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LANZAROTE CONVENTION

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

Replies to the general overview questionnaire

CZECH REPUBLIC

Replies registered by the Secretariat on 4 April 2017

GENERAL FRAMEWORK

Question 1: Definition of “child”

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

According to Section 126 of the Criminal Code, the term child describes a person under the age of eighteen years.

According to Section 2 of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, a child is defined as a person under legal age. According to the Civil Code, majority shall be acquired by achieving the age of eighteen years.

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

The Amendment No. 56/2017 Coll., to the Act on Victims of Crime prescribes that in doubt about the victim being particularly vulnerable, the victim shall be considered to be particularly vulnerable. According to the Act No. 45/2013 Coll., on Victims of Crime, the child is considered to be a particularly vulnerable victim.

- 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.

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.

Section 3 sub-section (3) of the Act No. 45/2013 Coll., on Victims of Crime explicitly grants rights to victims regardless of race, ethnicity, nationality, gender, sexual orientation, age, disability, religion, belief or world view.

According to Section 2 of the Act No. 59/1999 Coll., on the Social and Legal Protection of Children, social and legal protection shall be provided to a child who a) has permanent residence within the territory of the Czech Republic, b) has been granted a residence permit or registered for residence in the territory of the Czech Republic for a period of at least 90 days, c) has filed a motion to commence procedure on granting of international protection in the territory of the Czech Republic, d) is authorized to permanent residence in the territory of the Czech Republic, e) resides in the territory of the Czech Republic with a parent, who has applied for a temporary protection residence permit in the territory of the Czech Republic or already resides in the territory of the Czech Republic under a granted temporary protection residence permit according to special legal regulation, f) resides in the territory of the Czech Republic with a parent, who resides in the territory of the Czech Republic on the ground of permit of tolerated stay according to special legal regulation, or is an asylum seeker or a beneficiary of subsidiary protection, or g) is an asylum seeker or a beneficiary of subsidiary protection.

The Lanzarote Convention is a part of the legal system of the Czech Republic and, pursuant to Article 10 of the Constitution of the Czech Republic, takes precedence over the standard laws. Article 2 of the Lanzarote Convention is therefore directly applicable in the legal system of the Czech Republic. Furthermore, the Charter of Fundamental Rights and Basic Freedoms, which is a part of the constitutional order of the Czech Republic, forbids discrimination on the same grounds as the Lanzarote Convention, with the exception of sexual orientation, state of health and disability. The list of grounds included in the Charter is of a demonstrative character, so further grounds may be added. Further grounds not explicitly stipulated in the Charter are laid down in the Antidiscrimination Act No. 198/2009 Coll., though this act does not apply to situations stated in Lanzarote Convention.

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;

Protection of children against sexual exploitation and sexual abuse is ensured by the Criminal Code, which includes elements of respective criminal offences.

Criminal Code came into force on the 1st of January of 2010 and is divided into 13 Chapters based on generic objects of crimes. Crimes which are considered to be punishable under the Lanzarote Convention belong in Chapter II (crimes against freedom, personal rights, right of privacy and confidentiality of letters), Chapter III (crimes against human dignity in the sexual area) and Chapter IV (crimes against family and children). To protect children from sexual exploitation and sexual abuse serves the punishment of crimes such as human trafficking with children, kidnapping, rape (including rape committed on child), sexual coercion (including sexual coercion committed on child), sexual abuse, procuring, prostitution endangering the moral development of children, distribution of pornography, abuse of a child for the production of pornography, production and other handling of child pornography, participation in pornographic performance, establishment of unauthorised contacts with a child, entrusting a child to the powers of another person, abduction of a child and enticement to sexual intercourse.

Crimes such as participation in pornographic performance and establishment of unauthorised contacts with a child have been implemented into the Criminal Code fairly recently with the Amendment No. 141/2014 Coll., which came into force on the 1st of August 2014 and which implemented the 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.

The criminal offence of establishment of unauthorised contacts with a child is committed by a person proposing a meeting to a child below fifteen years of age with the intention to commit a criminal offence of sexual abuse, production and other handling of child pornography, abuse of a child for the production of pornography, enticement to sexual intercourse, or any other sexually motivated criminal offence. This criminal offence also relates to cases of cybergrooming, a situation where the offender communicates with children on the internet while pretending to be a different person with the aim of sexual abuse or sexual exploitation of children.

The amendment No.183/2016 Coll., extended the criminal liability of legal entities by crimes of distribution of pornography (Section 191 of the Criminal Code), prostitution endangering the moral development of children (Section 190 of the Criminal Code),

participation in pornographic performance (Section 193a of the Criminal Code) and establishment of unauthorised contacts with a child (Section 193b of the Criminal Code). These crimes complement the existing crimes such as human trafficking (Section 168 of the Criminal Code), sexual coercion (Section 186 of the Criminal Code), sexual abuse (Section 187 of the Criminal Code), procuring (Section 189 of the Criminal Code), production and other handling of child pornography (Section 192 of the Criminal Code), abuse of a child for the production of pornography (Section 193 of the Criminal Code), endangering a child's care (Section 201 of the Criminal Code) or enticement to sexual intercourse (Section 202 of the Criminal Code), which have already established criminal liability of legal entities.

- 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;

Government Resolution No. 4 of 4 January 2012 was approved by the National Strategy to Protect Children's Rights.

The National Strategy to Protect Children's Rights aims to create a system to protect consistently all rights of any child and to meet the child's needs, a system to promote the improvement of the lives of children and families, eliminating discrimination and unequal approach to children, and promoting overall development of the child in his or her natural family or alternative family environments, as appropriate, all of that taking place with the child's participation in the decision-making processes with a direct impact on the child. In safeguarding the "right to childhood", certain groups of children and families require special approaches and attention.

The National Strategy is based on the rights of the child, and defines the basic principles of the protection of children's rights and of the care of vulnerable children. It contains specific intentions, objectives and activities, including the time frame, the setting of individual departments' responsibilities and of monitoring and assessment methods. The National Strategy is expected to be implemented in close cooperation with the government, local and regional authorities, non-governmental non-profit sector, and public initiatives. Thus the National Strategy should be not only a formal document but also the basis for the enforcement of children's rights not only through legislative changes but particularly through day-to-day practice.

The primary objective of the National Strategy to Protect Children's Rights will be achieved through the accomplishment of sub-objectives in the following priorities:

- A. *Child's participation: The child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- B. *Elimination of discrimination and of the unequal approach to children: Children's rights are guaranteed to each child without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, physical or mental disability, birth or other status.*
- C. *Right to family care: The family, as the fundamental group of society and the natural environment for the growth, well-being and protection of children, should be afforded the necessary protection by the State and society.*

D. Ensuring the quality of life for children and families: The child must be ensured such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for the child, and, to this end, the State shall take all appropriate legislative and administrative measures.

The primary objective of the National Strategy to Protect Children's Rights will be achieved by 2018.

The National Strategy sets the basic principles for the system to function and sixteen areas of activities to gradually fulfil this objective. The National Strategy to Protect Children's Rights also stated that the key activities will be achieved, monitored and evaluated on the basis of action plans, which define:

- a) activities, fulfilment indicators, time schedules;*
- b) responsibility for fulfilment;*
- c) human and technical resources to achieve them;*
- d) financial costs of the performance of individual activities, funding resources and the impact on public budgets;*
- e) legislative changes required to achieve the objectives;*
- f) the monitoring mechanism required to evaluate the performance progress, and the identification of fulfilment deficiencies, if any;*
- g) method of involvement of civil society and children in the performance of the activities.*

The first Action Plan for the Fulfilment of the National Strategy to Protect Children's Rights set tasks for the period from 2012 – 2015. In 2016, it was evaluated the performance of the first Action Plan and currently the government approved a second Action Plan for the Fulfilment of the National Strategy for period 2017 - 2020.

By approving the National Strategy to Protect Children's Rights the government of the Czech Republic has committed itself to creating a functional system to protect consistently all rights of children and to meet their needs. Reaching this goal will help enhance the protection of vulnerable children in the Czech Republic, including children sexually exploited or abused.

- 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.

According to Article 867 Civil Code (Act No. 89/2012 Coll.), before making a decision that affects the interests of a child, a court shall provide the child with the necessary information in order for him to form his own opinion and communicate it.

If a court finds that a child is unable to properly receive the information or form his own opinion or communicate it, the court shall inform and hear a person who is able to protect the interests of the child; the person's interests must not be in conflict with the interests of the child; a child over twelve years of age is presumed to be able to receive the information, make his own opinion and communicate it. The court pays due attention to the opinion of the child.

According to Article 8, Act No. 359/1999 Coll., on social and legal protection of children, a child who, given his/her age and maturity, is able to assess the scope and importance of the decision made during the legal or administrative proceedings to which he/she was a

participant, or whether it is another decision that personally affects him/her, shall be informed by the socio-legal protection authority of all matters that might significantly affect him/her.

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**);

Any child, who is sexually abused, is considered endangered child which focuses on social and legal protection provided by the state in accordance with s. 6 of the Act No. 359/1999 Coll., on social and legal protection of children. A child shall have the right to ask social and legal protection authorities and social and legal protection facilities, government authorities that are also responsible for the protection of rights and justified interests of children under special legal regulations, the Charged Persons, schools, schooling facilities and healthcare service providers for help in protecting his or her life and safeguarding his or her other rights. These authorities, legal entities and individuals and Charged Persons shall be obliged to provide the child with adequate assistance. A child shall have the right to ask for help even without the knowledge of his or her parents or other persons responsible for the child's upbringing.

