 24 of Act XLVII of 1997 on the management and protection of health care data and related personal data stipulates that in case of during the first medical examination of a child the suspicion occurs that the injury or illness of the child is due to abuse or neglect, or if circumstances that can be indicative of abuse or neglect are noticed during the health care of the child, the physician in charge must notify the competent child welfare services. (az egészségügyi és a hozzájuk kapcsolódó személyes adatok kezeléséről és védelméről szóló 1997. évi XLVII. törvény).

Although criminal law can only provide a last resort international obligations and standards has been carefully taken into account during the codification of the Criminal Code. In addition to a range of criminal offences defined later at questions 16-20 another offence has been inserted into the Criminal Code.

By virtue of the increasing need of providing effective protection for victims (including women and children) by the tools of criminal law, the Parliament of Hungary passed new legislation creating an individual offence of domestic violence. The description of the new

offence was formulated with the involvement of professional bodies and NGOs, also taking into consideration the traditional system of criminal law in Hungary, the constitutional and international requirements. As a result, the offence of domestic violence was inserted into the Criminal Code with effect of 1 July 2013 (Sec 212/A).

Creating a self-standing criminal offence was mostly justified by the group of the special passive subjects of this criminal act, which was determined by the legislator with a view to the social relationships where this crime is an actual threat violating marriage, family and children. The primary intention of the legislator is the deterrence of (potential) perpetrators. Domestic violence as a self-standing criminal offence may constitute an effective tool in preventing or combating sexual exploitation and sexual abuse of children.

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;

For the effective protection of children, Hungary has joined to the United Nation Convention against transnational organised crime.

Directive 2011/92/EU of the European Parliament and the Council on combating the sexual abuse and sexual exploitation of children and child pornography has been implemented into domestic law.

In order to prevent such crimes Hungarian Government adopted a National Strategy on Combating Human Trafficking (2013-2016) by its Decree 1351/2013. (VI. 19.). The National Strategy distinguishes five fields of the intervention:

- 1) Adequate, well functioning victim identifying, supervising and protecting system
- 2) Efficient prevention and awareness raising
- 3) Scouting, impeaching of the offender and the protection of the plaintiffs and victims
- 4) Verify of the coordination with the help of the governmental, half-governmental authorities and civil society
- 5) Safety return and the mapping of the possibilities of the integration at a governmental level, devising support measures.

Both the National Crime Prevention Strategy (2013-2023) adopted by Government Decree 1744/2013. (X. 17.) containing its first action plan for 2013-2015, and its second action plan for 2016-2017 adopted by Government Decree 1166/2016. (IV. 6.) set child and youth protection as a priority area. These actions plans prescribe specific measures on intervention fields like prevention of conflicts and violence or management and avoidance of dangers media or internet may impose on children.

A **new parliamentary resolution** on the national strategy guidelines in relation to the fight against domestic violence has also been prepared. In accordance with the **30/2015. (VII. 7.) Parliamentary Resolution on the national strategic goals concerning the effective combat against domestic violence** (adopted by the National Assembly on the 30th of June 2015) Hungary pledges itself:

- to provide the necessary financial and human resources for the effective combatting against domestic violence according to the prevailing budgetary opportunities
 - to enhance the cooperation between the public and the non-governmental sector in relation to the subject
 - **to put a priority emphasis on prevention, with special concern on young people**
 - **to ensure the protection and support of the victims in accordance with their special needs, with special concern on the interest of child victims (as direct or indirect victims)**
 - to maintain and elevate the necessary number of shelters and half-way houses for the victims of domestic violence
 - to provide such services by which it is possible to prevent that problems in the relationship could lead to domestic violence
 - to continually provide trainings for professionals who may encounter the phenomenon of domestic violence, with special concern on professionals working on the field of child protection
 - to consider the special needs of victims of domestic violence during tribunal and other proceedings
 - to continually push forward in reducing the latency regarding domestic violence by shaping social attitudes and inspire every actor of society to act against domestic violence
 - to continually disseminate information in society about the prevailing forms of services for the victims of domestic violence
 - to ensure that actions taken against domestic violence are based on scientific research, assessment and data collection, and that public actions are monitored regularly.
- 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.*

The Minister of Justice declared year 2012 as 'Year of Child-friendly justice'. In accordance with this declaration a working group was established to revise legal procedures from the aspect of child-friendly justice. The official website can be accessed: www.gyermekbarat.kormany.hu.

By virtue of the abovementioned declaration a number of rules concerning substantial and procedural civil and criminal law have been modified. It should be highlighted that the setting up of child-friendly hearing rooms started pursuant to Decree 32/2011 (XI. 18) of the Minister of Public Administration and Justice (meanwhile repealed by Decree 34/2015. (XI. 10.) of the Minister of Justice as pointed out in reply to Question 23 point a.)

Question 4: Child participation

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

According to Section 8 of the Child Protection Act (1) Children have the right to freedom of expression and to be informed about their rights and about how to enforce their rights; moreover they have the right to be heard directly or in some other way about every matter concerning their persons or property and to have their opinion taken into consideration based on their age, health and level of development.

(2) Children have the right to lodge a complaint in matters that concern them at forums specified in this Act.

(3) In the event of a violation of their rights, children have the right to initiate a procedure at the court and at other bodies specified by law.

Pursuant to Section 9 paragraph (1) of the Child Protection Act, Children taken into foster care especially have the right to the following, based on their age, health, development and other needs:

a) to receive full service and care providing children with stability and emotional security - taking into consideration the child's affiliation to nationality, ethnicity and religion -, as well as to receive adequate education, schooling and adequate legal representation to enforce their interests;

e) to express their opinion about the education, schooling and care provided to them, and to be heard and informed about matters concerning their persons;

f) to initiate the establishment of child councils in order to represent their interests;

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 mandate of the Commissioner for Fundamental Rights (legal predecessor: the parliamentary commissioner for citizens' rights) concerning children's rights was included in the Child Protection Act until 31 December 2011. Article 1, paragraph (2) of Act CXI of 2011 on the commissioner for fundamental rights entered into force on 1 January 2012, which contains the task of protecting children's rights: *"the commissioner for fundamental rights shall, during their activities - in particular by carrying out procedures launched ex officio - pay differentiated attention to the protection of children's rights."*

In accordance with their mandate, the Commissioner for Fundamental Rights examines instances of abuse affecting children's rights, and takes general or individual measures to remedy them. In addition, the Commissioner pays special attention to preventing infringements of rights, through so-called proactive rights protection. As such, as a kind of professional ombudsman for children's rights, the Commissioner set up a fundamental rights project in 2008 which focused on enforcing children's rights. The objective of the project is to identify any abuses that may arise in connection with children's rights and to promote the enforcement of children's rights. The focus of work concerning children's rights was, in 2008, raising awareness among children of their rights, in 2009, the right of children to protection against violence, and in 2010, the role of the family and institutions substituting the family. In 2011, the Commissioner for Fundamental Rights dealt with the right of children to physical and mental health, in the broadest sense. The focus of project work for 2012 was placed on the issue of a child-friendly justice system. In 2013, the ombudsman inspected the enforcement of the children's right to health and a healthy environment. In 2014, coinciding with the comprehensive amendment of the Child Protection Act, the activity of the professional ombudsman is directed at examining the child protection system from the aspect of fundamental rights.

In 2015 Office of the Commissioner for Fundamental Rights initiated 4-5 comprehensive examination concerning the rights of the child.

Tasks pertaining to children's rights are carried out by the Office of the Commissioner for Fundamental Rights with the help of the Children's Rights Division at the Department for Equal Opportunities and Children's Rights, operating at the Office from 1 January 2014. In addition to investigating complaints and carrying out examinations ex officio, their tasks extend to editing the children's rights website and Facebook page as part of proactive child protection, attending conferences and workshops in Hungary and abroad, providing information to the European Network of Ombudspersons for Children and other international bodies, and monitoring the system of provisions for children in Hungary.

In order to reinforce legal protection on the basis of 11/A. § of the Child Protection Act, the enforcement of child rights has been assisted by **representatives of children's rights**. The representatives of children's rights had acted within the framework of the National Centre for Patient Rights, Rights of People in Social Care and Children's Rights.

The children's rights representative performs the protection of the rights of a child in child protection care, as specified in this Act, and helps the child to become familiar with their rights and how to enforce them, as well as their obligations and how to fulfil those. The children's rights representative pays special attention to the protection of children with particular or special needs.

The children's rights representative helps the child to articulate their complaint and may initiate the investigation into it.

On the level of settlements the family and child welfare services, on the level of counties the family and child welfare centres are in charge of examining the warning or the help call, gathering information, launching an official procedure of the authority and bringing charge. These institutions are financed from national central budget.

Providing data is legally binding by the Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship and its implementing regulation (the Decree No. 15/1998 (IV. 30.) on the professional tasks and operational conditions of child welfare and child protection institutions and persons).

The data providing of family and child welfare services to the Central Statistics Office is obligatory by the Act of XLIV of 1993 on Statistics.

- 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));*

Pursuant to the Criminal Proceedings Code the Minister of Interior is in charge of defining the rules of collecting criminal justice data. Criminal justice data are collected during the whole course of the criminal proceedings, right from the beginning of the investigation, until the termination of it, or until the initiation of the indictment. Such data are handled by the Ministry of Interior.

The Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution [Egységes Nyomozóhatósági és Ügyészségi Bűnügyi Statisztika (ENYÜBS)] has been operated as a uniform system/mechanism since 1964 for collecting, handling and transferring data in Hungary. Data are collected regarding offenders and victims in respect of criminal offences governed by the Criminal Code.

Moreover, courts and prosecutors' offices also collect data during the course of their proceeding.

However, there is no mechanism for data collection in collaboration with NGOs in Hungary for the time being.

- 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 DNA Database And Registry Laboratory of The Central Criminal Expert Institute (BSZKI) is responsible for collection of DNA data, as well as for processing and transmission of data for the entitled institutes or persons. According to the internal law, in accordance with the Lanzarote Convention, the Institute is obliged to collect DNA data in case of any criminal offences that are sanctioned by more than 5-year-long imprisonment as well as offences that are sanctioned by more than 3-year-long imprisonment and committed in a businesslike manner or in criminal association with accomplices, or crimes that are threatened with more than 3-year-long imprisonment in special crime types like sexual crimes or drug crimes and in any kind of crimes if they are committed with weapon.

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

One of the linchpins of the Hungarian child protection system is the operation of a child protection signalling system in order to detect and ward off factors endangering children. The child protection signalling system is the basis of the prevention in the child protection system and is very significant in enforcing children's rights. The operation and the organization of the detecting and warning system is the compulsory task of the the family and child welfare services. The warnings given in time and the synchronized interventions can prevent the sexual exploitation and sexual abuse of children, and with a rapid intervention the repetition of these can also be prevented.

All those who perform social, health care, public education services or official tasks and may get into touch with the vulnerability of children in the course of their work are members of the child protection system. Such service providers, entities and persons shall have the duty to signal to and cooperate with the child protection system whenever they learn of the endangerment of a child. At local level, the child protection signalling system is operated by the child welfare service.

In terms of guaranteeing the rights of the child and the best interests of the child, a child protection signalling system responsible for preventive and eliminating all forms of abuse of children plays an important role.

In order to make the child protection signalling system more effective, a methodological guide was published by the Ministry of Human Capacities and the Directorate-General for Social Affairs and Child Protection in 2014. The guidelines set in this guide determine tasks for the members of the signalling system for the whole process including the detection, the warning, signalling and the intervention as well.

Under Section 17 of the Child Protection Act:

(1) The following shall perform duties related to the child protection system regulated by this Act, within the framework of the principal activity specified by law, in order to facilitate that children be raised in families and to prevent and terminate the vulnerability of the child:

- a) those providing health care, especially the district nurse service, the general practitioner and the family paediatrician;
- b) the service provider delivering care in the form of personal care, especially the family support service and the family support centre;
- c) public education institutions;
- d) the police;
- e) the public prosecutor's office;
- f) the court;
- g) the service of probation officers;
- h) organisations performing victim support and the duties of mitigation of damages;
- i) receiving centres for refugees and temporary accommodation for refugees;
- j) associations, foundations and ecclesiastical legal entities;
- k) the labour authority.

(2) The institutions and persons specified in paragraph (1) shall be obliged to

- a) report to the child welfare service in cases of vulnerability of the child;
- b) initiate an administrative procedure if the child is abused or seriously neglected, or if there is any other serious threatening reason, or in case of the serious threatening behaviour of the child caused by himself/herself.