If the abused child learns (or at least accommodate reasonable suspicion) any government agency, school, educational facility or other facilities for children, non-governmental organizations, doctor or other provider of health services, is required for this child and his situation immediately inform the competent authority child protection (municipal authority with extended powers in the place of residence of the notifier). For any breach of this statutory reporting obligations it is possible in administrative proceedings to impose a fine of up to CZK 50 000 (refer to s 10 par. 4 in conjunction with s. 59e and 59k of Act No. 359/1999 Coll.).

Conduct of a parent or other person who commits a crime of sexual exploitation of a child, may be considered and prosecuted as a crime against human sexual dignity, specifically as a crime of rape (Section 185 of the Criminal Code), sexual coercion (Section 186 of the Criminal Code), sexual abuse (Section 187 of the Criminal Code), incest (Section 188 of the Criminal Code), abuse of a child for the production of pornography (Section 193 of the Criminal Code) or enticement to sexual intercourse (Section 202 of the Criminal Code). In such cases all state authorities with information about the abuse of a child are obliged to file criminal complaint with a police authority or public prosecutor pursuant to Section 8 subsection (1) of the Criminal Procedure Code. All natural persons and legal entities are also obliged to inform without undue delay the police authority or public prosecutor about the commission of crimes of sexual abuse or abuse of a child for the production of pornography or prevent them in any other way. If the natural person or legal entity does not fulfil this obligation, it may be liable for a crime of failure to prevent a criminal offence (Section 367 of the Criminal Code) or failure to report a criminal offence (Section 368 of the Criminal Code).

- 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 Act No. 45/2013 Coll., on Victims of Crime, the Police authority shall on its own initiative inform the victim about: a) the body which the victim

may file complaint about facts indicating that the crime was committed with, and provide the victim with contact on such body, b) subjects registered in Providers of help for victims of crimes register whom the victim may file an application for professional assistance with, under what conditions may the victim access free legal advice from such subjects, and provide the victim with contact on such subjects, c) under what conditions may the victim request measures to secure his/her safety under the Act No. 137/2001 Coll., on the Special Protection of a Witness, d) the body which may provide the victim with more information about the crime that was committed, e) stages of the proceedings following the complaint and what shall the victim do in such stages, f) the body which the victim may ask for information pursuant to Section 11 subsections (1) and (3) and the way the victim shall ask for such information, and provide the victim with contact on such body, g) under what conditions and to which extent may the victim claim monetary assistance, including guidance about the time limit for filing such claim, h) the body which the victim may claim remedy at and the way the victim may claim such remedy, if his or her rights are infringed by public authority or if the full application of such rights is not allowed, i) measures which the victim shall ask for to protect his or her interests, in case the victim resides in other member state of the EU, j) other rights according to the Act on Victims of Crime.

Under Section 3 (2) of the Act on Victims of Crime, the Police of the Czech Republic, authorities involved in criminal proceedings and other public bodies, subjects registered in Providers of help for victims of crimes register, health care providers, experts, translators, counsellors and media have to respect personality and human dignity of the victim, treat the victim politely and carefully and satisfy her needs, if possible. They shall treat the victim with respect to his or her age, medical situation (including the mental situation), her mental capacity and cultural identity in such a way which may protect the victim from increasing already sustained harm or repeat victimisation. Such principle is also present in equal treatment principle included in Section 3 (3) of the Act on Victims of Crime, which awards the victim with certain rights regardless of his or her age.

Pursuant to Section 8 (2) of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, a child who is able to articulate his or her own opinion shall have the right to express his or her opinions freely for the purposes of social and legal protection when discussing any matters relating to him or her, even without the presence of his or her parents or other persons responsible for the child's upbringing. The child's opinions shall be paid appropriate attention adequate to the child's age and intellectual maturity in discussing any matters relating to the child. In its acting, the social and legal protection authority shall take into consideration the child's wishes and feelings in a way adequate to the child's age and development so that his or her emotional and psychological development is not disrupted or put at risk.

Under Section 8 (3) of the Act on the Social and Legal Protection of Children, a child older than 12 years is presumed to be able to receive information, create his or her opinion and express such opinion.

According to Section 8 (3) of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, a child who is able to consider the consequences and significance of decisions resulting from a judicial or administrative proceeding in which he or she participates, or other decisions relating to the child given his or her age and intellectual maturity shall receive information on any material aspects relating to the child from the social and legal protection authority.

Child against whom the crime has been committed is ensured with procedural rights of a particularly vulnerable victim of crime pursuant to Act No. 45/2013 Coll., on Victims of Crime. Such rights include right for hearing conducted in an especially careful way, right

of accompaniment to legal actions of criminal proceedings and to hearing by a confident, right for free legal representation by a lawyer or for a monetary assistance, if such child was harmed on health as a consequence of bullying. If the bullied child was harmed with a crime of sexual abuse, sexual exploitation or maltreatment of an entrusted person, such child is granted with a right for monetary assistance in relation to psychological, physiological or other professional help; such assistance may be granted to the amount of 50 000 CZK.

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)**);

Representative of Ministry of Health is a member of Committee for the Rights of the Child, which is administered by the Office of the Government of the Czech Republic.

As a body of public prosecution in criminal proceedings, public prosecutor's office is one of the bodies providing protection for the children from sexual abuse and sexual exploitation. According to its jurisdiction stipulated by law, the public prosecutor's office also participates in crime prevention and providing aid for victims of crimes.

In the system of public prosecution, Regional, High and Supreme Public Prosecutor's Offices are obliged to establish sections specialising in illegal migration and human trafficking. There are also obligatorily established sections specialising in moral and violent criminal activity, home violence and criminal activity committed against children at every level of the system of public prosecution.

The Supreme Public Prosecutor's Office is a member of Inter-ministerial Coordination Group for Combating Trafficking in Human Beings. Representatives of the Supreme Public Prosecutor's Office partake in this group and they regularly contribute to the preparation of the Annual Status Report on Trafficking in Human beings. The Supreme Public Prosecutor's Office includes a position of a National Correspondent for Combating Trafficking in Human Beings, Child and Woman Abuse, Illegal Immigration and Employment and Protection of the Rights of Victims of Crime. The National Correspondent and its deputy also give lectures at Judicial Academy in Kroměříž, where they also organise seminars focusing on this aspect.

The Supreme Public Prosecutor's Office, Ministry of Justice and the Judicial Union also partake in National Crime Prevention Committee, whose agenda includes prevention of children against sexual abuse and exploitation, and in Inter-ministerial Coordination Group for Transforming the System of Care of Endangered Children. The National Crime Prevention Committee meets once a month and its agenda includes creating concepts of preventive policy of the Government of the Czech Republic on intergovernmental level and its specification on local level. More information available at www.prevencekriminality.cz

The concept of social and legal protection of children is explicitly specified in Act No. 359/1999 Coll., on social and legal protection of children, as amended, which defines the social and legal protection of children as follows:

- *protection of the child's right to a favourable development and proper upbringing,*
- *protection of the rightful interests of the child,*

- activities aimed at recovery of disrupted family functions, and
- efforts aimed at providing for a substitute family environment for a child who cannot be brought up in his or her own family permanently or temporarily.

Socio-legal protection authorities shall provide socio-legal protection, these being:

- *municipal authorities: The municipal authority shall encourage parents to fulfil the obligations that arise from their parental responsibility and to inform the municipal authority of a municipality with extended powers of any facts that might indicate that there are children, who socio-legal protection shall primarily focus;*
- *municipal authorities of municipalities with extended powers (city authorities, in chartered towns metropolitan and town district authorities, in Prague authorities of charged metropolitan districts): The municipal authority of the municipality with extended powers shall be responsible for the protection of children from physical or mental violence, for the protection of their healthy development in physical, mental and moral terms and the protection of other aspects of integrity of a child; shall be obliged to regularly assess the situation of a child and his or her family, namely in terms of whether the child; shall be obliged to produce an individualised child protection plan on the basis of the assessment of the child's and his or her family's situation; the plan shall explain why the child is at risk, specify measures to provide for the child's protection, to assist the family of the vulnerable child and to support the family's functions, and determine a time schedule for the implementation of the measures; shall petition the court under the conditions set forth in a special regulation to restrict or remove parental responsibility or to suspend its performance and to place the child in the temporary foster care or institutional care; the municipal authority of a municipality with extended powers acts as guardian and curator;*
- *regional authorities (in Prague the City Hall of the Capital of Prague): Powers of regional authorities include, in addition to control and methodological tasks, almost the entire process of mediation of substitute family care, deciding on authorization for exercise of social and legal protection of children by natural and legal persons and deciding on state subsidy to promoters of facilities for children requiring immediate help. In relation to municipal authorities and municipal authorities of municipalities with extended competences regional authorities act as a superior control body and an appellate body authorized to review decisions of municipal authorities and municipal authorities of municipalities with extended competences in administrative procedure;*
- *The Office for the International Legal Protection of Children: The Office is an administrative agency with state-wide powers authorized to address issues of children protection in international affairs; its field of activity includes assistance with the following situations:*
 - *Recovery of maintenance abroad or in the domestic jurisdiction;*
 - *Dealing with so-called international child abduction cases;*
 - *Securing the access rights;*
 - *International adoptions.*
- *Regional branches of the Labour Office of the Czech Republic (and the branch for the Capital City of Prague) are responsible for granting and disbursing foster car benefits for foster parents and for children, who have been entrusted into the foster care; The Regional Branch of the Labour Office shall*

inspect the provision of social and legal protection by legal entities and individuals charged with the performance of social and legal protection (hereinafter the “Charged Person”); the inspections shall focus on the quality of the provided social and legal protection as specified by the social and legal protection quality standards;

- *Ministry of Labour and Social Affairs: The Ministry provides for due legislative regulation in this sphere and within the statutory framework manages execution of state administration in the sphere of social and legal protection of children by issuing legal regulations and guidelines; The Ministry also acts as a control and appellate body in relation to regional authorities, executes the second instance agenda of substitute family care and keeps a national register of natural and legal entities charged with exercise of social and legal protection of children.*

Social and legal protection is afforded to all children on the territory of the Czech Republic, notwithstanding their nationality. The primary consideration for socio-legal protection is the best interests and welfare of the child. Socio-legal protection shall primarily focus upon children whose parents fail to fulfil the obligations arising from their parental responsibility or fail to perform, or abuse the rights arising from their parental responsibility, and children, who have been the victim of a criminal offence that would put their life, health, human dignity, moral education at risk, or who are suspected of being the victim of such an offence, including children who are victims of sexual abuse or sexual exploitation.

- 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));*

The body responsible for ministerial statistic is the Ministry of Justice, not the Supreme Public Prosecutor’s Office. The statistical data the Supreme Public Prosecutor’s Office works with are therefore for the most part processed by the Ministry of Justice, this includes the annual report on the activities of public prosecutor’s office.

According to Section 12 subsection (6) of the Act on Public Prosecutor’s Office, the Supreme Public Prosecutor submits, within six months of a calendar year at the latest, through the Ministry of Justice a report of the public prosecutor’s offices activity for the previous calendar year to the Government.

The Supreme Public Prosecutor gathers the data for the annual report from lower levels of Public Prosecutor’s Office.

The report includes data about the evolution of criminal activity in relation to specific crimes, gathered from the statistics on the number of finally convicted persons, and about the application of the Act No. 45/2013 Coll., on Victims of Crime.

The Public Prosecutor’s Office has not created any general report on children victims of crime, although this aspect is taken into consideration in particular cases.

The Ministry of Labour and Social Affairs (MoLSA) collects statistics about children who are victims of sexual abuse, as well as details about the children who are victims of commercial sexual exploitation, they have been abused for child prostitution or the production of child pornography. In statistical reports of MoLSA are reported cases of

child sexual abuse, cases involving child prostitution and cases of child abuse to child pornography, which was in the year collected by the socio-legal protection authorities (municipal authorities of municipalities with extended powers), including cases in which it has not yet been conclusion of the criminal proceedings or in which the prosecution had never taken place. MoLSA statistics may not be consistent with the statistics of the Police and Ministry of Interior on the number of crimes committed in this area.

- 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**).

Collection of personal data is laid down in the Act on the Police of the Czech Republic No. 273/2008 Coll.

Under Section 65, the Police of the Czech Republic may, for the purpose of future identification, obtain dactyloscopic data, examine physical characteristics, measure body parts, obtain visual, audio or other recordings and take biological samples eligible for obtaining information about the genetic resources. The Police may perform such actions only on a) a person accused for committing an intentional criminal offence or a person who was informed of the suspicion of committing such criminal offence, b) a person serving a punishment for an intentional criminal offence, c) a person to whom a protective treatment or security detention was imposed, d) a found missing person whose legal capacity was restricted. The Police shall destroy the obtained data as soon as such data are no longer necessary for the purposes of preventing, investigating or uncovering criminal activity, prosecuting criminal offences or securing the safety of the Czech Republic, public order or internal security.

The police may process the personal data (including sensitive data), which means any operation or a system of operations with personal data provided systematically by the administrator or processor, without the consent of a person whom the personal data concerns, if it is necessary for the performance of tasks of the Police.

Regarding data relating to the genetic profile (DNA), the Ministry of Interior has proposed new rules of disposing with the DNA samples. The bill including such rules is currently being discussed in the Chamber of Deputies of Parliament of the Czech Republic.

The aim of the bill is to specify the existing rules on taking biological samples and keeping DNA profiles in criminal database. The bill therefore includes new Sections 65a and 65b, which explicitly states that the criminal database of DNA profiles shall be administered by the Police. The bill also regulates the purpose of keeping the database and its content and stipulates the particular conditions for destroying collected biological samples and DNA profiles. The Police shall be obliged to destroy the collected biological samples after using them for determining the DNA profile.

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**);

The coordination between different agencies is included in National strategy of preventing violence against children in the Czech Republic for the period of 2008-2018, which is based on interdisciplinary cooperation.

Prevention of sexual exploitation and sexual abuse of children is a part of educational curriculum taught in faculties of medicine and specialized educational centres, and it is also taught during the training of interdisciplinary teams of non-profit sectors.

Ministry of Health and Ministry of Education, Youth and Sport coordinate their conduct in the area of public health care, specifically in support and realisation of School supporting health project (which focuses on prevention of every form of violence) and educational subject called Healthy lifestyle. Furthermore, the two Ministries cooperate in the areas of early detection of children endangered by sexual exploitation and commercial sexual abuse.

- 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;

Cooperation between the competent state authorities, civil societies and the private sector is laid down in Section 7 and 8 of the Criminal Procedure Code: According to Section 7, authorities involved in criminal proceedings are obliged to assist each other in execution of tasks arising from this Code. Pursuant to Section 8, public authorities, legal entities and natural persons are obliged to comply without undue delay, and unless a special legal regulation provides otherwise, also without a consideration, with request of authorities involved in criminal proceedings in the performance of their tasks.

Further cooperation between certain subjects is then laid down in special legal regulation: Under Section 5 of the Act No. 257/2000 Coll., on Probation and Mediation Service, the Probation and Mediation Service shall proceed in cooperation with the bodies of the social security, schools and educational facilities, providers of health services institutes, registered churches and religious communities, civil associations, foundations and other institutions pursuing humanitarian goals and if need be coordinate such cooperation from the perspective of using probation and mediation in criminal proceedings. The Probation and Mediation Service, when carrying out their mission, cooperates closely with bodies which are empowered by the special law with the execution of socio-legal protection of children. With regard to the execution of probation and mediation the employees of the Probation and Mediation Service are entitled to approach state bodies and juristic and natural persons with a request to share necessary pieces of data and these are obliged, unless a special law or an authorization stated in it stipulates otherwise, to pass on the requested data without unnecessary delay.

Section 41 of the Act on Performance of Security Detention stipulates that the institute of security detention shall cooperate with social service authorities and social and legal protection authorities; in particular it shall provide them with necessary information and allow them continuous contact with the detained person.

According to Section 51 subsection (5) paragraph (a) subparagraph (ii) of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, the social and legal protection authorities shall provide, upon request, body responsible for criminal proceedings with data needed for a criminal proceeding.

- 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**)?

The intervention programmes in the Czech Republic are prepared with respect to children's rights and to individual needs of help receivers, including possible medical intervention and therapy.

Cooperation regarding protective treatment laid down in Section 99 of the Criminal Code is included in Section 41 of the Act No. 129/2008 Coll., on Performance of Security Detention. If the protective treatment was imposed on the offender, the institute shall secure suitable conditions for a smooth transition of the detained person from institutional treatment to everyday life after the release from the security detention or transfer to protective treatment facility. During this activity the institute shall cooperate with social service authorities and social and legal protection authorities, in particular it shall provide them with necessary information and allow them continuous contact with the detained person.

The Ministry of Labour and Social Affairs by the Czech Government Resolution no. 530 dated May 4, 2005 by coordinating national agenda relating to the implementation of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child. The Ministry ensures the implementation of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (according to Government Resolution no. 158 dated March 4, 2015). Furthermore, the Ministry of Labour and Social Affairs coordinates activities in the preparation and implementation of measures for implementation of the National Strategy to Protect Children's Rights approved by Government Resolution no. 4 dated January 4, 2012 and the related documents in cooperation with the central government authorities, government bodies, local authorities, non-governmental NGOs and experts in child protection.

Minister of Labour and Social Affairs as a chairperson of the Inter-Ministerial Coordination Group shall be directly responsible to the government for the process of transformation and unification of the system of care for children at risk. The Inter-Ministerial Coordination Group consists of representatives – Deputy Ministers and Heads of Departments – of the relevant ministries (Ministry of Labour and Social Affairs, Ministry of Education, Youth and Sports, Ministry of Labour and Social Affairs, Ministry of Interior, Ministry of Justice, Minister for Human Rights and National Minorities, Ministry for Regional Development, Ministry of Finance) and of the Association of Regions of the Czech Republic and the Union of Cities and Municipalities of the Czech Republic. Members of the inter-ministerial group have been appointed by the Minister of Labour and Social Affairs. The group shall meet every three months and members of the group shall submit to the Minister of Labour and Social Affairs as the chairperson a comprehensive report on National Strategy to Protect Children's Rights implementation.

Question 7: International cooperation

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (**Article 38, para. 4**)? Please give examples.

The Czech Republic has contributed to the EU campaign against sexual abuse of children; on a national level it has supported various educational activities and publications. Ministry of Health has been involved in supporting certain programmes which resulted in several publications examining sexual exploitation and commercial sexual abuse of children, including prevention of such actions. In Journal 3/2008, Ministry of Health published an article called "Methodical measure about the procedure of doctors responsible for dispensing primary care in the case of suspicion of maltreated, abused and neglected child syndrome", which, among others, examines the danger of sexual exploitation and commercial sexual abuse of children. As a part of risky sexual behaviour of juveniles, the risky sexual behaviour of children is being focused on during the obligatory prevention examinations for children from 13th to 19th year of age. Non-profit sector organises special projects including care and prevention for the children from third countries.