Any citizen or civic organisation representing children's interests may also make such report or initiation.

(2a) The child welfare service and the guardianship authority manage the data of the institution or person making a report or initiation concerning abuse or neglect of the child in confidence, even in the absence of a request to that effect.

(3) The persons, service providers, institutions and authorities specified in paragraph (1) and (2) shall be obliged to cooperate with each other and mutually inform each other, in order to facilitate that children be raised in families and to prevent and terminate their vulnerability.

(4) If the person specified in paragraph (1) a)-i) and k) or an employee of a body specified in paragraph (1) a)-i) and k) fails to comply with their duty to report or cooperate, as specified in paragraph (2) and (3), the guardianship authority - upon alert or *ex officio* - notifies the person exercising disciplinary authority, and makes a proposal to initiate a disciplinary procedure against the person concerned. In case of suspicion of a crime committed against a child the guardianship authority initiates a criminal procedure.

(5) The guardianship authority shall have conciliation talks simultaneously with the action specified in paragraph (4) and initiate the discussion of the case by the child welfare service as specified in a separate law.

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.

No, there is no such programme in Hungary.

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**).

Article XVI. of the Fundamental Law of Hungary declares that every child shall have the right to the protection and care necessary for his/her proper physical, mental and moral development.

On 1 September 2013 began the implementation of the curricular changes in the system of general education (1st, 5th grade of primary school and 5th to 7th, 9th grade of upper secondary school). The new National Core Curriculum (Gov. Decree 110/2012) defines the key competences and skills to acquire. The National Core Curriculum provides the legal framework for the development of social and citizenship skills that respect fundamental rights, human rights and children's rights to be included in the framework curricula and in local curricula. Among the general development tasks in the area of education titled "Ethics" is the development of awareness of social relationships, including the topic of sexuality for primary school students in grades 5-8 and secondary school students in grades 9-12.

According to National Core Curriculum competencies knowledge must be developed on reproduction, ontogeny, sexuality for students of grade 1-12 as follows:

Grades 1-6: Discussing concepts of pregnancy, birth and breastfeeding; Grades 7-8, 9-12: discussing the processes that affect human fertility; learning about methods to avoid adverse effects. Grades 1-4: Getting to know the major phases of human ontogeny; Grades 5-6: comparing them; learning about the secondary sexual characteristics and the physical and psychological differences. Grades 7-8: Comparing the most characteristic physical and psychological features of the phases of development after birth. Grades 9-12: Analyzing the psychological background of behavioural changes and crises. Getting to know the phases of human life before and after birth; understanding their value. Grades 7-8, 9-12.: Understanding personal responsibility with regard to sexual life; presenting the arguments for complying with basic rules related to ethics and health. Argumentation for responsible family planning and for the health conscious way of life of pregnant women.

Topic of sexuality also involved in development area of „Critical thinking” for secondary school students.

Training system for practising teachers is operated (Government Decree (277/1997. (XII.22.) in order to develop their basic skills, continue their professional development and have an adequate knowledge of sex education. Accredited teacher trainings (30 hrs) are available, NGOs as organisers are involved (Referring also to question 11.):

„Preparing teachers for supporting child victims of bullying (school violence, domestic violence, sexual abuse, internet or on-line abuse)” – organiser of the in-service teacher training: PSYCHOLUCIA Nonprofit Kft.

and „Sex education from pre-school to secondary school. Guidance for teachers to support students towards an adulthood without taboos” (Private sector involved in these in-service teacher trainings, organiser) – organiser of the in-service teacher training: Soter-Line Oktatási, Továbbképző és Szolgáltató Kft.

(<http://pedakkred.oh.gov.hu/PedAkkred/Catalogue/CatalogueList.aspx>)

Since December 2013 Hungary has a new legislation on **internet child protection** (Act CCXLV of 2013 on the amendment of certain acts for the purpose of protecting children). Internet service providers must guarantee free and accessible filtering programmes for all and according to Public Education Act (2011/CXC.), schools are obliged to download them.

Under the Public Education Act (2011/CXC.), the personality, human dignity and rights of a child /student shall be respected, and protection has to be provided for them against physical and mental violence. Under the Family Act, the child shall be entitled to respect of his or her human dignity and to protection against abuse – physical, sexual or psychological violence –, neglect or informational damage. No child shall be subject to torture, corporeal punishment or any other cruel, inhuman or degrading treatment or punishment. According to the statutory definition of facts, a person responsible for the education, supervision or care of a child, who severely violates his/her obligation arising from such a responsibility and thereby endangers the physical, intellectual or moral development of a child commits a criminal offence (Criminal Code Section 195). Abuse of a child is deemed a severe violation of obligation. Further statutory facts, such as injury resulting from abuse may lead to the establishment of accumulation of crimes.

In order **to support the operation of child-care warning system** and coordination between the education sector, and social services, social workers or child-care professionals are available in schools where needed (funded from state budget), from January 2016 (Gov. Decree 326/2013 (VIII. 30.)). (Referring also to question 6.)

The Office of the Commissioner for Educational Rights has been established in 1999 (Decree No. 40/1999 ME). The Commissioner for Educational Rights contributes to the promotion of rights concerning education of children, students, teachers, parents. Any child, pupil, parent, educator, student, researcher, teacher or their associations may file a petition in individual cases, if in their judgement their guaranteed rights have been infringed or there is a direct threat of such infringement. The Commissioner shall investigate all petitions.

In January 2014, the programme titled "The Internet doesn't forget!" was launched, which, on the website www.azinternetnemfelejt.hu, draws attention to the dangers of sharing information, data and images on social networking websites. In addition, the related series of presentations informs young people how to avoid becoming victims, what potential dangers exist, how they can help others, and why it is important to handle personal data with care.

In the framework of public education development programme, Virtual Knowledge Center against School Conflicts have been developed in 2015. Through the Center a wide range of methodological tools, collection of good practices are available for schools to support them in conflict management and negotiation technique methods (<http://iskon.opkm.hu/shw.php>). Minor athletes deserve an increased protection in every field of law because of their age and particular status (e.g. the Hungarian Civil Code contains special rules for them).

In the field of sport, Act I of 2004 on Sports (hereinafter: Act on Sports) ensures the legal background for the protection of interest regarding to children under 18. The Act on Sports emphasizes the significance of legal protection during contract signing. Article 5 Section 3 contains that sports contracts shall be concluded for fixed-term only but for a maximum of 1 year. Section 4 highlights that sports contracts concluded with athletes under 18 become valid only upon the prior written consent of the athlete's legal representative. Article 7 Section 5 declares that contracts related to the sporting activity, signing or transfer-signing of amateur athletes under 18 may not be concluded through the mediation of a commercial agent. Any agreement to the contrary shall be null and void.

Focusing on sport contracts, the Act on Sports in Article 23 Section 1 rules that in order for the proper operation of the sport - in addition to the rules and regulations specified in separate laws - the federation of sport associations shall make signing (registration) and transfer-signing rules and regulations, which include the professional and ethical rules pertaining to the sporting activity and representation of interests of competitive athletes, with special focus on minor competitive athletes.

The federation of sport association also has to set rules pertaining to vocational requirements for sport officials, which promote the training, development and protection of athletes under 18.

Moreover, the Act on Sport in Article 3 Section 4 declares that the sport federation - with regard to the provisions of Article 8 (5) - defines in its rules and regulations for what competition system or competition and to what extent it requires competitive athletes to be covered by insurance for their sporting activity as a prerequisite for the issuance of the competition license (start licence); competitive athletes under 18 shall be required to be covered by insurance for their sporting activity, in accordance with the provisions of the government decree issued under the authorization of this Act. The federation, in accordance with its rules and regulations, may allow for athletes under 14 submitting a request for a start licence to participate in a competition (match) organized within the federation's competition system and requiring competitive athletes to have a start licence to enter the competition possessing only a certificate issued by a GP.

The Act on Sports contains special rules for athletes under 18 competing in combat sports in favour of the higher protection of their health and physical integrity.

Further relevant legislative measures are as follows:

- Government Decree 1744/2013. (X.17.) of the National Crime Prevention Strategy (2013-2023) point 8.2.
- Government Decree 1166/2016. (IV. 6.) on National Crime Prevention Strategy 2016-2017 action plan

Within the framework of their crime prevention activities, the Police have dedicated programmes (DADA, ELLEN-SZER) to address school children, their teachers and parents. Primary and secondary schools have the chance to invite police officers to deliver presentations on the themes of risks of sexual exploitation and sexual abuse, which

presentations may also include awareness raising on the risks of usage of new information and communication technologies. This way police experts, well-prepared specialists inform the students, teachers and parents about the most frequent crimes, and on the possibilities how to prevent being a victim or an offender. Nowadays the internet plays a significant role in crime prevention and in prevention of being a victim, so to reflect this, the most popular and actual theme of the crime prevention is the safety of internet. These presentations given in the course of education are hold in an interactive form, which means that students have the opportunity to ask their questions, and they can participate in situation tasks. Additionally, efficient crime prevention activities require, as an essential pre-condition, well-qualified specialists with up-to-date information on their area of expertise. With this in view, on the basis of the National Crime Prevention Strategy more trainings have been started to improve the professionalism of specialists who are engaged in crime prevention activities among children and youth. One from these trainings is the 30 hour-long accredited “Crime prevention in the schools” program for the teachers. The school mediator training improves the professionalism of the crime prevention as well.

- 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 Child Protection System expanded the range of children’s rights by a new right, which states that experts, acting to protect children – in particular those acting in order to recognise and terminate abusive situations – should apply uniform principles and methodology. In order to enforce this right, and for the purpose of enforcing the child's right to protection from abuse, the Child Protection Act prescribes that agencies and persons providing basic child welfare services or professional child protection services, as well as those acting as the child's legal representative or managing the child's affairs, must apply the uniform principles and methodology approved by the minister responsible for the protection of children and youth. In 2014 the uniform principles and methodology was disseminated among the staff of child welfare services and guardianship authorities coordinating by the minister responsible for the protection of children and youth. The methodology is available on the internet.

<http://www.kormany.hu/hu/dok?page=4&source=2&type=402&year=2014#!DocumentBrows>

In the 2007-2013 period, social services, child welfare and child protection workers had professional training in the supply of TÁMOP priority project code 5.4.10-12/1 "Modernization of social education system".

The specialists working in the child protection system, whose professional personality maintenance and development of competencies is a key issue for the functioning of the protection system. The training of professionals in the 2014-2020 period highlighted by the EFOP project code 3.8.2 "Social development of human resources" and VEKOP same title code 7.5.1-16 provides the framework for free-of-charge training at various locations in the country. The priority projects are planned to include training programs for recognition and prevention of child abuse, as well as the abuse topic of thematic training programs (eg. the victim types of children, sexually abused children, different sexual identities, child victims of cyber-bullying).

It is crucial to the social services, child welfare and child protection jobs providing personal care workers – (including specialists in specific child care needs) needs the professional competency development, strengthening of professional personality and prevention of burnout in terms of quality of treatment and services provided to children.

The Ministry of Human Capacities has developed a guideline about the responsibilities of health care professionals in case of the suspect of abuse, neglect of children. Regular training is provided for health care professionals during the compulsory continuing vocational training, including general practitioners, family pediatricians, family nurses by the National Institute for Health Development (integrated the former National Institute of Child Health).

- 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 Ministry of Human Capacities started its prevention program in 2012 to prevent the young people to become a victim or an abuser in the future. So far the program reached more than 3000 students. The experiences proved the necessity of such kind of programs as the level of knowledge of the youngsters is very shallow on these issues (domestic violence and human trafficking) and thus they are highly endangered. As an element of the program, the staff of the shelters for the victims of domestic violence gains training as a result of which they will be able to hold prevention classes in schools independently in their local area. The expansion of the initially pilot program which targeting the youth between the age of 14 and 18, is permanently under way (EFOP-1.2.1-15 “Védőháló a családokért”). An informative material for teachers has been published last year in relation to the subject of the prevention program.

Reduction of latency is core principle in combating domestic violence. It is crucial to the victims to be able to recognize and identify the signs of domestic violence as soon as possible and to know that they have the right and opportunity asking for help. Thus it is an important goal to emphasize the unacceptability of domestic violence to such a broad range of public audience as it is possible.