MoLSA has no information regarding programmes provided for the benefit of third states for fighting against sexual exploitation and sexual abuse of children. However, the Act No. 151/2010 Coll., on Development Cooperation and Humanitarian Aid, allows such cooperation.

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**);

Education covering the topic of sexual exploitation and abuse takes place on an ongoing basis in accordance with the fields of framework education programmes, such as Ethical Education or Health Education - the information about the health risks and their prevention, for example hidden forms and degrees of individual violence and abuse, sexual crimes and risky sexual behaviour. Framework educational programmes for pupils and students in pre-primary, primary and secondary education deal with these topics in an age-appropriate way.

The issue of cyber-bullying prevention in schools and school facilities is discussed together with cyber-stalking, sexting, and other issues related to sexual exploitation and the use of new information and communication technologies. In 2016 MEYS offered grants for the programmes implementing the activities focused on primary prevention of risky behaviour, to which it allocated 20 million CZK from its budget. This annual grant programme enables MEYS to support projects aimed at the prevention of sexual exploitation and abuse.

- 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**);

The main instrument used for encouraging awareness of the protection and rights of children is methodical work.

The Supreme Public Prosecutor's Office participates in Inter-ministerial Coordination Group for Combating Trafficking in Human Beings. Representatives of the Supreme Public Prosecutor's Office partake in this group and they regularly contribute to the preparation of the Annual Status Report on Trafficking in Human beings. Furthermore, the Supreme Public Prosecutor's Office includes positions of National Correspondent for Combating Trafficking in Human Beings, Child and Woman Abuse, Illegal Immigration and Employment and Protection of the Rights of Victims of Crime and National Correspondent for Combating Cyber Criminality, Protection of the Rights to Intangible Assets and Cybersecurity. Under Section 25 of the Act No. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters, national correspondents appointed by the Supreme Public Prosecutor provide the national member of Eurojust with information necessary for the exercise of his activity. They are also used for securing inter-ministerial as well as the international cooperation, analyse judicature and expert articles, participate in processing questionnaires, educational activities, particularly those organised by the Judicial Academy, internal cooperation, consultation of specialists and conferences.

The Supreme Public Prosecutor's Office furthermore partakes in National Crime Prevention Committee, whose agenda includes the above-mentioned topics, and in Inter-ministerial Coordination Group for Transforming the System of Care of Endangered Children.

The aim of raising awareness of the protection and rights of children is fulfilled by the Annual Report on the Activities of Public Prosecutor's Office, which Supreme Public Prosecutor submits through the Ministry of Justice to the Government and which is available at the Supreme Public Prosecutor's Office's website (<http://www.nsz.cz/>), and educational activities organised by Judicial Academy.

Teaching staff is trained on these topics in accredited in-service programmes for pedagogic staff. Furthermore, similar training courses are organised by the National Institute for Further Education and the National Institute of Education.

No such activities are funded from the budget of state support of sport. However, in the future, however, awareness-raising campaigns and education in the topic of sexual harassment and bullying in sport- should be supported, the task being embedded in the Action Plan for the prevention of domestic and gender-based violence.

- 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**).

The National health programme "Projects of health support" aims to support projects that aim to prevent violence and bullying (including cyberbullying). Through interventional and educational activities, children are intentionally incentivised to behave in a certain pattern, which prepares them to face and effectively defend

themselves against such behaviour. Generally, these activities help children to strengthen their position also against sexual harassment. Such projects are usually organised in a form suitable to the age of the children and usually take place in schools, but also within various associations. In some schools, the lectures relating to sexual exploitation or commercial sexual abuse are given either directly by doctors or by representatives of non-profit sector. In addition to that, National Institute of Public Health organises regular educational seminars and meetings for schools involved in the School supporting health project. Such seminars and meetings also examine prevention of violence.

Professional training of public prosecutors, interns and assistants of public prosecutors is ensured in particular by the seminars organised by the Judicial Academy.

Pursuant to Section 24 subsection (3) of the Public Prosecutor's Office Act, the public prosecutor is also obliged to educate himself/herself continuously and improve his/her knowledge for due performance of the position. He/she is namely obliged to participate in professional training in the Judicial Academy and professional training organized by the public prosecutor's office or universities. The same applies to judges in accordance with Sections 82 and 83 of the Courts and Judges Act No. 6/2002 Coll.

Provided by the means of the above mentioned tools, there are, however, no available data that would demonstrate the degree of knowledge and support in a given topic.

Employees of the social and legal protection of children must meet the qualification requirements to work as a social worker in accordance with § 110 of Act no. 108/2006 Coll., on Social Services. They must achieve higher education or higher vocational education study programs focused on social work, social policy, social pedagogy, social care, law, social and legal work, charity and social work. Part of these study programs information about child abuse and exploitation, including sexual abuse and sexual exploitation.

New employees of the social and legal protection authorities must undergo further training and proficiency tests to perform this work. Part of the preparation is also education of the employees in the field of neglected and abused children and the syndrome.

Employees of social and legal protection authorities must also undergo continuous training of at least 6 days in accredited training programs for social workers. The offer accredited training programs are also courses on protection of abused and exploited children.

The Ministry of Labour and Social Affairs in 2011 printed brochure "Summary of selected documents of the Council of Europe in the field of protection of children's rights". It also includes a text Lanzarote Convention on the protection of children against sexual exploitation and sexual abuse from 2007, Resolution of the Parliamentary Assembly of the Council of Europe No. 1099 (1996) on sexual exploitation of children, Recommendation of the Parliamentary Assembly of the Council of Europe No 1371 (1998) Abuse and neglect children, Resolutions of the Parliamentary Assembly of the Council of Europe No. 1307 (2002) Sexual exploitation of children - zero tolerance and the Recommendation of the Parliamentary Assembly of the Council of Europe No 1778 (2007) Child victims: stamping out all forms of violence, exploitation and abuse. The publication was released in 1700 the number of copies and have been distributed to all the authorities in child protection and the professional public. The electronic version is also available to the public on the website of the MoLSA under the link (<http://www.mpsv.cz/files/clanky/13148/smernice.pdf>).

The Ministry of Labour and Social Affairs in connection with ratification of the Lanzarote Convention Czech Republic in 2016 handed over to subordinate regional authorities information about the contents of the Lanzarote Convention and obligations under this Convention with regard to the social legal protection authorities, especially in education and providing professional assistance to victims sexual abuse and sexual exploitation. The MoLSA also sent to the regional authorities to use information and educational materials, Council of Europe, which was prepared for the Lanzarote Convention in an information campaign "One in Five". These include a brochure, which is available in electronic form on http://www.coe.int/t/dg3/children/1in5/OurCampaign/ConventionSexualAbuse_en.pdf and information leaflets, posters and books to "Underwear Rule", which are in Czech translation available at the link http://www.tadysenedotykej.org/Default_cz.asp.

- 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 Ministry of Labour and Social Affairs printed in 2009 and 2010 information brochure for the public "Commercial sexual exploitation of children" and "Protection of abused and neglected children." These materials are described forms of sexual abuse and exploitation of children, and legislative and other measures to protect abused and exploited children. The electronic version of the brochure is available on the website of the MoLSA under the link <http://www.mpsv.cz/cs/14319>.

The MoLSA in the near future plans to use mainly informational and educational materials Council of Europe, which were prepared for the Lanzarote Convention in a "One in Five Campaign", in particular, information leaflets, posters and books to "Underwear Rule". In the context of education in protecting children's rights, these materials will also be published on the information portal MoLSA "Right to Childhood" (www.pravonadetstvi.cz). Portal "Right to Childhood" provides information on children's rights to children and lay and professional public. Also informs the public about ongoing projects in the transformation and unification of the system of care for children at risk.

- 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**).

No measures have been adopted in this regard.

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;

The employees of the social and legal protection of children authorities at the level of municipal and regional authorities shall comply with the integrity condition included in

Section 4 subsection (2) of the Act on Officers of the Local Self-Administration Units, which prescribes the obligation to prove that they were not finally convicted of any intentional or negligent crime related to performance of public administration. People who are directly contributing to social and legal protection of children under the guidance of natural person or legal entity entitled for social and legal protection, shall comply with the condition of integrity included Section 49 subsection (8) of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, which stipulates that the social and legal protection of children may not be provided by any natural person or legal entity who was finally convicted of any intentional or negligent crime related to performance of actions similar to performance of social and legal protection of children. Integrity of persons who have continuously resided for more than 3 months in the last 3 years in a foreign country is examined through the extract of relevant criminal evidence of such country.

One of the conditions for performing the position of public prosecutor is integrity. The condition of integrity is not complied with by the one who was convicted for a crime upon a final judgment, unless he/she is considered non-convicted by a special legal regulation or decision of the President of the Republic.

Pursuant to Section 106 of the Criminal Code, the offender is considered not convicted if the conviction was effaced. The court shall efface the conviction if the convicted led a decent life after the execution or pardon of the punishment, or after its limitation for a continuous period of at least a) fifteen years, if it is a conviction for an exceptional punishment, b) ten years, if it is a conviction for a prison sentence exceeding five years, c) five years if it is a conviction for a prison sentence exceeding one year, d) three years, if it is a conviction for a prison sentence not exceeding one year or punishment by deportation, e) one year, if it is a conviction for house arrest, the punishment by forfeiture of property, punishment by forfeiture of items residency ban, prohibition of entry to sporting, cultural and other social events, or a monetary penalty for an intentional criminal offence. The effaced convictions shall be not published in the extract of the Criminal register, which is usually the evidence of integrity, but the conviction shall be published in the copy of the Criminal register, which, upon request, shall be provided to authorities involved in criminal proceedings and Ministry of Justice. It is necessary to note that for assessing integrity of a person, only data from the extract of the Criminal register are relevant.

Integrity requirement applies to all workers who perform work with children in child protection and social services. Employees of social and legal protection of children must demonstrate its integrity in the civil service. According to the Act no. 312/2002 Coll., on Municipal Officials are deemed to be unimpeachable natural person who has been convicted of an intentional criminal offense or for a criminal offense committed by negligence in connection with the performance of public administration. A similar condition of integrity also applies to employees of the Ministry of Labour and Social Affairs and the Office for International Legal Protection of Children by Act No. 234/2014 Coll., on Civil Service. Since all offenses relating to sexual exploitation and sexual abuse of children under the Criminal Code deemed intentional crimes, it means that an employee of the social-legal protection authorities can become a person who has been convicted of any crime related to sexual exploitation or sexual abuse of children.

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

One of the necessary requirements for obtaining qualification to perform medical services is integrity. According to acts regulating obtaining qualification to perform medical services, the condition of integrity is fulfilled by a person who has not been given an unsuspended sentence of imprisonment. This means that the condition of integrity may

not be fulfilled by persons who have committed the crime of sexual abuse or sexual exploitation of children, because sentence of imprisonment of such crimes may not be suspended.

Professional assistance to victims of crime, which includes psychological and social counselling, legal assistance, provision of information or restorative programmes, are provided by volunteers who are registered in Providers of help for victims of crimes register.

Psychological and social counselling services are provided to victims by subjects authorised for social counselling and social prevention services provision pursuant to the Social Services Act No. 108/2006 Coll. One of the conditions for authorisation is integrity, which must be fulfilled by legal entities and natural persons who are directly providing services.

Volunteers aiming to provide assistance to the victims of crime by providing legal information or operating restorative programmes as subjects registered in Providers of help for victims of crimes register shall be obliged to accredit for rendition of such services. One of the conditions for registration is integrity, which must be fulfilled by the applicant and natural persons who are directly providing services.

According to Section 6 subsection (2) of the Act No. 45/2013 Coll., on Victims of Crime, legal assistance may be provided to victims only by lawyers. The Act on the Legal Profession includes integrity as one of the conditions for registration in the Register of Lawyers. The Ministry of Justice then shall, upon request, register the lawyer in the Providers of help for victims of crimes register.

Facilities of Probation and Mediation Service are registered in the Providers of help for victims of crimes register ex lege. The Act No. 257/2000 Coll., on Probation and Mediation Service includes integrity as one of the conditions for officials and assistants of Probation and Mediation Service.

Apart from Municipal and Regional offices, the social and legal assistance may be provided by other natural persons or legal entities on the grounds of delegation. The Act No. 359/1999 Coll., on the Social and Legal Protection of Children includes integrity as one of the conditions for issuing delegation to legal entities and natural persons directly providing services.

Integrity is checked also for all workers of non-governmental organizations engaged in child protection under Act No. 359/1999 Coll. or provides social services under Act No. 108/2006 Coll., on Social Services. Also verifies the integrity of the legal entity requesting the regional authority to issue an authorization to perform child protection or for registration to provide social services. For the purpose of issuing the authorization to perform child protection or registration to provide social services, an individual and legal entity shall be deemed without a criminal record if they have not been convicted for an intentional crime or for a crime committed with negligence in connection with the performance of activities similar to the activities performed in providing the social and legal protection or the social services; if a criminal proceeding has been conducted against the applicant or individuals presented in the application for the authorization as individuals to be directly engaged in the provision of child protection or social services, the procedure on the authorization's issuance or registration's issuance shall be suspended until the awarding of the final decision in such criminal proceeding. To verify integrity, the regional authority shall request a copy of the criminal conviction records pursuant to a special legal regulation.

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**);
- 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?

One of the most important measures which may be taken to ensure such goal is the programme of the treatment pursuant to the Act on the imprisonment. The programme of the treatment is handled upon the basis of complex report on a convict with respect to the length of the sentence, characteristics of convict's personality and reasons of punishable offences. The programme of the treatment involves factually formulated destination of formative effects towards convict, methods of treatment aimed to achieve goals and kind and frequency of assessments. Regular part of the program of the treatment is specification of employment of a convict, his or her participation in working therapy, education or in another alternate activity directed to creation of assumptions for his or her independent kind of living in accordance with the legal order.

According to Section 97 subsection (1) of the Criminal Code, protective measures may be imposed to the convict to satisfy the statutory conditions alone and in addition to the punishment. In the case of activity showing signs of sexual exploitation or sexual abuse, the specific protective measure may be either protective treatment or security detention, further specified in Section 99 and 100 of the Criminal Code.

Another measure which may be applied includes institutes of appropriate restrictions and obligations aimed at ensuring the offender leads an orderly life pursuant to Criminal Code. These institutes may be imposed upon a) the offender whose punishment has been conditionally waived pursuant to Section 48 subsections (3) and (4), b) the offender whom the community service has been imposed upon pursuant to Section 63 subsection (2), c) the offender whom punishment of prohibition of residence has been imposed upon pursuant to Section 75 subsection (3), d) the offender who has been conditionally convicted to the punishment by prison sentence pursuant to Section 82 subsection (2), e) the offender who has conditionally convicted to the punishment with supervision pursuant to Section 85 subsection (2), f) the convicted who has been conditionally released pursuant to Section 89 subsection (2), or g) the convicted whose remaining term of punishment by disqualification, residency ban, or prohibition to enter sporting, cultural and other social events has been conditionally waived pursuant to Section 91 subsection (1).

Under Section 88b of the Criminal Procedure Code, the accused person may be imposed with preliminary measures. A preliminary measure may be imposed only if the conduct of the accused person or other circumstances imply a reasonable belief that he will repeat the criminal offence he is being prosecuted for, that he will finish the criminal offence he

has attempted or realize the criminal offence he has prepared or threatened with, and the so far established matters of fact imply that the act, for which the criminal prosecution has been initiated, has all characteristics of a criminal offence, the reasons for the suspicion that it has been committed by the accused person are apparent, and with regard to the personality of the accused person and the nature and seriousness of the prosecuted offence, the purpose of the preliminary measure may not be achieved otherwise in time of making the decision, whereas the imposition of the preliminary measure is required for the protection of rightful interests of the aggrieved person, who is an individual, especially his health, life, freedom or human dignity, or the interests of persons close to him, or protection of interests of the society.

A preliminary measure may impose to the accused person a) prohibition to contact certain persons, b) prohibition to enter residence, c) prohibition to visit inappropriate environments, sport, cultural and other social events and contact certain persons, d) prohibition to remain in specifically designated location, e) prohibition to travel abroad, f) prohibition to hold and possess certain items that may serve to commit a criminal offense, g) prohibition to use, hold or possess alcoholic beverages or other addictive substances, h) prohibition of gambling and bets, or i) prohibition to perform specifically designated activity.

Pursuant to the Act No. 218/2003 Coll., on Justice in the Matters of Young People, the juvenile offenders may be imposed with educational measures, which may be imposed with consent from the young person already in the progress of preparatory proceedings before the final judgement of the court. Educational measures include supervision by a probation officer, probation programme, educational obligations, educational restrictions and reprimands with a warning.

Other measures which may be also imposed in proceedings in the matters of young people are protective measures, which are laid down in Section 21 (1) of the Act on Justice in the Matters of Young People. One of the examples of protective measures is an instrument of protective education, which may be imposed by the court when the education of juvenile is not sufficiently secured and such insufficiency may not be eliminated in the juvenile's own family or in a family where the juvenile currently lives, when the education of the juvenile was neglected or when the environment where the juvenile lives does not guarantee the proper education of the juvenile, and the imposition of educational measures has been insufficient.

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**);
- 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**).

Act No. 359/1999 Coll., on social and legal protection of children, allows also non-state entities (foundations, civil society associations, churches and other legal and natural persons) authorized by a regional authority or the City Hall of the Capital of Prague to perform particular tasks in the sphere of social and legal protection of children, provided that these tasks are directly specified by s. 48 of the Act No. 359/1999 Coll.

Legal entities and individuals charged with the performance of social and legal protection (hereinafter the "Charged Person") shall provide social and legal protection on the basis of the decision on the authorisation to perform such activity. With regard to social and legal protection, the Charged Person:

- (a) Look for vulnerable children, on which the social and legal protection targets, including children sexually exploited and sexually abused;*
- (b) Assist parents in resolving upbringing or other problems related to caring for a child;*
- (c) Provide parents with advisory in their child's upbringing and education and in taking care of a physically disabled child or mediate such advisory;*
- (d) Organise lectures and workshops focused on resolving upbringing, social and other problems related to caring for a child and his or her upbringing within its advisory activities;*
- (e) Perform activities aimed at protecting children against negative influences and preventing the origination thereof;*
- (f) Establish social and legal protection facilities; Social and legal protection facilities shall include facilities providing professional advisory related to caring for children, facilities engaged in social and educational activities and facilities for children requiring immediate assistance.*

Facilities for children requiring immediate assistance shall provide protection and help to a child who has been left without any care or in a situation where his or her life or ability to thrive have been challenged or where the child has been left without care adequate to his or her age, if the child is physically or mentally abused or maltreated or has lived in an environment or in a situation where his or her fundamental rights are challenged. The help and protection provided to such child shall involve satisfying the child's fundamental life needs, including housing, the provision of healthcare services and psychological and other similar necessary help.