The Hungarian Interchurch Aid - one of Hungary’s largest charity organizations - with the financial support of the Ministry of Human Capacities (amounting to nearly 50.000EUR) carried out a large scale media campaign in spring and autumn of 2014 on the issue of combatting domestic violence, entitled „Notice it!”, or in Hungarian: „Vedd észre!”. The message of the awareness-raising campaign was: *domestic violence is completely unacceptable*. On the one hand our goal was to attire potential victims’ attention to the signs of domestic violence and to help to realize their situation. On the other hand we want to encourage those affected by domestic violence and their environment not to be afraid to ask for help when identifying such a situation. The communication channels involved in the campaign included social media, radio, TV, printed media, outdoor posters and other PR elements. The closing event of the campaign was scheduled to 25th of November which is the International Day for the Elimination of Violence against Women. Homepage of the campaign (www.segelyszervezet.hu/veddeszre) includes special sub-pages for adult and child visitors.

The campaign was organised during Autumn of 2015 so, and we wish to continue it during the current year.

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;*

Pursuant Section 15 paragraph (8) of the Child Protection Act no person shall be employed within the child protection system in a particular position specified by a separate law or as a volunteer, if any of the grounds for exclusion laid down in Child Protection Act apply, or if they fails to comply, upon a repeated duly communicated notice, with the obligation to certify, as defined in this Act, and fails to prove that the failure to comply with the obligation is for a reason that cannot be attributed to them.

The following are excluded from being an employee within the child protection system:

- a) a person who has a criminal record;*
- b) a person who has a clean record, but for whom the court has established his criminal liability in its final judgment under Act IV of 1978 on the Criminal Code, in force until 30 June 2013 in relation to the following crimes: crimes committed against life, physical integrity or health as defined under Title I of Chapter XII of the Act; coercion, violation of personal freedom, kidnapping, trafficking in human beings, harassment, as defined under Title II of Chapter XII of the Act; crimes against marriage, family, youth and sexual morality, smuggling of human beings as defined under Chapter XIV of the Act; as well as under Act C of 2012 on the Criminal Code in relation to the following crimes: crimes committed against life, physical integrity or health as defined under Chapter XV of the Act; kidnapping, failure to report kidnapping, trafficking in human beings, violation of personal freedom, coercion, harassment, as defined under Chapter XVII of the Act; crimes against the freedom of sexual life and sexual morality as defined under Chapter XIX of the Act; crimes violating the rights of children and crimes against family under Chapter XX of the Act;*
- ba) in case of executable imprisonment for a term in excess of five years, until twelve years after exemption;*
- bb) in case of executable imprisonment for a term less than five years, until ten years after exemption;*
- bc) in case of imprisonment suspended in its execution, until eight years after exemption;*
- bd) in case of community service work or an enforceable fine, until five years after exemption;*
- be) in case of a fine suspended in its execution, until three years after exemption;*
- c) a person who is subject to a criminal procedure for a crime defined in point b);*
- d) a person who is subject to restraint of profession with regards to a profession that counts toward professional experience; and*

The candidate for the employee within child protection system shall at the time of submitting the application certify to the head of the organisation established to perform the employee the fact that the abovementioned grounds for exclusion laid down do not apply to them and If the applicant fails to certify that fact the applicant shall not be employed in the child protection system.

The mandate of the employee within child protection system terminates if any of the abovementioned grounds for exclusion laid down apply or if the children's rights representative fails to comply with their obligation to certify upon a repeated duly communicated notice and fails to prove that the failure to comply with the obligation is for a reason that cannot be attributed to them.

Records of convicted persons are kept in the criminal registry for a maximum period of 10 years that after having served a final sentence of imprisonment or after the termination of the executability of such a sentence.

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

There is no statutory screening of candidates to voluntary activities.

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**);*

In the course of the general psychiatric and psychological care counselling and cognitiv-behavioural psychotherapy is available for persons, who fear that they may commit any offences if the individuals ask for help.

- 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?*

There are no statutory intervention programmes during the course of criminal proceedings. However, reintegration programmes are available in penitentiary institution. These programmes contain work therapy, education, vocational trainings, and other sort of trainings. By the time a convicted person starts serving his sentence a risk assesment is being made at the penitentiary institution. In case any sexual motive can be identified based on the risk assesment of a person convicted of a criminal offence governed under Chapter XIX (offences against sexual self-determination and sexual morality) the risk of repeateing a similar offence after release shall be evaluated. If such a risk can be established, the convicted person shall be

offered the opportunity to take place in psychotherapy or other suitable service/training that would reduce the possibility of becoming a repeated offender.

Aggression managing trainings are also provided by probation officers' services in penitentiary institutions.

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

What steps have been taken to encourage:

- a. the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (**Article 9, para. 2, Explanatory Report, paras. 68-73**);*

In 2015 the Media and Infocommunications Commissioner issued a recommendation according to which actors of the media shall impart the telephone number of the NCTIS during their reports which has a relevance to the subjects of domestic violence or human trafficking.

- b. the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (**Article 9, para. 3, Explanatory Report, para. 74**);*
- c. the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (**Article 9, para. 4, Explanatory Report, para. 75**). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (**Article 27, para. 5, Explanatory Report, para. 193**).*

Question 12: Effectiveness of preventive measures and programmes

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

The Ministry of Human Resources Secretary of State for Social Affairs and Social Inclusion financed programs preventing child prostitution with 25 million HUF (for children and for the professionals as well) in Specialized Children's homes - managed by the General Directorate of Child Protection and Social Affairs - that are the most vulnerable group of the girls with special needs between December 2014 and May 2015.

During the program youths attended on theatre performances and movie theatres in the topic of prostitution and professionals specialized in the area discuss the movies and performances with them afterwards in this way they help them to recognize the weight of their decisions they make in life that can lead to prostitution.

In order to prevent prostitution and influence intersectional cooperation working parties and professional roundtables and debates were held between the professionals both from the area of social welfare system and child protection system, police and education system.

In 2015 the Media and Info-communications Commissioner issued a recommendation according to which actors of the media shall impart the telephone number of the NCTIS during their reports which has a relevance to the subjects of domestic violence or human trafficking.

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);*

On an amendment of the Child Protection Act effective 15 March 2014 the child welfare services and the guardianship authority manage the data of the institution or person making a report or initiation concerning abuse or neglect or any other serious source of danger of the child in confidence, even in the absence of a request to that effect. Expectedly that this measure will help to increase the effectiveness of revealing and the speed of investigating such cases.

Our goal is that in all cases of suspected child abuse the report to the child welfare services, the guardianship authority and the police takes place as soon as possible. In order to prevent child trafficking and child abuse, the Child Protection Act defines several advanced defense system elements:

1. The Child Protection Act § 6 (5) specifies the child's right deduced from Fundamental Law, according to which: "Children have the right to have their human dignity respected, protection against abuse (physical, sexual or psychological violence), neglect and information nuisance. The child shall not be subjected to torture, corporal punishment and other cruel, inhuman or degrading punishment or treatment."

2. The Child Protection Act § 2 and § 17 exhaustively defines the members (institutions and individuals) of detection and alarm system, who are required to report child endangerment to the child welfare service, and initiate administrative proceedings in the case of child abuse, severe neglect, the existence of other serious reason of harm or and in the case of serious endangerment brought by the child's own conduct. The Child protection Act § 135-136/A authorises the members of the signalling system to data management including the forwarding of those to the appropriate authority.

3. According to Section 6 paragraph 5 of the Child Protection Act in effect since 15 March 2014, "children have the right to professionals acting in the interests of protection, especially in order to identify and eliminate child abuse using uniform principles and methodology". The uniform principles and methodology has been approved Minister responsible of child and youth protection (Minister of Human Capacities) and published on the website of the Ministry of Human Affairs.

4. The family and child welfare service performs the coordination the detection and alarm system where the reports may/must be done. The Child Protection Act means everyone has the opportunity to indicate to the child welfare services if experiences or becomes aware of child abuse or endangerment.

5. To ensure that individuals (ie. relatives, neighbours) in connection with the child or family concerned with the child abuse, can safely do the report, Child Protection Act effective 15 March 2014 ensures that guardianship authority manages the data of the child, the witnesses and the institution initiating the process in confidence if child abuse, severe neglect or other reasons of serious endangerment arises, even in the absence of a specific request. We expect that according to these statutory obligations would help to ensure that such cases come out and will be investigated quickly and with a greater efficiency in the future.

To obtain the material conditions of promotion of awareness and management awareness of child abuse, the Ministry of Human Capacities supported sources provided under contract.

Health care workers are generally bound by confidentiality rules. However if during the first medical examination of a child the suspicion occurs that the injury or illness of the child is due to abuse or neglect, or if circumstances that can be indicative of abuse or neglect are noticed during the health care of the child, the physician in charge must notify the competent child welfare services. In these cases for the relevant data to be transferred there is no need for the consent of the affected person or the person otherwise entitled to consent (the guardian of the child) (Act XLVII of 1997).

The following professionals, institutions or providers are obliged to notify the child welfare services and the authorities in case they notice that the child has been abused, neglected, or the child is in any other endangering situation.

Health care providers, health visitors, general practitioners, paediatricians, personal care providers, educational institutions, the police, the prosecution, the jury, organizations responsible for victim support and damage control, refugee stations or temporary accommodations of refugees, associations, foundations, ecclesiastical legal entities, the employment authorities, the penitentiary, "rights of the child agent". (Section 17 of the Child Protection Act).

It can be mentioned as well that in addition to the right to denounce, members of the authority and official persons, furthermore, if prescribed by a separate laws, public bodies shall be obliged to file a denunciation – also identifying the offender, if he/she is known – concerning a criminal offence coming to their cognisance within their scope of competence.

- 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.*

There is a cooperation agreement between the National Media and Communications Authority (NMHH) and the Police. The NMHH has a hotline, to where once a signal is received, it shall be sent promptly to the Police.

According to Section 17 paragraph 2 of the Child protection Act any citizen or civil organisation representing children's interests may also make such report or initiation. The child welfare service and the guardianship authority manage the data of the institution or person making a report or initiation concerning abuse or neglect of the child in confidence, even in the absence of a request to that effect.

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).

The National Crisis Telephone Information Service (NCTIS) was established at 2005 in Hungary. The Service can be reached from any location in Hungary in a 24/7 schedule, via a toll-free number. It provides information for the victims of domestic violence and human trafficking and - if it is necessary – coordinates the immediate emplacement of the victims to the Shelters. Homepage of NCTIS: www.bantalmazas.hu

The Parliamentary resolution [88/2009. (X.29.)] on the National Youth Strategy emphasizes that a particular consideration should be given to the topic of the emotional support and / or the crisis intervention. The present tasks related to the emotional first aid telephone services are defined through biennial government decisions in the Action Plan of the National Youth Strategy. The LESZ (Psychological First Aid Telephone Service) is also involved in the governmental preparatory work.

Every year, a state financial support of HUF 50 Million (~ EUR 161.140) is separated for the telephone services such as the “Kék Vonal” Child Crisis Foundation or the Mental Health Association for Youth which is specialized for children.

Blue-Line Child Crisis Foundation was founded in 1993. The primary task of the Foundation is to listen to the children and young people and help those of them who are in need. The Foundation works on implementing the rights of children as defined by the United Nations. Blue-Line Child Crisis Foundation and the Hungarian Police Headquarters are cooperating in order to provide prompt support and assistance for children in need and to ensure effective investigation.

Blue-Line Child Crisis Foundation and Hungarian Police Headquarters provide:

1. information and professional assistance for:
 - families in crisis situation, finding temporary accommodation for children
 - mental help for victims of sexual crime
 - rehabilitation for underage perpetrators
 - investigation of missing children

- help for abused children
- 2. provides information materials about the services, processes and protocols of activities for the police
- 3. provides studies, assessments and recommendations
- 4. provides help for victims and family members of victims
- 5. provides assistance in developing a uniform data base on missing children, children in need etc.
- 6. development of an expert-expert network
- 7. mapping up opportunities for shelters for children and underage victims
- 8. professional protocol for handling of missing child-and underage victims
- 9. professional training for experts and police officers dealing with child protection
- 10. organizing professional workshops, trainings

The **National Media and Infocommunication Authority** (hereinafter: NMIA) has opened the Media Literacy Education Centre of Magic Valley the mission of which is to teach Hungarian children how to use the media (including computers, phones and internet) in a more conscious and safer way. The Centre welcomes groups from all over the country, and pays special attention to the education of children with disadvantage social background.

The Police also co-operates with the NMIA in order to suppress the illegal contents endangering the digital achievements, this includes that

- the NMIA informs the designated police unit about reports submitted to its official online interface (www.internethotline.hu) without delay, if it meets the specific conditions; also informs the designated police unit about the measures it has taken immediately after implementation, furthermore, it forwards statistics on its hotline service and analysis on the tendencies to the designated police contact point;
- the NMIA forwards only those reports on criminal offences where the illegal content is stored on a Hungarian server or if in case of a foreign server it can be established from the available information that the illegal content was uploaded from Hungary or by a Hungarian citizen and the criminal offence in question is not punishable upon a private motion;
- the police informs the NMIA about the measures taken in cases forwarded by the NMIA and about the experiences on the results thereof within the scope of the prevailing legal provisions in every six months;
- in case of reports received from the NMIA, the police informs the NMIA about the preservation of the electronic data indicated in the report for its use during the criminal procedure within 24 hours (for the sake of rendering electronic data inaccessible);
- the police shoulders the task of the popularization of the Internet Hotline of the NMIA - based upon the bulletins and other information material of the NMIA that are available free of charge - within its activities of crime prevention and awareness raising work furthering the more secure use of the Internet;
- the police are entitled to use the information received from the NMIA on telecommunication, information technology and post to carry out its work more efficiently.

The goal of the **Child Helpline and Internet Safety Helpline** is to help children and young people in need of support, care, and protection; to improve callers' safety. The main activities include telephone support for children and young people in difficult situations, education and promotion efforts encouraging young people to seek help and use the helpline's services. It

can be called free of charge, 24-hour a day, anonymously. The helplines are operated by trained volunteers during the day and by professional staff during the night.

Additionally, in January 2014 a new webpage started working which got the name “**The Internet does not forget!**” (available only in Hungarian at <http://www.azinternetnemfelejt.hu/>). Its aim is to raise children’s (and also adult’s) awareness about the dangers of information, data and pictures posted on social media, how can victimisation be prevented, how can they help each other and why it is important to protect their personal data.

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.*

As explained in reply to Question 6 operation and the organization of the detecting and warning system is a compulsory task of the the family and child welfare services. The warnings given in time and the synchronized interventions can prevent the sexual exploitation and sexual abuse of children, and with a rapid intervention the repetition of these can also be prevented. Family and child welfare services either at local level or at county level can provide assistance to child victims as even services provided at local level should be adapted to to the needs of the local community, pursuant to the provision of the Child Protection Act. Therefore even psychological and legal assistance may be available at local level. In case these services are only available at or county level adequate information is provided for those requiring them.

Victims of criminal offences may turn to victim support services. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA has been implemented into domestic law. Therefore, pursuant to Act CXXXV of 2005 (hereinafter referred to as Victim Support Act) Victim Support Services provide a range of services to ensure that victims including children would be assisted according to their needs.

Victim Support Services assist victims in assertion rights, grant financial aid, provide information. Psychological assistance is available for victims through the Victim Support Services. Victims are provided advice in order to turn to the adequate stakeholder of the welfare and healthcare services.

Services are always provided on a personalized basis. Child victims are specially treated pursuant to Section 43 paragraph 2 of the Vicim Support Act. Moreover, special guidelines (1/ÁS/2015) apply in order to ensure that while assisting child victims their age and maturity are taken into account during communications.

- 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.*

Issuing a restraining order or holding the accused person in pre-trial detention are the means of removing the perpetrator.

Pre-trial detention may be ordered only under the following conditions:

- the defendant has escaped, or has attempted to escape or absconded from the court, the prosecutor or the investigating authority, or another procedure has been launched against the defendant for committing an intended criminal offence also punishable by imprisonment during the proceedings,
- owing to the risk of an escape or hiding, or for other reasons, there is reasonable ground to believe that the presence of the defendant in procedural actions cannot be otherwise ensured,
- there is reasonable ground to believe that if left at liberty, the defendant would frustrate, obstruct or jeopardise the evidentiary procedure, especially by means of influencing or intimidating the witnesses, or by the destruction, falsification or secretion of physical evidence or documents,
- there is reasonable ground to believe that if left at liberty, the defendant would accomplish the attempted or prepared criminal offence or commit another criminal offence punishable by imprisonment. (Section 129 paragraph 2 of the Criminal Proceedings Code).

A restraining order may be ordered before the initiation of criminal proceedings in which case the order is rendered pursuant to Act LXXII of 2009 on Violence Between Relatives.

A restraining order can be issued also after the start of criminal proceedings, regardless the family ties between the offender and the victim, since Act XIX of 1998 on Criminal Proceedings (hereinafter referred to as Criminal Proceedings Code) contains provisions on restraining order applied as a coercive measure in criminal proceedings [Has been on force since 1 July 2006, Sections 138/A-139 of the Criminal Proceedings Act].

Pursuant to a restraining order the perpetrator

- must leave a certain apartment and avoiding to return until the date specified by the court,
- shall avoid from contacting a certain person, either at his/her living in certain places, shall avoid shall stay away from his/her apartment, work place, or educational institution, healthcare institution or church attended by a certain person.
- can be banned from contacting a certain person. (Section 138/a paragraph 1 of the Criminal Proceedings Code).

The restraining order in criminal proceedings is an alternative to pre-trial detention and as such aims to prevent that the injured witness is influenced or intimidated, which would jeopardize taking evidence or prevent the accomplishment of an attempted or prepared criminal act or of another offence on the victim.

Since 2009, the court may issue a restraining order for ten to sixty days, instead of the previous ten to thirty days. It can be repeatedly ordered thereafter if the conditions of issuing a restraining order are still present. An offender who wilfully violates the rules of restraining may be remanded in pre-trial detention or, where that is not necessary, may be fined.

Concerning of the possibility of removing a child victim the guardianship authority shall initiate administrative proceedings in the case of child abuse, severe neglect, the existence of other serious reason of harm or and in the case of serious endangerment brought by the child's own conduct. Administrative proceedings can lead to the removing of the child temporary or permanently.

From 1 January 2014, the child protection guardian was introduced for children brought up by care providers specialised in child protection, so that child protection guardian work as legal representative of children raised by foster parents or at a children's home. Child protection guardian guarantees the consistent representation of children, irrespective of the location where they receive care, the enforcement of their rights, obtaining their opinion and informing the public guardianship authority providing the care and the one acting for the child, and facilitates that children receive appropriate care in the child protection institution.

In case of child maltreatment or abuse against a child brought up children's home or foster parent the child protection guardian has also the responsibility to act promptly by the Child Protection Act. The rules of responsibilities and consequences of neglecting or violating the rules are unequivocally based in such cases.

Section 80/B Para. 3 ensures that the guardianship authority shall decide upon the change in the child's place of care with immediate effect in an extraordinary decision which is enforceable notwithstanding appeal if the place of care severely endangers the interest of the child, and if, due to the severe endangerment, the child protection guardian takes the child to another safe place of care, they shall simultaneously notify the guardianship authority and request the change of the designated place of care. This rule must be applied if, during the care of the child the foster parent or staff of the children's home use methods of child-rearing which are not permitted, mistreat or abuse the child.

In these cases the child protection guardian and the guardianship authority have obligation to initiate a criminal procedure.

According to the Government Regulation implementing Child Protection Act children can be heard by guardianship authority without the presence of his/her legal representative in case this is the child's interest. In reasonable cases on behalf of the child's interest guardianship office can hear him/her outside the office (living place of the child, etc.), too.

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).*

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).

In case if such a criminal offence has been reported to Hungarian authorities which does not fall into the jurisdiction of Hungary, the report shall be forwarded to the Member State authority with territorial competence.

PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

Question 16: Criminal law offences

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;
- b. Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;
- 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;
- d. Please also specify whether the age of a child plays a role in determining the gravity of the offence.

Sexual Abuse (Article 18)

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
 - use is made of coercion, force or threats;
 - abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
 - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

Child Prostitution (Article 19)

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

Child Pornography (Article 20)

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

Participation of a Child in Pornographic Performances (Article 21)

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

Corruption of Children (Article 22)

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

Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)

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

Aiding or abetting and attempt (Article 24)

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

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

All acts pursuant to Article 18-24 Article of the Convention are criminalised under Hungarian law. Chapter XIX of the Criminal Code regulates offences against freedom of sexual self-determination and sexual morality. The appropriate development of children and young people shall be protected by a range of criminal offences that are governed under this chapter.

Criminal offences concerning sexual exploitation and abuse of children are the following:

- sexual coercion (Section 196)
- sexual violence (Section 197)
- sexual abuse (Section 198)
- indecent exposure (Section 205)
- pandering (Section 200)
- procuring for prostitution (Section 201)
- exploitation of child prostitution (Section 203)
- child pornography (Section 204)

While the preparing of the codification of the Criminal Code the legislator’s aim was to create offences that would be in compliance with the provisions Directive 2011/93/EU of the European Parliament and of the Council as well as the Lanzarote Convention.

Thus the following factors among others have been inserted into the offences as aggravating circumstances:

- if the perpetrator is a relative of the victim
- the victim is under the care, custody or supervision of the perpetrator or receives medical treatment from the perpetrator,
- or if the offence is committed by way of abusing a recognized position of authority or influence over the victim.

The definition of sexual act is defined in Section 459 point 27 that reads as follows:

Under sexual act shall be meant sexual intercourse as well as any severely indecent act that is suitable or is intended for arising, maintaining or obtaining sexual gratification.

Pursuant to Section 459 point 14 the following shall include relatives:

- a) *any lineal descendant and his/her spouse or life partner*
 - b) *adopting and foster parents (including step parents), adopted and foster children (including step children)*
 - c) *any sibling and the spouse or life partner of a sibling*
 - d) *spouse or life partner*
 - e) *lineal descendant and sibling of a spouse or life partner.*
- 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;*

Acts of indecency are criminalised under the Criminal Code. Section 205 reads as follows:

Any person over the age of eighteen years who exposes him/herself before another person under the age of fourteen years in an indecent way for arising or obtaining sexual gratification is guilty of a felony punishable by imprisonment not exceeding three years, insofar as the act did not result in a more serious criminal offence.

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

According to the regulatory technique of the Criminal Code child victims as passive subjects of the offences governed under Chapter XIX of the Criminal Code fall into 3 groups as follows:

- children under 12 years of age
- children under 14 years of age
- children under 18 years of age.

The aim of the legislator was to ensure comprehensive and gradual protection of children. Please see details below.

Sexual Abuse (Article 18)

1. *Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;*
2. *Engaging in sexual activities with a child where*
 - *use is made of coercion, force or threats;*
 - *abuse is made of a recognised position of authority or influence over the child, including within the family;*
 - *abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.*

The acts defined in Article 18 of the Convention constitute offences of sexual violence, sexual abuse and sexual coercion under the Criminal Code.

In case of sexual violence (Section 197 of the Criminal Code) use of force or threat are constituent elements of the offence. Sexual coercion constitute a self-standing offence under Hungarian law (Section 196 of the Criminal Code).

Engaging in sexual activities with a child who has not reached the legal age for sexual activities constitute either sexual violence or sexual abuse depending the age of the child.

1. Under Hungarian criminal law having any sort of sexual act with a child that is under the age of 12 years constitute a criminal offence. It means that even if the victim has consented to or initiated having any sexual act with the perpetrator the offence of sexual violence shall be established upon indictment [Section 197 paragraph (2)]. It is important to point out that sexual violence against a child who has not reached the age of 12 years constitute a self-standing offence as the second basic case of sexual violence and it is not the aggravating circumstance of paragraph 1 Section 197. Accordingly, any conduct where the perpetrator has sexual activities with a child under 12 years of age constitute sexual violence and cannot be established any other less severely punishable offence. Furthermore, an act may lead to multiple charges when the court can establish a cumulative sentence thus the offender is sentenced according to Section 81 of the Criminal Code. (i.e. if the victim of child prostitution is under 12 years of age offences of sexual violence and exploitation of child prostitution shall be established in a cumulative sentence)

Aggravating factors of sexual violence are if the offence is committed

- against a person under the age of eighteen years;
- by a relative of the victim, or if the victim is in the care, custody or supervision of the perpetrator, or receives medical treatment from the perpetrator, or if abuse is made of a recognized position of authority or influence over the victim; or
- by more than one person on the same occasion, in full knowledge of each other's acts.

In case of cumulation of aggravating forms of the offence sexual violence shall be punished even more sever.

2. Another special group of victims are children who have reached the age of 12 years but are under the age of 14 years. As already explained by Question 1, under Hungarian law a person is deemed to be a minor under the age of 14 years, therefore is deemed to lack of legal capacity and a minor between 14 and 18 years have limited legal capacity. Therefore the legal age for consensual sexual activities is 14 years.

The offence of sexual abuse has been inserted into the Criminal Code to regulate conducts committed against this group of special subjects.