Activities and services Charged Persons are financially supported by the state budget and the budgets of regions and municipalities. The Ministry of Labour and Social Affairs provides financial support to organizations and institutions engaged in supporting families with children in the subsidy program "Family and protection of children's rights", under which it was in 2016 supported 292 projects, funds in the amount of 99,965,027, - CZK. The program aims to provide comprehensive assistance to the family as a whole.

Field	Number of projects	Above allocation
I. Preventive activities to support families	213	71 264 868 CZK
II. Support work with children and families in the area of child protection	79	28 700 159 CZK
Total	292	99 965 027 Kč

In terms of working with vulnerable children, including children sexually exploited and sexually abused it is especially important field II. Support work with children and families in child protection.

Above that, the Charged Person as promoter of the facility for children requiring immediate assistance shall be entitled to a government contribution for the stay and care provided to a minor child in the facility on the basis of a judicial decision or a request of a municipal authority of a municipality with extended powers. The promoter of the facility for children requiring immediate assistance shall be obliged to use the government contribution exclusively for the purposes of the facility for children requiring immediate assistance where the child has been placed. The government contribution shall be paid at CZK 22,800 a month for each child. In the 2015 state budget promoters paid government contributions totaling 223,967,440 CZK.

Question 12: Effectiveness of preventive measures and programmes

- 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;
- Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.

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

- 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**);

Medical workers, without prejudice to whether they may come into contact with children or not, are according to Section 52 of Medical Services Act obliged to remain silent. Such obligation may not hinder filing a criminal complaint. According to Section 52 subsection (2) paragraph (d) of Medical Services Act, fulfilling statutory obligation of preventing or reporting crime is not considered as a breach of obligation to remain silent.

In the Czech Republic, sexual exploitation and sexual abuse of children are considered to be criminal offences. The body entitled to investigate is the Police of the Czech Republic. The bodies of child protection are obliged to notify such crimes directly to the Police of the Czech Republic.

Pursuant to Section 46 of the Act No. 45/2013 Coll., on Victims of Crime, every person shall be obliged to remain silent about data concerning persons who are provided service according to the Act on the Victims of Crime, if such person learns about the data in connection to provision of such service or control activity. Such person may be exempted from obligation only by a person in whose interest they have this obligation.

Disclosing information about criminal proceedings is laid down in Criminal Procedure Code. According to Section 8a subsection (1), in pre-trial proceedings the authorities involved in criminal proceedings must not disclose information eligible for identification of a person, against whom the criminal proceeding is conducted, an aggrieved person, parties concerned and a witness. Pursuant to Section 8b subsection (2), nobody will, in connection to a criminal offence committed against an aggrieved person, in any way disclose information that enable identification of the aggrieved person who is under the age of 18, or against whom was committed an offence of trafficking in human beings or propagation of pornography, or an offence against life and health, freedom and human dignity or an offence against family and juveniles. Section 8d subsection (1) allows disclosure of information subject to prohibition of disclosure to the necessary extent for the purposes of searching for missing persons, to reach the purpose of criminal proceedings or if it is justified by the public interest, and if public interest takes outweighs the right to privacy of the person concerned.

According to the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, employees in the social and legal protection authorities, employees of a region assigned to a regional authority, employees of a municipality assigned to a municipal authority, employees of a municipality with extended powers assigned to a municipal authority, and employees of a social and legal protection facility shall be obliged to keep the facts they get to know in performing the social and legal protection or in a direct connection therewith confidential. They may only be relieved of the confidentiality obligation by the person in whose interest they have this obligation. The obligation shall similarly apply to the Charged Persons and other individuals who became familiar with the data that the above-mentioned employees are obliged to keep confidential in cooperating with the social and legal protection authorities and the social and legal protection facilities.

According to Section 57 subsection (1), employees of a social and legal protection authority, employees of a region assigned to a regional authority, employees of a municipality assigned to a municipal authority and employees of a municipality with extended powers assigned to a municipal authority shall be obliged to keep the person who notified the social and legal protection authority of the facts provided in Section 7, the place of residence of a parent who was exposed to domestic violence in a family with a child and any data on persons with whom the child was placed into the care of adoptive parents-to-be, and on the place of such child's residence confidential.

- 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.

Pursuant to Section 8 of the Criminal Procedure Code, public authorities are obliged to immediately notify the public prosecutor or police authorities of facts indicating that a criminal offence has been committed.

To encourage private persons to report the facts relevant to start criminal proceedings serves the institute of concealment of the identity or the appearance of the witness included in Section 55 subsection (2) of the Criminal Procedure Code: „Shall the ascertained circumstances indicate that the witness or persons close to them appear to be under a threat of bodily harm or any other serious risk of violation of their fundamental rights in relation to their testimony, and if a witness protection may not be reliably ensured in another way, the authorities involved in criminal proceedings will adopt measures to conceal the identity of the witness...”

Another institute to encourage such results may be considered the use of video-conference devices included in Section 52a of the Criminal Procedure Code, which may be provided if it is necessary for the protection of rights of persons or if it is required by security or other serious reasons.

Failure to prevent or report a criminal offence is criminalised pursuant to Section 367 and 368 of the Criminal Code.

According to Section 51 subsection (5) paragraph (b) of the Act No. 359/1999 Coll., on the Social and Legal Protection of Children, the social and legal protection authority shall be obliged to inform the body responsible for criminal proceedings of facts suggesting that a crime was committed against a child or that a child was used to commit a crime or that violence occurs between the parents, other persons responsible for the child's upbringing and other individuals living in the household with the child, or that the maintenance duty is not performed with respect to the child.

Government authorities, the Charged Persons, schools, schooling facilities and healthcare service providers, and/or other facilities for children, shall be obliged to inform the municipal authority of a municipality with extended powers of facts suggesting that children against whom criminal offence endangering life, health, freedom, human dignity, moral development or estate has been committed are involved or there is a suspicion of such crime committed against them, without any undue delay after they learn about the facts. In performing such duty, the confidentiality duty pursuant to a special legal regulation shall not be relied on.

Employees of social and legal protection authorities, employees of municipalities with extended competences working in a municipal authority and employees of social and legal protection facilities shall according to the Act. No 359/1999 Coll., on social and legal protection of children, be obliged to hold in confidence any and all facts, which they learn upon carrying out tasks of social legal protection or in direct relation thereto (s. 57). They are also obliged to keep confidential identity of a person the person who notifies the social and legal protection authority of a possible threat to a vulnerable child according to s. 7 of the Act No. 359/1999 Coll.

The obligation to maintain confidentiality shall survive termination of the employment, provided that the employees may be released from this obligation only by the person, in whose interest this obligation applies, by a written waiver stating the scope and purpose thereof.

The obligation to maintain confidentiality is also imposed on authorized persons and other natural persons who during cooperation with social and legal child protection authorities and

social and legal child protection facilities learn about facts that must be kept confidential by the employees of the social and legal child protection authority.

The Act No. 359/1999 Coll. (ss. 54 and 55) charges a municipal authority of a municipality with extended competences to keep records and file documentation on children provided with social and legal protection and children for whom the authority has been appointed as a guardian. Files contain particularly personal data of children and their parents, data about the educational situation of such children, records on results of investigations into the family, minutes and records of meetings with the parents or other persons, copies of filings and petitions to courts and other state authorities and written copies of decisions made by the courts, prosecution authorities and administrative authorities. The implementation regulation specifying the scope of records keeping with respect to children and contents of files held by social and legal protection authorities and contents of files on applicants for adopting or fostering children is the MLSA Instruction file no. 21-12242/2000 dated 15 March 2000 (amended by MLSA Guidance file no. 21-42246/2002 dated 29 October 2002). Full wording of the Instruction was promulgated in the Government Bulletin for Regional and Municipal Authorities (chapter 6 of 28 November 2002). Files may consist also of records on technical data media. In addition to files a municipal authority of a municipality with extended competences also keeps other documents, which form the basis for drawing up the file documentation, for example notices by natural persons regarding a threat to a vulnerable child according to s. 7 of the Act No. 359/1999 Coll. These documents are not available to any authority, natural or legal person. The documents may only be presented at court and to the public prosecutor's office, in cases where data contained therein is related to criminal prosecution.

Data contained in the file regarding a child can be used by a municipal authority of a municipality with extended competences only in the interest of the child.

Only a parent with parental responsibility or another person responsible for upbringing of the child or their representative on the basis of a written power of attorney, can on the basis of a written application look into the file documentation related to a child, unless it applies to administrative proceedings. A power of attorney issued to a representative of parents does not require authenticated signatures of the parents. An authentication of signature on a power of attorney may be required only in case of reasonable doubts regarding authenticity of the power of attorney (e.g. when only the representative of the parent alone comes to the municipal authority of a municipality with extended competences and the municipal authority is not aware on the basis of prior negotiations of any authorization given by the parents to the relevant representative and simultaneously the authenticity of the power of attorney cannot be immediately verified with the parents by phone etc.). However, in principle a plain written form of the power of attorney without authenticated signatures is sufficient.

A blind person will be read the content of the file documentation and the municipal office of a municipality with extended competences will upon request of the given person allow his/her accompanying person to look into the file as well.

Parents or other persons responsible for the child's upbringing or their representative on the basis of a written power of attorney searching in the files have the right to make extracts and copies (for a fee) of all or part of such documentation.

A municipal authority of a municipality with extended competences shall within 15 days from the date of application filed by the parent or person responsible for upbringing of the child to search in the mentioned files:

- a. inform the parents or the person responsible for the child's upbringing that they are allowed to search in the files and will specify the date of files inspection, in such case no decision shall be issued, or*

- b. *decide to refuse the written application should it be contrary to the interests of the child, or if the documentation may reveal identity of the natural person, who notified facts according to s. 7 of the Act No. 359/1999 Coll.*

The above stated provision shall apply mutatis mutandis to keeping files on a child by other social and legal protection authorities and managing files held by a municipal authority of a municipality with extended competences.