The offender can only be persons above the age of 18. The offence shall be established in case if the perpetrator either has engaged into sexual activities with the victim or has persuaded the victim to have sexual activities with a third party. Attempt of the offence is alsorendered to be punishable under Section 198 paragraph (2).

Pursuant to paragraph 3 the following constitute aggravating circumstances

- the perpetrator is a relative of the victim,
- or the victim is in the care, custody or supervision of the perpetrator or receives medical treatment from him/her,
- or if the sexual abuse has been committed by way of abusing of a recognized position of authority or influence over the victim.

It constitutes an aggravating circumstance if the victim is between 12 and 14 years of sexual coercion [Section 196 para (2)] as well as in case of sexual violence [Section 197 para (3) point a)] where:

Aggravating factors of sexual violence are if the offence is committed

- against a person under the age of eighteen years;

- by a relative of the victim, or if the victim is in the care, custody or supervision of the perpetrator, or receives medical treatment from the perpetrator, or if abuse is made of a recognized position of authority or influence over the victim; or
- by more than one person on the same occasion, in full knowledge of each other's acts.

3. Minors who have reached 14 years but are under 18 years of age constitute a third category of special subjects of the offences against sexual self-determination. Pursuant to Section 198 paragraph (4) sexual abuse of children between 14 and 18 years is also criminalised in case if the offender performs sexual act with the victim by abusing his/her recognised position of authority or influence over the victim.

It constitutes an aggravating circumstance if the victim of sexual coercion [Section 196 para (2) point a)] is a minor under 18 years of age or a relative of the perpetrator, or is in the care, custody or supervision of the perpetrator or receives medical treatment from him/her, or if the sexual abuse has been committed by way of abusing of a recognized position of authority or influence over the victim.

Committing the criminal offence of sexual violence against a minor under 18 years of age [Section 197 para 3 point a)] also constitute an aggravating factor.

It is important to highlight, that sexual violence, sexual coercion and sexual abuse can never be established in a cumulative sentence. However, it constitutes an aggravating circumstance in each of these offences if the victim is a minor under 18 years of age. Therefore, the progressive sequence of punishability is the following:

- if the perpetrator (over the age 18) has engaged into sexual activities with the consent of the the victim who is between 12 and 14 years of age, basic case sexual abuse (Section 198 para 1) shall be established (imprisonment between 1 to five years)
- if the perpetrator has coerced the victim who is between 12 and 14 years of age to perform or bear sexual activities, aggravated form of sexual coercion (Section 196 para 3) shall be established (imprisonment between 5 to 10 years)
- if the perpetrator has engaged by way of use of force or threat into sexual activities with the victim who is between 12 and 14 years of age, aggravated form of sexual violence (Section 197 par 3 a) shall be established (imprisonment between 5 to 10 years)
- if the perpetrator has engaged into sexual activities with a victim under 12 years of age without use of force or threat, second basic case (Section 197 paragraph 2) of sexual violence shall be established (imprisonment between 5 to 10 years)
- if the perpetrator has engaged by way of using force or threat into sexual activities with the victim who under 12 years of age, aggravated form of sexual violence (Section 197 paragraph 4 point a) shall be established (imprisonment between 5 to 15 years)

The relevant provisions of the Criminal Code reads as follows:

Sexual Coercion (Section 196 of the Criminal Code)

(1) Any person who forces another person to perform or tolerate sexual activities is guilty of a felony punishable by imprisonment between one to five years.

(2) The penalty for sexual exploitation shall be imprisonment between two to eight years if committed:

- a) against a person under the age of eighteen years;*

b) by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of authority or influence over the victim.

(3) The penalty shall be imprisonment between five to ten years if sexual exploitation is committed against a person under the age of fourteen years.

Sexual Violence (Section 197 of the Criminal Code)

(1) Sexual violence is a felony punishable by imprisonment between two to eight years if committed:

a) by force or threat against the life or bodily integrity of the victim;

b) by exploiting a person who is incapable of self-defense or unable to express his will, for the purpose of sexual acts.

(2) Sexual violence shall also include, and the penalty shall be imprisonment between five to ten years if the perpetrator commits a sexual act upon a person under the age of twelve years, or forces such person to perform a sexual act.

(3) The penalty shall be imprisonment between five to ten years if the criminal act described in Subsection (1) is committed:

a) against a person under the age of eighteen years;

b) by a family member or against a person who is in the care, custody or supervision of or receives medical treatment from, such family member, or if abuse is made of a recognized position of authority or influence over the victim; or

c) by more than one person on the same occasion, in full knowledge of each other's acts.

(4) The penalty shall be imprisonment between five to fifteen years if:

a) the criminal offense defined in Paragraph a) of Subsection (1) and in Paragraph b) or c) of Subsection (3) is committed against a person under the age of twelve years; or

b) the provisions of Paragraph b) or c) of Subsection (3) also apply to the criminal offense defined in Paragraph a) of Subsection (3).

(5) Any person who provides the means necessary for or facilitating the commission of sexual violence is guilty of a felony punishable by imprisonment not exceeding three years.

Sexual abuse (Section 198 of the Criminal Code)

(1) Any person who engages in sexual activities with a person under the age of fourteen years, or persuades such person to engage in sexual activities with another person is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person over the age of eighteen years who attempts to persuade a person under the age of fourteen years to engage in sexual activities with him or with another person is punishable by imprisonment not exceeding three years.

(3) If the victim is a family member of the perpetrator, or is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if the sexual abuse is made of a recognized position of authority or influence over the victim, the penalty shall be:

a) imprisonment between two to eight years in the case defined in Subsection (1);

b) imprisonment between one to five years in the case defined in Subsection (2).

(4) Any person over the age of eighteen years who engages in sexual activities with a person over the age of fourteen years and under the age of eighteen years where abuse is made of a recognized position of authority or influence over such person is punishable by imprisonment not exceeding three years.

II. Child Prostitution (Article 19)

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

Provisions of Article 19 of the Convention are covered by the following offences of the Criminal Code:

- pandering (Section 200)
- procuring for prostitution (Section 201)
- exploitation of child prostitution (Section 203)
- sexual coercion (Section 196 para 2 point a) and b) and para 3)

1. The conducts of soliciting a child into prostitution or causing a child to participate in prostitution are criminalised by Section 201 paragraph 2 and Section 200 paragraph 2.

Pursuant to Section 200 para 2 any person who solicits a person who is under the age of 18 years or offers such a person for the purpose of prostitution shall be punishable for pandering.

The aggravating circumstances of the offence of pandering are the following:

- committed against a person under the age of eighteen years;
- committed by a family member or committed against a person who is in the care, custody or supervision of the perpetrator, or if abuse is made of a recognized position of authority or influence over the victim;
- committed by way of deception, force or by threat of force. (Section 200 para 4 subparagraphs a-c.)

According to Section 201 paragraph (2) persuading a person under the age of eighteen years to engage in prostitution constitute an aggravating circumstance of procuring prostitution.

2. Profiting from child prostitution is criminalised pursuant to Section 203 (exploitation of child prostitution) according to which the following conducts are rendered to be punishable:

- endeavouring to gaining profit from the exploitation of the prostitution of a person under the age of eighteen years,
- being supported by the profit that has been gained from the exploitation of prostitution of a person under the age of eighteen years
- maintains or operates a brothel, or provides material assistance for the operation of a brothel where the exploitation of the prostitution of a person under the age of eighteen years takes place

3. Having recourse to child prostitution

According to Section 203 paragraph 2 *any person who gives money or any other form of remuneration for having sexual activities with a person under the age of eighteen years is punishable pursuant to paragraph 1.*

Exploitation of child prostitution and other offences under Chapter XIX of the Criminal Code can be established in a cumulative sentence depending on the age of the victim.

- the perpetrator shall be punishable for exploitation of child prostitution if the victim of child prostitution is between 14 and 18 years of age

- if the victim is between 12 and 14 years of age sexual abuse (pursuant to Section 198 para 1) exploitation of child prostitution shall be established in a cumulative sentence

- in case if the victim of child prostitution is under 12 years of age the offender shall be punishable for sexual violence (as defined in Section 197 para 2) and exploitation of child prostitution.

The relevant provisions of the Criminal Code reads as follows:

Pandering Section 200

(1) Any person who solicits a person for sexual activities for another person for financial gain is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who offers or solicits a person under the age of eighteen years for prostitution shall be punishable in accordance with Subsection (1) for pandering.

(3) The penalty shall be imprisonment between one to five years if pandering is committed on a commercial scale.

(4) The penalty shall be imprisonment between two to eight years if pandering as defined in Subsection (1) is committed:

a) against a person under the age of eighteen years;

b) by a family member or against a person who is in the care, custody or supervision of such family member, or if abuse is made of a recognized position of authority or influence over the victim;

c) by deception, by force or by threat of force.

(5) The penalty shall be imprisonment between five to ten years if Paragraph c) of Subsection (4) also applies to pandering as under Paragraph a) or b) of Subsection (4).

(6) Any person who conspires to engage in the crime of pandering on a commercial scale is punishable by imprisonment not exceeding three years.

Procuring for prostitution Section 201

(1) Any person who:

a) persuades another person to engage in prostitution;

b) makes available a building or another place for another person to engage in prostitution;

c) provides assistance for the prostitution of a person under the age of eighteen years;

is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years for persuading a person under the age of eighteen years to engage in prostitution.

(3) Any person who maintains or operates a brothel, or provides material assistance for the operation of a brothel is punishable by imprisonment between one to five years.

Exploitation of child prostitution Section 203

(1) Any person who endeavors to profit from the exploitation of the prostitution of a person under the age of eighteen years is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who gives money or any other form of remuneration for sexual activities with a person under the age of eighteen years is punishable in accordance with Subsection (1).

(3)¹ Any person who is supported partly or wholly by profiting from the exploitation of the prostitution of a person under the age of eighteen years is punishable by imprisonment between one to five years.

(4) Any person who maintains or operates a brothel, or provides material assistance for the operation of a brothel where the exploitation of the prostitution of a person under the age of eighteen years takes place is punishable by imprisonment between two to eight years.

III. Child Pornography (Article 20) and Participation of a Child in Pornographic Performances (Article 21)

Hungary duly implemented Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA of 13 December 2011.

Therefore provisions of the Criminal Code are already in line with the obligation of criminalizing child pornography.

Conducts related to child pornography are regulated by Section 204 of the Criminal Code. Regarding the offence of child pornography child means any person below the age of 18 years. Pursuant to Section 204 conducts related to such offences are rendered to be punished, as follows:

- obtaining/acquisition, possessing, procuring of material of child pornography/child pornographic images (Section 204 para 1 point subparagraph a)
- producing, offering, supplying or making available child pornography (Section 204 para 1 subparagraph b)
- distributing, dealing with child pornographic image of or making available to the general public materials containing child pornography (Section 204 para 1 subparagraph c)

As for the conducts relating participation of a child in pornographic performances the following ones are criminalised:

- a) persuades a person or persons under the age of eighteen years to participate in a pornographic production is punishable by imprisonment not exceeding three years,
- b) gives a role to a person or persons under the age of eighteen years in a pornographic production is punishable by imprisonment between one to five years.
- c) distributes, deals with or makes pornographic images of a person or persons under the age of eighteen years available to the general public is punishable by imprisonment between two to eight years.

Section 204 of the Criminal Code reads as follows:

(1) Any person who:

- a) obtains or have in his possession pornographic images of a person or persons under the age of eighteen years is punishable for a felony by imprisonment not exceeding three years,*
- b) produces, offers, supplies or makes available pornographic images of a person or persons under the age of eighteen years is punishable by imprisonment between one to five years,*

c) distributes, deals with or makes pornographic images of a person or persons under the age of eighteen years available to the general public is punishable by imprisonment between two to eight years.

(2) The penalty shall be imprisonment between two to eight years if the criminal offense defined in Paragraph b) of Subsection (1) is committed against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognized position of authority or influence over the victim.

(3) Any person who provides material assistance for the criminal act defined in Paragraph c) of Subsection (1) shall be punishable by imprisonment between one to five years.

(4) Any person who:

a) persuades a person or persons under the age of eighteen years to participate in a pornographic production is punishable by imprisonment not exceeding three years,

b) gives a role to a person or persons under the age of eighteen years in a pornographic production is punishable by imprisonment between one to five years.

(5) Any person who:

a) offers to a person or persons under the age of eighteen years to participate in a pornographic material;

b) participates in a pornographic production in which a person or persons under the age of eighteen years also participate;

c) provides material assistance for the involvement of a person or persons under the age of eighteen years in a pornographic production;

is punishable by imprisonment not exceeding three years.

(6) Any person who provides the means necessary for or facilitating the production or distribution of or trafficking in pornographic material on a person or persons under the age of fourteen years is guilty of a misdemeanor punishable by imprisonment not exceeding two years.

(7) For the purposes of this Section:

a) 'pornographic material' shall mean any video, movie or photograph or other form of recording that displays sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanor,

b) 'pornographic production' means an act or show to display sexuality in a gravely indecent manner of exposure specifically for arousing sexual demeanor.

IV. Corruption of Children (Article 22)

The acts defined in Article 22 are criminalised by Section 195 (coercion) and Section 208 (endangering of a minor) where the conduct of endangering the physical, intellectual, moral or mental development of a minor, or persuading or attempting to persuade a person under 18 years of age to commit a criminal or misdemeanor offence, or to engage in immoral conduct constitute criminal offences.

Depending on the circumstances of the case the conduct of intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate may fall under the offence of coercion as defined by Section 195 of the Criminal Code.

Section 208 reads as follow:

Endangering of a minor

(1) A person who is given custody of a minor to maintain and care for the person in his charge - including the domestic partner of the parent or guardian exercising parental custody, as well as any parent who has been deprived of the right of parental custody, if living in the same household or in the same home with the minor - and who seriously violates the obligations arising from such duty and thereby endangers the physical, intellectual, moral or mental development of the minor, is guilty of a felony punishable by imprisonment between one to five years.

(2) Any person over the age of eighteen years who:

a) persuades or makes any attempt to persuade a person under the age of eighteen years to commit a criminal or misdemeanor offense, or to engage in immoral conduct,

b) offers a person under the age of eighteen years for the commission of a crime, is punishable in accordance with Subsection (1), insofar as the act did not result in a more serious criminal offense.

V. Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)

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

If the proposal is not followed by material acts, it constitutes an attempt of solicitation where the means of making the proposal are not relevant. In this case the conduct of making a proposal is criminalised by Section 198 paragraph 2.

Any person over the age of eighteen years who attempts to persuade a person under the age of fourteen years to engage in sexual activities with him or with another person is punishable by imprisonment not exceeding three years (sexual abuse as defined in Section 198 paragraph 2 of the Criminal Code)

In case of solicitation is followed by material acts the conducts shall be criminalised according to the offence of child pornography:

Any person who persuades a person or persons under the age of eighteen years to participate in a pornographic production is punishable by imprisonment not exceeding three years.

Any person who offers to a person or persons under the age of eighteen years to participate in a pornographic material; (Section 204 paragraphs 4 a and 5 a of the Criminal Code)

VI. Aiding or abetting and attempt (Article 24)

1. Intentionally aiding or abetting the commission of any of the above offences.

2. The attempt to commit any of the above offences.

Pursuant to Section 14 of the Criminal Code anyone who instigates another to commit a criminal offence as well as anyone who knowingly and voluntarily assists another person to commit a criminal offence shall face the same level of penalties as the offender of the offence. Attempt is criminalised under Section 10 of the Criminal Code. Pursuant to Section 10, the sentence applicable to a completed criminal act shall also apply to attempt.

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.*

Under Hungarian law legal persons can be criminally held liable under the provisions of Act CIV of 2011 on the imposition of criminal measures against legal persons (hereinafter referred to as Act CIV of 2001).

Measures can be imposed against legal persons in case if any intentional criminal offence regulated under the Criminal Code has been committed for the benefit of the legal person or in violation of obligation on behalf of the legal person.

Pursuant Section 3 paragraph 1 of Act CIV of 2001 the following measures can be imposed on legal persons in addition to or regardless if a natural person has been criminally held liable:

- ordering the dissolution of the legal person
- restricting the scope of activities of the legal person
- fine.

Measures against legal persons may be imposed in case if the offence has been committed

- either by a person holding a leader position in the legal person by way of acting within the scope of activities of the legal person,
- or by a member or employee of the legal person by way of acting within the the scope of activities of the legal person where the perpetration could have been prevented by the exercising of supervision duties of persons holding leading position in the legal person.

Measures against legal persons may be imposed in addition to, or regardless whether a natural person has been held liable for the offence.

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**);*

Hungarian criminal law follows a dual system of sanctions where a court may impose criminal sanctions and/or criminal measures against perpetrators. Criminal sanctions are more severe.

Due to the serious nature of criminal offences regulated under Chapter XIX of the Criminal Code which are in line with the offences set out in the Convention, are punishable by deprivation of liberty if committed by a natural person. However, prohibition from residing in a particular area may be imposed against any person found guilty of procuring for prostitution and exploitation of child prostitution.

In case if the abovementioned offences are committed for the benefit of or with the use of a legal person, provisions of Act CIV of 2001 apply.

Regarding measures imposed on legal persons the following shall be applied under Section 3 paragraph 1 of Act CIV of 2001:

- ordering the dissolution of a legal person
- restricting the scope of activities of the legal person
- fine.

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).

Aggravating and mitigating circumstances in addition to the statutory ones had been elaborated by the Criminal Chamber of the Supreme Court [’56/2007. BK vélemény’ opinion of the Criminal Chamber of the Supreme Court Nr. 56/2007]. Pursuant to point II.2. of it, previous convictions constitute an aggravating circumstance provided that the sentence has been recognized by a competent Hungarian court pursuant to Section 47 paragraph 3 of Act XXXVIII of 1996 on mutual assistance on international legal assistance.

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).

Under Hungarian criminal law concerning jurisdiction both territorial and extraterritorial principles apply. Pursuant to Section 3 paragraph 1 of the Criminal Code Hungarian Criminal law shall apply to criminal offences committed in Hungary; to criminal offences committed on commercial ships or watercraft sailing, or aircraft flying under Hungarian flag outside the territory of Hungary as well as to any act of Hungarian citizens committed abroad, which are criminalised under Hungarian law.

Furthermore, according to Section 3 paragraph 2 point ac) Hungarian law shall apply to any act committed by non-Hungarian citizens abroad, if it constitutes a criminal offence which is to be prosecuted under international treaty ratified by an act of Parliament or it constitutes a criminal offence under Chapter XIII or XIV of the Criminal Code. This included any kind of international treaty that renders to prosecute certain acts and is ratified by an act of the Hungarian Parliament and

Section 3 of the Criminal Code reads as follows:

- (1) Hungarian criminal law shall apply:
 - a) to criminal offences committed in Hungary;
 - b) to criminal offences committed on commercial ships or watercraft sailing, or aircraft flying under Hungarian flag outside the territory of Hungary;
 - c) to any act of Hungarian citizens committed abroad, which are criminalised in accordance with Hungarian law.
- (2) Hungarian criminal law shall, furthermore, apply:
 - a) to any act committed by non-Hungarian citizens abroad, if:

aa) it is punishable as a criminal offense under Hungarian law and in accordance with the laws of the country where committed,

ab)² it is recognized as an offense against the State, excluding espionage against allied armed forces and espionage against European Union institutions, regardless of whether or not it is punishable in accordance with the law of the country where committed,

ac) it constitutes a criminal act under Chapter XIII or XIV, or any other criminal offenses which are to be prosecuted under international treaty ratified by an act of Parliament;

b) to any act committed by non-Hungarian citizens abroad against a Hungarian national or against a legal person or unincorporated business association established under Hungarian law, which are punishable under Hungarian law.

(3) In the cases described in Subsection (2) criminal proceedings are opened by order of the Prosecutor General.

b) to any act committed by non-Hungarian citizens abroad against a Hungarian national or against a legal person or unincorporated business association established under Hungarian law, which are punishable under Hungarian law.

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).

- a. the offence seriously damaged the physical or mental health of the victim*
- b. the offence was preceded or accompanied by acts of torture or serious violence*
- c. the offence was committed against a particularly vulnerable victim*
- d. the offence was committed by a member of the family, a person cohabiting with the child or a person having abused his her authority*
- e. the offence was committed by several people acting together*
- f. the offence was committed within the framework of a criminal organisation*
- g. the perpetrator has previously been convicted of offences of the same nature.*

Most of the aggravating circumstances referred to in Article 28 of the Lanzarote-Convention are in line with increasing qualifications of the various criminal offences governed under Chapter XIX of the Criminal Code. Some of them however cannot be taken into account only as aggravating circumstances.

Concerning some of the offences governed under Chapter XIX of the Criminal Code use of force or threat are constituent element however serious violence defined in Article 28 point a. and b. cannot be established only as an aggravating circumstance of the relevant offences. In these cases the relevant offence defined under Chapter XIX and offence (i.e. battery, violation of personal freedom) against personal freedom shall be established in a cumulative sentence.

As pointed out in details in reply to Question 16 the following qualifying elements are rendered to be aggravating circumstances under the relevant provisions of the Criminal Code:

- if the victim is a relative of the perpetrator,
- the victim is in the care, custody or supervision of the perpetrator or receives medical treatment from the perpetrator,
- or if the offence is committed by way of abusing of a recognized position of trust or influence over the victim,
- if the offence was committed by more than one person on the same occasion, in full knowledge of each other's acts.

These circumstances apply as aggravating ones in case of the following offences:

- sexual coercion (Section 196 paragraph 2 point b),
- sexual violence (Section 197 paragraph 3 point b and paragraph 4 points a and b),
- sexual abuse (Section 198 paragraphs 3 and 4),
- pandering (Section 200 paragraph 4 point b).

The vulnerable nature of the victim can be taken into account if he/she receives medical treatment from the perpetrator or is under the care of him/her. In case of sexual violence it constitute an aggravating factor if it is committed by way of exploiting a minor victim who is incapable of self-defence or unable to express his/her will, for the purpose of sexual acts (Section 197 paragraph 4 subparagraphs a. and b.).

It constitutes an aggravating circumstance if sexual violence has been committed by more than one person on the same occasion, in full knowledge of each other's acts (Section 197 paragraph 3 subparagraph c).

Criminal offences committed by repeat offenders are punishable more severe according to Section 89 that reads as follows:

(1) In respect of habitual and repeat offenders the maximum length of the penalty applicable to another criminal offence committed shall increase by half in the case of imprisonment, however, it may not exceed twenty-five years. In respect of cumulative sentences and in respect of the waiver of the right to trial, the penalty set out in Section 81 Subsection paragraph (3) and in Section 83 Subsections (1)-(2), respectively, shall be increased by half.

(2) The punishment of habitual and repeat offenders may be reduced on the basis of Section 82 Subsection (1) only in cases deserving special consideration.

(3) The more severe legal consequences set out in paragraph (1) shall not apply if the Special Part of this Act prescribes sentencing for habitual offenders to consider such as an aggravating circumstance.

Due to the serious nature of offences relating to criminal organizations, participating in such constitute a self-standing offence under Hungarian law (Section 321 of the Criminal Code).

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;*

Victims either adults or minors are entitled to be informed of their rights and obligations during the course of the criminal proceedings. According to Section 51 paragraph 1 point c of the Criminal Proceedings Code courts, public prosecutors as well as the investigative authorities shall provide information to victims. It is an obligation on behalf of courts, public prosecutors and investigative authorities to put any communication either in writing or verbally in a plain and comprehensive way that would ensure that persons involved in criminal proceedings would easily understand them. It is also a statutory obligation of the judiciary and authorities to make sure that everything concerning their communication towards these persons were understood by them (Section 62/A Criminal Proceedings Code). Therefore child victims/witnesses and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.

Moreover, it is an obligation to provide information on forthcoming procedural acts to any person involved therein. (Section 32 of the Criminal proceedings Code).

According to Section 67 of the Criminal Proceedings Code, a summons or a notice addressed to a minor shall include information of the content of the summons or notice in a manner that would ensure that the minor concerning his/her age and maturity would understand it. A summons is sent to persons the presence of whom is required in the proceedings or at a specific procedural act. A notice is served to a person who may be present at a specific procedural act however it is not obligatory. A summons or a notice concerning child witnesses/victims between 14-18 years of age can be addressed and served directly to them. Guardians of such minor witnesses/victims shall be notified of the fact that a summons or a notice has been served to the minor witness/victim together with a request that the guardian should ensure that the child attends the relevant act of procedure.

In case the summoned person is under 14 years of age, a summons/a notice shall be addressed and served directly to the minor's guardian. In case the guardian of the minor is not equivalent with the legal representative of his/her, a summons/a notice shall also be served to the legal representative. (Section 68 paragraph 2 of the Criminal Proceedings Code).