A municipal authority of a municipality with extended competences is also obliged to ensure storage of all data contained in the files and related to a child exempted from the files, for a term of 15 years following the calendar year of exemption.

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 main legislative measure (in responsibility of MoLSA) taken to support the telephone helpline is statutory of Social Services Act No. 108/2006 in § 55, the social service called „Telephone assistance in crisis“, which is a field service provided for a temporary period to persons in situation threatening their health or life or in another difficult life situation they are unable to resolve temporarily on their own. The target groups of various types of helplines are amongst others also children, in other words, there are plenty of helplines targeted to children in various difficult life situations. These helplines are provided without any payment from user and the providers are financially supported by the state and municipal subsidies.

Under a grant to support the provision of social services provided in 2016 MoLSA subsidy for 37 registered providers of services "Telephone assistance in crisis" totaling 50,098,624 CZK.

Question 15: Assistance to victims

- a. Please indicate which types of assistance described in **Article 14** are provided to victims of sexual exploitation and sexual abuse of children. (**Explanatory Report paras. 93-100**)
Please specify:
- how the assistance is adapted to the victims' age and maturity;
 - how due account is taken of the child's views, needs and concerns;
 - if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.
- b. Please specify if and to what extent internal law provides for the possibility of removing (**Article 14, para. 3, Explanatory Report, para. 99**):
- the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;
 - the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.
- c. If internal law does provide for this:
- are the conditions and duration of such removal to be determined in accordance with the best interests of the child?
 - are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (**Article 11, Explanatory Report, paras. 87-88**).

- 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**).

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;

Conduct included in Article 18: Sexual abuse (Section 187 of the Criminal code), Rape (Section 185 of the Criminal code), Sexual coercion (Section 186 of the Criminal code).

Conduct included in Article 19: Procuring (Section 189 of the Criminal code), Human trafficking (Section 168 of the Criminal Code), Enticement to sexual intercourse (Section 202 of the Criminal Code).

Conduct included in Article 20: Production and other Handling of Child Pornography (Section 192 of the Criminal code).

Conduct included in Article 21: Participation in pornographic performance (Section 193a of the Criminal code), Abuse of a Child for the Production of Pornography (Section 193a of the Criminal code).

Conduct included in Article 22: Endangering a child's care (Section 201 subsection (1) paragraph (a) and (b) of the Criminal Code), Enticement to sexual intercourse (Section 202 of the Criminal Code), Sexual coercion (Section 186 of the Criminal code).

Conduct included in Article 23: Establishment of unauthorised contacts with a child (Section 193b of the Criminal code).

- 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.

Czech Criminal code distinguishes between children younger than 15 years and children younger than 18 years when applying penalties for committing criminal offences against children. Criminal offences committed against children younger than 15 years fall into the application of a more severe penalty. List of such crimes includes rape (Section 185 subsection (3) of the Criminal code), sexual coercion (Section 186 subsection (5) of the Criminal code) and Enticement to Sexual Intercourse (Section 202 subsection (2) paragraph (a) of the Criminal code).

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.

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.

According to Section 7 of the Act of Criminal Liability of Legal Entities, legal entities may be held liable for any crime included in the box above from Article 18 to Article 23.

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**);

For commission of any of the above-mentioned crimes the offender may be sentenced to imprisonment with the upper limit 1 year at minimum. The convention stipulates that the contractual parties shall have the right to seize property, documents and other material instruments which the offender committed the crime according to convention with, yields from such crime or property with similar value. The Criminal Code includes such stipulation in Section 70 (Forfeiture of a possessed item), Section 71 (Forfeiture of a replacement value), Section 101 (Confiscation of items) and Section 102 (Confiscation of the replacement value).

According to Section 15 of the Act of Criminal Liability of Legal Entities, the legal entity may be imposed with following crimes: a) Termination of such legal entity, b) Forfeiture of property, c) Fine, d) Forfeiture of a possessed item, e) Disqualification, f) Disqualification from public contracts or partaking in public competition, g) Disqualification from subsidies or subventions, h) Publication of the judgement.

- 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**).

According to Section 11 subsection (2) of the Criminal Code, the final conviction by a court of another EU Member State in criminal proceedings shall be regarded as the conviction by a court of the Czech Republic if it was rendered for an act that is also punishable under the law of the Czech Republic. The court shall consider such conviction as aggravating circumstance.

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**).

Regarding offences referred to in question 16, principles of territoriality (Section 4 of the Criminal Code), registration (Section 5 of the Criminal Code) and personality (Section 6 of the Criminal Code) shall apply.

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**).

List of aggravating circumstances is laid down in Section 42 of the Criminal Code, which includes following circumstances referred to in Article 28:

- A) *Criminal offence has inflicted serious physical or mental injury upon the victim. Consideration of seriousness of physical harm is usually one of the prerequisites for the application of a more severe penalty.*

- B) *Criminal offence has been committed after torture or heavy violence or through torture or heavy violence.*
This aggravating circumstance is expressed in Section 42 paragraph (c) of the Criminal Code: „The court shall consider as aggravating circumstances especially those in which the offender has committed a criminal offence in in a cruel or tortuous way, insidiously, with especially malicious or in any other similar way.”
- C) *Criminal offence has been committed against a particularly vulnerable victim.*
This aggravating circumstance is expressed in Section 42 paragraph (h) of the Criminal Code: „The court shall consider as aggravating circumstances especially those in which the offender has committed a criminal offence to the detriment of a child, family member, a pregnant woman, an ill person, a disabled person, elderly person or an infirm person.”
- D) *Criminal offence has been committed by a family member, person living with a child in the same household or person who abused his/her position.*
This aggravating circumstance is expressed in Section 42 paragraph (d) of the Criminal Code: „The court shall consider as aggravating circumstances especially those in which the offender has committed a criminal offence by exploiting somebody’s need, distress, vulnerability, addiction or subordination.”
- E) *Criminal offence has been committed jointly by two or more offenders or by members of an organised criminal group.*
This aggravating circumstance is expressed in Section 42 paragraph (o) of the Criminal Code: „The court shall consider as aggravating circumstances especially those in which the offender has committed a criminal offence as the organiser, as a member of an organised group or member of a criminal association.”
- F) *The offender had been already convicted for the same criminal offences in the past.*
This aggravating circumstance is expressed in Section 42 paragraph (p) of the Criminal Code: „The court shall consider as aggravating circumstances especially those in which the offender has already been convicted for a criminal offence.”

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;

According to Section 2 subsection (15) of the Criminal Procedure Code, authorities involved in criminal proceedings are obliged in every stage of proceedings to enable the aggrieved person full assertion of his rights, about which he must be instructed in suitable and comprehensible manner so that he could achieve full satisfaction of his claims.

This principle is further specified in Sections 43 and 46 of the Criminal Procedure Code, which stipulate that the authorities involved in criminal proceedings are obliged to instruct the aggrieved persons on their rights and provide them with the full opportunity to exercise them. Such rights include the right to make proposals for additional evidence, to inspect files, to attend negotiations of an agreement on the guilt and punishment, to attend the trial and public session held on an appeal or on the approval of an agreement

on the guilt and punishment, to comment on the matter before the proceeding is concluded and to petition the court to impose an obligation on the defendant in the sentencing judgment to compensate in monetary terms the damage or non-material harm caused to the victim by the commission of the criminal offence, or to surrender any unjust enrichment which the defendant obtained at the expense of the aggrieved person.

Pursuant to Section 3 subsection (4) of the Act No. 45/2013 Coll., on Victims of Crime, the Police of the Czech Republic, authorities involved in criminal proceedings and subjects enrolled in the registry of providers of assistance to victims of crime are obliged to inform the victim in a comprehensible manner about his/her rights and to enable full application of such rights for the victim. They are obliged to do so repeatedly upon the request of the victim.

This general provision is further specified in Section 7 of the Act on the Victims of Crime, which grants the victim the right to information regarding his/her case to the extent stipulated by further provisions.

Under Section 8 of the Act on Victims of Crime, when approaching the victim of crime for the first time, the Police shall on its own initiative inform the victim about a) the body which the victim may file complaint about facts indicating that the crime was committed with and provide the victim with contact on such body, b) subjects enrolled in the registry of providers of assistance to victims of crime which the victim may file an application for professional assistance with and under what conditions may the victim access free legal advice from such subjects and provide the victim with contact on such subjects, c) under what conditions may the victim request measures to secure his/her safety under the Act on the Special Protection of a Witness, d) body which may provide the victim with more information about the crime that was committed, e) stages of the proceedings following the complaint and what shall the victim do in such stages, f) under what conditions and to which extent may the victim claim monetary assistance, including guidance about the time limit for filing such claim.

Pursuant to Section 11 of the Act on Victims of Crime, the victim shall be upon his/her request also provided with the final judgement or with information about decision not to prosecute, and information about the state of the criminal proceedings.

Amendment No. 56/2017 Coll., to the Act on Victims of Crime prescribes that upon request, the victim shall be provided with the information about a) the decision not to prosecute, b) the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification, c) the criminal offence suffered by the victim, including its legal qualification, d) the time and place of the trial, e) any final judgement ending the criminal proceeding.

According to Section 13 of the Act on Victims of Crime, the victim shall be informed in comprehensive manner with regard to his/her age, intellectual and volitional maturity and medical status including his/her mental status.