If minors are involved in criminal proceedings, courts, public prosecutors and investigative authorities shall perform their obligation of providing information towards such persons with increased attention.

It should also be pointed out that as a general rule victims are heard and giving evidence as witnesses. Therefore, provisions for witnesses are adequately applicable to victims.

- 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));*

Pursuant to Section 76 paragraph 1 of the Criminal Proceedings Code the testimony of victims and witnesses shall be taken as means of evidence. In the course of evidence gathering the clarification of the facts in a thorough and complete way shall be endeavoured and it is an obligation of the public prosecutor to initiate motions for the obtaining the means of evidence that could support the indictment (Section 75 para 1 of the CPC). Therefore the Criminal Proceedings Code contains a number of provisions regulating the hearing of minor victims/witnesses. As a rule any person under 14 years of age may only be heard as a witness/victim if the evidence expected to be provided by his/her testimony cannot be substituted by any other means (section 86 paragraph 1).

If minors (persons under 18 years of age at the beginning of the criminal proceedings) are involved as victims in the proceedings, they shall be deemed as victims requiring special treatment during the course of criminal proceedings pursuant to Section 62/A paragraph 2 of the Criminal Proceedings Code. Courts, public prosecutors and authorities shall handle such victims with increased tolerance. (Section 62/A paragraph 3). Therefore needs of victims requiring special treatment shall be taken into account whilst preparing and performing procedural acts (either during the investigative or trial stage) provided that these are not in opposite to the interests of the proceedings (Section 62/A paragraph 4).

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (hereinafter: Directive) intends – besides the support and assistance of the state - to support/strengthen the victims' rights to more information on the criminal procedure and to enhance their role during the procedure. It must be highlighted that during the on-going preparation of the new Criminal Procedure Code, as it was stated in the legislative plan thereof, the procedural role of the victims needs to be strengthened and highlighted, so it can be expected from the new code to have homogeneous, well-weighed, coherent provisions on the right of the victim that meets the expectations of the Directive as well.

- 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));*

Victim Support Services provide assistance to victims of criminal offences committed on the territory of Hungary. Victims' family members who have been harmed, suffered physical injuries or emotional trauma as a direct consequence of a criminal offence committed on the territory of Hungary may also be eligible for support pursuant to Section 1 paragraph 1 of the Victim support Act. Information on the availability of services for relatives is provided by the Victim Support Services. The aim of victim support is to mitigate social, moral and pecuniary injuries of victims. Victim support services are available to victims of every type of crime, though only victims of violent intentional crimes are entitled for compensation.

Due to their vulnerability child victims are handled with priority and special care as already pointed out in reply to Question 15.

By way of support services victims are provided help for assertion of interests, granting of instant financial aid and providing legal aid.

Victim support services provide information and advice to persons (not only victims) free of charge.

Clients are informed of the following:

- rights and obligation of victims in the criminal proceedings
- available forms and conditions of support
- any other benefits, allowances and opportunities by way victims may assert their rights
- contacts of local and central authorities and NGOs involved in supporting victims
- information how to avoid secondary victimization.

A nationwide 24/7 telephone service operated by the Hungarian Justice Office is also available, where victims may be given personalized information. (Victim Line 06 80 225 225).

According to Section 56 paragraph 1 of the Criminal Proceedings Code victims may appoint a legal counsel as a representative, in case there is no obligation for being present in person. In case if a victim would need a legal counsel the Victim Support Services would refer to the Legal Aid Service. Legal aid is available to victims of criminal offences under Act LXXX of 2003 on legal aid (hereinafter referred to as: Act on legal aid). As for free legal representation certain criteria applies, as only indigent persons may be entitled to have free legal aid.

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

According to Section 60 of the Criminal Proceedings Code when procedural actions are being taken the dignity of the human being, the personal right of the concerned parties and the integrity of a deceased person shall be respected, and it shall be guaranteed that the data regarding private life will not become public unnecessary. In the course of the evidentiary procedure, the human dignity, the personal rights and right of reverence of those involved shall be respected, and unnecessary disclosure of data on privacy shall be prohibited. (Section 77 paragraph 2 of the Criminal Proceedings Code).

Regarding personal data of individuals participating in the proceedings, the Criminal Proceedings Code stipulates that such data may only be inspected and managed by the court, the prosecutor, the investigating authority, the expert witness and the authority consulted by the court or the prosecutor, in order to perform their respective duties set forth herein. The scope of personal data of the defendant of the criminal records and the rules of managing personal data are stipulated by a separate law. (Section 63 of the Criminal Proceedings Code) Section 186 paragraph 4 of the Criminal Proceedings Code stipulates that personal data of victims and witnesses must not be marked on any copy of documents issued during the course of the criminal proceedings.

The presiding judge may order the trial to take place without the presence of the public for the sake of moral reasons, the protection of minors, the protection of a victim requiring special treatment (Section 237 paragraph 1 points a-c). Closed session can be ordered by the court ex

officio, or upon a motion of the public prosecutor, the defendant or his/her counsel, the victim or the witness.

By virtue of the increased need of protecting child victims under the age of 14 years as well as victims against whom sexual crimes have been committed, or victims requiring special treatment (any child under 18 years of age; as pointed out in the reply to Question 21 point b.) it is possible to hear these persons by way of a closed-circuit communication system (Sections 244/A-244/D). The presiding judge may order either ex officio or upon a motion that the abovementioned victims/witnesses shall be heard via a closed-circuit communication system helping to protect victims of further traumatization.

Concerning rules of disclosing information and providing information to the general public during the criminal proceedings are regulated by Sections 74/A and 74/B of the Criminal Proceedings Code. Information to the press may be provided by the following persons: prior to the conclusion of the investigation, the member of the investigating authority authorised to do so according to the relevant legal regulations; prior to the indictment, the prosecutor or the person authorised for it; and during the court procedure, the person authorised by the Act on the Legal Status and Remuneration of Judges. The press shall be entitled to provide information on public court hearings.

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));

There are a number of tools for protecting witnesses'/victims' lives, physical integrity or personal freedom as to ensure that the witness fulfils the obligation of giving testimony and the testimony is given without any intimidation (Section 95 of the Criminal Proceedings Code).

Personal data of victims and witnesses (including the identity of child victims) are treated confidentially either upon requested or rendered to be so ex officio. (Section 96 of the Criminal Proceedings Code). This case personal data are handled separately and confidentially among the documents of the case.

Restraining orders may also be ordered by the court as explained in reply to Question 15 point b.

Another way of protecting witnesses/victims is to declare such a person specially protected. A witness may be declared specially protected, if his/her testimony relates to the substantial circumstances of a particularly serious case, the evidence expected by his testimony cannot be substituted, and his/her identity, his/her place of residence and the fact that he is intended to be heard by the prosecutor or the investigating authority as a witness is not known by the defendant and the defence counsel, and the exposure of the identity of the witness would seriously jeopardise the life, physical integrity or personal freedom of either the witness or the relatives thereof. (Section 97 of the Criminal Proceedings Code).

Furthermore, witnesses and victims may participate in protection programmes in case it is deemed necessary at any stage of the criminal procedure, or afterwards. Act LXXXV of 2001 on the Protection Programme of persons involved in criminal procedure (hereinafter referred to as Act LXXXV of 2001) governs the rules on protection provided. The protection is

provided through an agreement with the Witness Protection Service which is a special department of the Police.

Child victims and their families may be put under protection upon their request. Considering that a minor under 14 years of age lack legal capacity, while minors who have reached 14 years but are under 18 years of age have only limited legal capacity, the request should be filed by the holder of parental responsibilities (guardian, legal representative). The head of the investigating authority involved in the proceedings, the public prosecutor, or the judge may initiate the agreement with the Witness Protection Service. In case the latter approves to the initiation, it shall be forwarded to the Head of National Police Headquarters, that having approved concludes the agreement for protection with the holder of the parental responsibilities (Sections 5-7 of Act LXXXV of 2001).

In case the minor needs to be put under protection due to the conduct of his/her legal representative, guardian or custodian or because of a conflict between the victim/witness and his/her legal representative, guardian or custodian, provided that it is possible, the agreement for protection shall be made with another person holding these right or in the absence of that, an ad hoc guardian shall be appointed by the guardianship authority.

- 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));*

Section 13 of Act CCXL of 2013 on the execution of punishments, measures, certain coercive measures and detention for administrative offences (hereinafter referred to as Act CXL of 2013) stipulates that victims or the person exercising the victim's rights upon their request shall be informed if the perpetrator is released from pre-trial detention, or involuntary treatment in a mental institution or the defendant is to be on conditional release, or has escaped or is released from the penitentiary institution.

The request needs to be filed to the court of competence, in case if the defendant is under pre-trial detention, or is under involuntary treatment in a mental institution, it needs to be filed to the public prosecutor. The address, where the notice is to be sent shall be indicated in the request. (Section 13 para 2 of Act CCL of 2013).

The request shall be registered by the court or the public prosecutor and shall be forwarded to the Hungarian Prison Service Headquarters ('Büntetés Végrehajtás Országos Parancsnoksága') 30 days prior to the release of the defendant, any other cases instantly. Hungarian Prison Service Headquarters shall inform the victim or the person exercising the victim's rights of the release of the defendant.

Personal data of the victim or the person exercising the victim's rights shall be treated confidentially, preventing any disclosure of them.

- 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));*

Authorities shall endeavour to avoid any unnecessary encounter between the victim and the perpetrator during the criminal procedure. Thus while planning and performing investigative acts, due account shall be taken by investigative authorities and public prosecutors to avoid any unnecessary meeting of the victim and the defendant (Section 32/B of the Criminal

Proceedings Court). Therefore, if the presence of the victim is indispensable at an investigative act, it should be appropriately prepared and performed in order to avoid the need of repeating it.

As already pointed out in reply to question 21 point e, a number of tools are available concerning the protection of witnesses/victims, which are also suitable for preventing any unnecessary encounter with the perpetrator. These are especially treating confidentially the personal data of victims/witnesses, preventing any unnecessary disclosure of personal data as well as declaring a witness specially protected. It's important to highlight, that a specially protected witness/victim may not be heard the trial. In case if such a witness/victim has been heard by the investigating judge before the initiation of the indictment (Section 207 para 4), the witness/victim may only be heard at trial in case he/she meanwhile has reached 14 years of age and his/her hearing at trial is exceptionally justified. (Section 294 of the Criminal Proceedings Code).

If it is required in order to protect the witness/victim, confrontation with the perpetrator as a tool in the course of evidentiary procedure shall be omitted. Minors under fourteen years of age may only be involved in confrontation if it would not cause any apprehension in them. (Section 124 of the Criminal Proceedings Code).

Witnesses/victims may make a written testimony following the hearing, or instead of being heard at trial. In case it is deemed to be necessary be, the witness/victim may be summoned for a hearing by the investigating authority, public prosecutor or the court.

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).

Legal aid is available to victims of criminal offences under Act on legal aid. As for free legal representation certain criteria applies and as a rule free legal aid is dependent on the income of victims. Thus only indigent victims may be entitled to have free legal aid. However, free legal aid is granted for child victims under Section 19 paragraph 3 of Act on Legal Aid.

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

a. What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (Article 30, para. 2, Explanatory Report, paras. 211-215);

A range of provisions ensure that minors would not be interviewed or heard unnecessarily during the criminal proceedings. As a rule any person under 14 years of age may only be heard as a witness/victim if the evidence expected to be provided by his/her testimony cannot be substituted by any other means.

Needs and different level of the maturity of children shall be taken into consideration right from the beginning of the proceedings. Information concerning the proceedings and

investigative or procedural acts shall be provided to minor victims in a way that ensures full comprehension (please refer to reply to Question 21 point a).

If a child under 14 years of age has been heard by the investigative judge during the investigative stage of the proceedings, he/she cannot be summoned for the trial. In case if such a victim/witness has meanwhile reached 14 years of age he/she can be summoned for a trial if it is deemed especially justified.

In case if a victim/ witness is under 14 years of age shall be heard, serving summons to the defendant and his/her legal counsel may be dispensed.

There are strict rules and limitations concerning the interviews conducted with minors as well as the hearing of minors. Please refer to reply given to Question 23 point a.

Any unnecessary encounter of the victim and perpetrator shall be avoided as pointed out in detail in reply to Question 21 point g. Confrontation as an act applies in the course of the evidentiary procedure may be applied with restrictions if a child victim under 14 years of age is involved.

In case if a child under 14 years of age or a minor victim under 18 years of age is heard by way of a closed-circuit communication system questions would be asked only by the presiding judge.

Minors under 18 years of age shall be deemed as victims requiring special treatment. Courts, public prosecutors and authorities shall handle such victims with increased tolerance. Therefore needs of victims requiring special treatment shall be taken into account whilst preparing and performing investigative or procedural acts provided that these are not in conflict with the interests of the proceedings. By virtue of the abovementioned, authorities shall endeavour to apply the following measures in case the victim is between 14 and 18 years of age:

- videotaping interviews conducted with the victim
- hearing the victim by way of a closed- circuit communication system
- holding a trial in a special hearing room during the investigative stage.

It is important to highlight, that a specially protected witness/victim may not be heard at the trial. In case if such a witness/victim has been heard by the investigating judge before the initiation of the indictment (Section 207 para 4), the witness/victim may only be heard at trial in case he/she meanwhile has reached 14 years of age his/her hearing at trial is exceptionally justified. (Section 294 of the Criminal Proceedings Code).

Child victims under 14 years of age as well as any minor victim under 18 years of age (as being deemed to be victims requiring special treatment) are heard in special hearing rooms provided that one is available on the territorial competence of the investigative judge in charge. If the child victim is being interviewed by the investigative authorities, the interview shall take place in a special hearing room, provided that one is available on the territorial competence of the local/district police station in charge of the case.

Regarding special hearing rooms please refer to reply to Question 23 point a.

- 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);*

There are only two cases of sexual related criminal offences where private motion is needed for the initiating the investigations. These are the basic case of sexual coercion (Section 196 paragraph 1) and the first basic case of sexual violence (Section 197 para 1).

It should be highlighted however that victims of these offences cannot be minors, as whenever the victim is a minor, this fact either constitutes another basic case of the offence (i.e. sexual violence) or a qualifying element increasing the punishment. Therefore offences regulated under Chapter XIX when committed against a minor fall under public prosecution.

- c. Which legislative or other measures 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);*

Act LXV of 2014 on the amendment on the Criminal Code modified the rules concerning the statute of limitation regarding criminal offences under Chapter XIX regulating crimes against sexual self-determination and sexual morality.

Section 26 paragraph 3 subparagraph c. reads as follows:

No statute of limitation applies to the crimes defined in Chapter XIX, punishable by imprisonment of more than five years, if at the time of the perpetration the victim is under the age of eighteen years.

According the abovementioned provision the following criminal offences exempt from the statute of limitation:

- aggravated forms of sexual coercion (Section 198 paragraphs 2 and 3)
- sexual violence (Section 197 para 2 and 3 point 3 and para 4)
- aggravated form of sexual abuse (Section 198 para 3 point a)
- pandering (Section 200 para 4)
- exploitation of child pornography (Section 203 para 4)

Moreover, if the victim of a criminal offence governed under Chapter XIX of the Criminal Code has not reached 18 years of age by the time of the perpetration, the statute of limitation shall not continue until the victim has come to age. (Section 28 paragraph 1a).

- 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;*

As a general rule, parents hold responsibility for children as legal representatives (stipulated by Section 4:161 of the Civil Code). However, parents may not represent their children in such a case where there is a conflict of interests between the child and the parent, his/her spouse, life partner, lineal descendant or another person for whom the legal representative is holding parental rights. The guardianship authority shall render a guardian for the child in cases where parents are not entitled to act as legal representatives of the child/children due to a conflict of interests or any other obstacle, or a decision made by the guardianship authority. Concerning criminal proceedings if the victim is a minor, his/her legal representative shall act on his/her behalf. (Section 56 para 2 of the Criminal Proceedings Code). In case of conflict of interests, provisions of the Civil Code shall apply. Concerning cases where a parent is the accused perpetrator of a criminal offence committed against his/her child a conflict of interests shall be established. In such cases a temporary guardian shall act as legal representative of the child.

- 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;*

According to Section 56 paragraph 1 of the Criminal Proceedings Code victims may appoint a legal counsel as a representative in such a case when there is no obligation for being present in person.

If there are more victims of the criminal offence, they may appoint a person among them or a legal person to act on behalf of them. In case if it cannot be estimated how many persons constitute victims of the criminal offence/s, or a group of persons are victims of the offence, an NGO set up for the purpose of the representation of such victims may take part in the proceedings.

- 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);*

Covert data gathering and covert information collection constitute important tools in establishing the identity of a perpetrator, or finding means of evidence.

Provisions on these investigative tools are strictly regulated [Sections 200-206/a of the Criminal Proceedings Code and Act XXXIX 1994 on the Police hereinafter referred to as Act on the Police]

Covert data gathering may be conducted after the investigation is ordered until the records thereof are presented. It can be conducted by the public prosecutor or the investigative authority however either case it depends on a judicial permit. Covert data gathering may be applied in case of a range of criminal offences just like offences committed intentionally and rendered to be punishable by up to five years or more severe imprisonment. Thus it can be

applied in the course of the investigation of a range of the offences in accordance with the Convention:

- aggravated forms of sexual coercion (Section 198 paras 2 and 3)
- sexual violence (Section 197 para 2 and 3 point 3 and para 4)
- aggravated form of sexual abuse (Section 198 para 3 point a)
- pandering (Section 200 para 4)
- exploitation of child pornography (Section 203 para 4)

However, concerning the offences of child pornography, pandering and procuring prostitution, covert data gathering can be permitted regardless the length of imprisonment rendered for these offences.

By way of covert data gathering investigative authorities may:

- keep under surveillance and record the events in a private home with a technical device,
- open, check and record with a technical device the contents of mail consignments and closed consignments which can be connected to an identified person, as well as learn and record with a technical device the contents of communications made by way of electronic telecommunication service,
- learn, record and use data transmitted or stored by way of a computer tool or system (hereinafter: covert data gathering).

As a rule subject of covert data gathering may primarily be the suspect, or the person who may be suspected of having committed the criminal offence based on the available data of the investigation.

Other persons may be subjected to covert data gathering if data indicate that they have culpable communications with the suspect or there is reasonable ground to suspect the same. The fact that an outsider is unavoidably affected shall not be an obstacle to covert data gathering.

Covert information collection may be conducted by the police for criminal law enforcement purposes or for other than criminal law enforcement purposes. These investigative tools are subject to judicial authorization.

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

Techniques for identifying child pornographic material are permanently being improved.

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.*

At the beginning of the proceedings child victims are interviewed on the spot or at the premises of the investigative authority in charge of the case.

Decree 32/2011 (XI. 18) of the Minister of Public Administration and Justice (hereinafter referred to as Decree 32/2011) stipulated the obligation for creating child-friendly hearing rooms for the purpose of interviewing children under 14 years of age as well as minor victims between 14 and 18 years of age against whom such offences had been committed that presumably affected their mental, emotional and physical development to such an extent that their hearing/interviewing needs to be conducted with utmost tolerance.

Pursuant to the provisions of Decree 32/2011 police headquarters at county level were obliged to create child-friendly hearing rooms. Meanwhile, as pointed out above a new category of victims has been introduced by Act CLI of 2015 to the Criminal Proceedings Code with effect of November 1st 2015. According to that any person who is under 18 years of age at the beginning of the proceedings is deemed to be a victim requiring special treatment (Section 62/C para 2). Due to this amendment Decree 32/2011 has been repealed by Decree 34/2015. (XI. 10.) of the Minister of Justice on the creating and inspecting special hearing room suitable for interviewing witnesses or suspect under the age of 14 an victims requiring special treatment (hereinafter referred to as Decree 34/2015).

For the time-being there are 29 certified special hearing rooms nationwide. Special hearing rooms shall be equipped with technical means suitable for audio-visual recording since interviews with children under 14 years of age shall be recorded (Section 167 of the Criminal Proceedings Code). Such recording of the interviews conducted with child victims/suspects take place with the awareness of his/her legal representative.

Due to the obligation for clarifying the facts upon which the indictment is based, minors can be interviewed and heard more than once during the criminal procedure either in the investigative, or in the trial stage. Provisions differentiate between children under 14 years of age and minors between 14 and 18 years.

Children under 14 years of age may only be heard in case the evidence expected from their testimony cannot be obtained by any other means (Section 86 para 1 of the Criminal Proceedings Code). Children are interviewed by the investigative judge upon the initiation of the public prosecutor. In lack of such initiation the investigative authority shall interview the child victim. In this case the interviews are carried out by professionals with specialized knowledge who usually are police officers having other qualification just like in education or psychology. The hearing of a child under 14 years either conducted by the investigative judge or by the investigating authority shall always be videotaped.

If a child victim has been interviewed by the investigating judge during the investigative stage he/she cannot be summoned to the trial.

In case the child victim has not been heard by the investigative judge during the investigative stage of the criminal proceedings he/she may be heard during the trial stage. In this event child victims are interviewed by a delegated judge or at the court which is near to the child victim's place of residence.

Child victims between 14 and 18 years constitute victims requiring special care therefore courts, public prosecutors and investigative authorities shall handle such victims with increased tolerance. Concerning the hearing of such victims, authorities shall endeavour to apply the same measures applicable to child victims under 14 years of age. (i. e videotaping interviews, hearing the victim by way of a closed-circuit communication system, the hearing can be rendered to be held in a special hearing room, the investigative judge may render upon initiation or ex officio that the hearing of the victim should be videotaped, the presiding judge may render that the defendant should be sent out of the trial in case his/her presence would disturb the victim). The legal representative, supporter or guardian of the child can be present at the interview as well as a legal counsel.

From 1 January 2014, the child protection guardian was introduced for children brought up by care providers specialised in child protection, so that child protection guardian work as legal representative of children raised by foster parents or at a children's home. Child protection guardian guarantees the consistent representation of children, irrespective of the location where they receive care, the enforcement of their rights, obtaining their opinion and informing the public guardianship authority providing the care and the one acting for the child, and facilitates that children receive appropriate care in the child protection institution.

In case of child maltreatment or abuse against a child brought up children's home or foster parent the child protection guardian has also the responsibility to act promptly by the Child Protection Act. The rules of responsibilities and consequences of neglecting or violating the rules are unequivocally based in such cases.

Section 80/B para 3 ensures that the guardianship authority shall decide upon the change in the child's place of care with immediate effect in an extraordinary decision which is enforceable notwithstanding appeal if the place of care severely endangers the interest of the child, and if, due to the severe endangerment, the child protection guardian takes the child to another safe place of care, they shall simultaneously notify the guardianship authority and request the change of the designated place of care. This rule must be applied if, during the care of the child the foster parent or staff of the children's home use methods of child-rearing which are not permitted, mistreat or abuse the child.

In these cases the child protection guardian and the guardianship authority have obligation to initiate a criminal procedure.

According to the Government Regulation implementing Child Protection Act children can be heard by guardianship office without the presence of his/her legal representative in case this is the child's interest. In reasonable cases on behalf of the child's interest guardianship office can hear him/her outside the office (living place of the child, etc.), too.

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;

As pointed out at point a, it is a statutory obligation to record interviews conducted with child victims/witnesses under 14 years of age. If the child has been heard by the investigating judge, he /she cannot be heard during the trial stage unless meanwhile has turned 14 years of age.

Videotaped interviews therefore are accepted as evidence in the trial stage.

Persons who have not reached 18 years of age at the beginning of the criminal proceedings are deemed to be victims requiring special treatment. Due to Section 62/C paragraph 3 needs of such a victim shall be taken into account whilst preparing and performing procedural acts.

Accordingly, the provisions on the hearing of children under 14 years of age may be applied (including videotaping an interview) if the victim is a minor above that age, provided that it would not be in conflict with the interests of the proceedings.

- c. Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (Article 36).*

In order to minimise the burden of criminal proceedings, child victims under 14 years of age can be heard by way of a closed-circuit communication system. In case it is available the interview is taken place at a special hearing room. The investigative judge can order that the trial would take place in a special hearing room provided that such a room is available at his territorial jurisdiction.

The presiding judge may order the trial to take place without the presence of the public for the sake of moral reasons, the protection of minors under 14 years of age, the protection of a victim requiring special treatment (Section 237 paragraph 1 points a-c). Closed session can be ordered by the court ex officio, or upon a motion of the public prosecutor, the defendant or his/her counsel, the victim or the witness.

Replies to this questionnaire were collected by the Ministry of Justice.

The following government stakeholders contributed to responding to this questionnaire:

Ministry of Human Capacities:

- State Secretariat for Family and Youth Affairs
- State Secretariat for Health
- Deputy State Secretariat for Education

Ministry of Interior

Ministry of Justice Deputy State Secretariat for Criminal Law Codification