Pursuant to Section 8 subsection (1), a child shall have the right to ask social and legal protection authorities and social and legal protection facilities, government authorities that are also responsible for the protection of rights and justified interests of children under special legal regulations, the Charged Persons, schools, schooling facilities and healthcare service providers for assistance in protecting his or her life and safeguarding his or her other rights even without the knowledge of his or her parents or other persons responsible for the child's upbringing. These authorities, legal entities and individuals and Charged Persons shall be obliged to provide the child with adequate assistance.

- 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 43 of the Criminal Procedure Code, the aggrieved person has the right to make proposals for additional evidence, to comment on the matter before the proceeding is concluded, to petition the court to impose an obligation on the defendant in the sentencing judgment to compensate in monetary terms the damage or non-material harm caused to the victim by the commission of the criminal offence, and if such person is a victim of crime according to the Act No. 45/2013 Coll., on Victims of Crime, he/she also has the right to make a statement on how the committed crime affected his life in any stage of the criminal proceedings. In addition to that, according to Section 89 subsection (2), the aggrieved person may also find, present, or propose to produce evidence.

If the aggrieved person is legally incapacitated or if his legal capacity is restricted, his/her rights will be exercised under Section 45 subsections (1) and (2) by their statutory representative or a guardian appointed by the judge.

According to Section 20 of the Act on Victims of Crime, the particularly vulnerable victim of the crime (including children) shall be heard in an especially careful way and with regard to circumstances that make the victim particularly vulnerable. If possible, preliminary hearing shall be always executed by a person trained for such cases, with the exception of cases where the preliminary hearing must be executed immediately and such person is not available. The hearing of a child as the particularly vulnerable victim shall be conducted in such a way so that it does not have to be repeated. If repeated, the person hearing the child shall be the same person, unless there are serious reasons preventing that. If the child as the particularly vulnerable victim does not wish to be in a direct visual contact with the accused person or with a person against whom the criminal proceeding is conducted, the appropriate measures shall be taken to avoid the visual contact, unless there are some serious reasons for not taking such measures. Such measures include specifically the use of audiovisual technology in cases where it is technically possible.

- 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)**);

Under Section 3 (2) of the Act No. 45/2013 Coll., on Victims of Crime, the Police of the Czech Republic, authorities involved in criminal proceedings and other public bodies, subjects registered in Providers of help for victims of crimes register, health care providers, experts, translators, counsellors and media have to respect personality and human dignity of victim, treat the victim politely and carefully and satisfy her needs, if possible. They shall treat the victim with respect to her age, medical situation (including the mental situation), her mental capacity and cultural identity in such a way which may protect the victim from increasing already sustained harm or repeat victimisation.

Pursuant to Section 2 subsection (4) of the Act on Victims of Crime, children are considered to be particularly vulnerable victims. Particularly vulnerable victims are granted a variety of additional rights: a) right for free professional help under the conditions stipulated by a special legal regulation, b) enhanced right to avoid contact with the perpetrator, specifically for direct and visual contact, c) right for hearing conducted in an especially careful way by a professionally trained person of the same or opposite sex, based on the choice of the victim, d) right for hearing conducted in such a way so that it

does not have to be repeated, e) right for hearing conducted in an especially careful way and in such way that so that it does not have to be repeated in case of hearing relating to circumstances whose remembering may negatively affect the mental and moral development of a person younger than 18 years, in such cases there is also right of attendance during hearing for social and legal protection authority or other person experienced with development of youth, and f) right for translator of the same or opposite sex. Victim younger than 18 years has also the right for free legal assistance provided by a legal representative without regard to his/her property relations.

All victims without exception are, according to the Act on Victims of Crime, granted with a) right that questions regarding intimate life of questioned person may be asked only if it is necessary for clarification of matters important for criminal proceedings, in an especially careful way and in an exhaustive way in relation to the contents so that the questioning does not have to be repeated; the formulation of questions must be adjusted to the age, personal experience and psychic state of the witness, while maintaining the necessary considerateness, b) right to raise objections against the character of the question any time, the objection must be reflected in the transcript and it may be decided by the hearing authority, c) right of accompaniment to legal actions of criminal proceedings and to hearing by a confidant; the confidant may be any legally capable person chosen by the victim who provides the victim with any necessary assistance, especially the psychological assistance; person appointed as a confidant may be a proxy of the victim, d) right to make a statement on how the committed crime affected his or her life in any stage of the criminal proceedings, e) right for monetary assistance with the costs incurred in relation to provision of professional psychotherapy or physiotherapy or other professional services providing reparation of incurred immaterial harm or bridging the worsened social situation caused to the victim by the criminal offence.

According to Section 8 subsection (1) of the Act No. 359/1999 Coll., of the Social and Legal Protection of Children, a child shall have the right to ask social and legal protection authorities and social and legal protection facilities, government authorities that are also responsible for the protection of rights and justified interests of children under special legal regulations, the Charged Persons, schools, schooling facilities and healthcare service providers for help in protecting his or her life and safeguarding his or her other rights; these authorities, legal entities and individuals and Charged Persons shall be obliged to provide the child with adequate assistance. A child shall have the right to ask for help even without the knowledge of his or her parents or other persons responsible for the child's upbringing.

Under Section 9, a parent or other person responsible for the child's upbringing shall also have the right, in exercising their rights and performing their duties, to ask social and legal protection authorities, government authorities that are also responsible for the protection of rights and justified interests of children under special legal regulations, and/or the Charged Persons, for help; these authorities and Charged Persons shall be obliged to provide such assistance within the scope of their competence and authorisation, respectively.

The measures of social and legal protection of children are laid down in part 3. Pursuant to Section 16 subsection (1), when a child is left without any care or if his or her life or positive development have been exposed to serious danger or impaired, the municipal authority of a municipality with extended powers shall be obliged immediately to file a motion with the court to issue a preliminary ruling. Situation of such children is therefore being solved immediately.

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

To protect the privacy, the identity and the image serves specifically the Section 55 subsection (2) of the Criminal Procedure Code, which allows the authorities involved in criminal proceedings to adopt measures to conceal the identity of the witness, if the ascertained circumstances indicate that the witness or persons close to them appear to be under a threat of bodily harm or any other serious risk of violation of their fundamental rights in relation to their testimony, and if a witness protection may not be reliably ensured in another way. In such case the name and surname and other personal information will not be recorded in the protocol, but are kept separately from the criminal file and only authorities involved in criminal proceedings may become acquainted with such details in the given case.

In connection to that the aggrieved person or the witness may request that the information on the place of residence, delivery address, place of employment or occupation or business found in the course of performing the action in criminal proceedings not be stated in the protocol about performing such action. Unless it is necessary for reaching the purpose of criminal proceedings, such information will be kept so that only the authorities involved in criminal proceedings and officers of the Probation and Mediation Service involved in the case may learn it. This also applies for data on personal, family and property relations of the aggrieved person and witness.

Pursuant to Section 65 subsection (6) of the Criminal Procedure Code, when inspecting the files, it is necessary to take such measures that the data which may be learned only by authorities involved in criminal proceedings and the officers of the Probation and Mediation Service involved in the case is not accessed by the accused person.

But if it is necessary for due application of the right to defence of the person, against whom the criminal proceeding is conducted, the required data will be conveyed to this person.

- 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)**);

According to Section 88b of the Criminal Procedure Code, preliminary measure may be imposed only to the accused person. A preliminary measure may be imposed only if the conduct of the accused person or other circumstances imply a reasonable belief that he will repeat the criminal offence he is being prosecuted for, that he will finish the criminal offence he has attempted or realize the criminal offence he has prepared or threatened with, whereas the imposition of the preliminary measure is required for the protection of rightful interests of the aggrieved person, especially his health, life, freedom or human dignity, or the interests of persons close to him.

A preliminary measure may impose to the accused person the prohibition to contact the aggrieved person, persons close to him or other persons, to enter a common residence inhabited by the aggrieved person and its immediate surroundings and inadmissibility to remain within such residence. If the danger that the accused person will repeat the criminal offence he is being prosecuted for, or that he will finish the criminal offence he has attempted or realize the criminal offence he has prepared or threatened with is too high, the court may, after meeting other requirements, completely restrict the personal freedom of the accused person by taking him into custody.

To protect victims in this area serves the institute of special protection of a witness, included in the Act No. 137/2001 Coll., on the Special Protection of a Witness. This institute provides special protection and assistance to witnesses and other persons (including victims) who are in danger of bodily harm or in other grave jeopardy. Procedure stipulated by this act has subsidiary nature, i.e. this Act is applied, if the safety of the endangered person may not be ensured in any other way.

Special protection and assistance is a set of measures including a) personal protection, b) moving of the protected person including members of his/her household to another address and assistance to the protected person with the aim to achieve the person's social assimilation in a new environment, c) concealing the real identity of the protected person.

Protection from repeat victimisation is laid down in the Act No. 45/2013 Coll., on Victims of Crime, specifically from Section 17 to Section 22.

Section 17 grants the victim the right to request at any stage of the criminal proceeding, or even before the start of such proceeding, to take necessary measures to avoid the contact with the person whom the victim described as the offender, who is suspect of committing criminal offence or against whom the criminal proceeding is conducted.

- 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)**);

Information regarding informing the victim is laid down in Section 11 subsection (3) of the Act No. 45/2013 Coll., on Victims of Crime and in Section 103a of the Criminal Procedure Code.

- 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)**);

As stated above, preliminary measure may be imposed only to the accused person. In this case, list of imposed measures may include prohibition to contact the aggrieved person, persons close to him or other persons and to enter a common residence inhabited by the aggrieved person and its immediate surroundings and inadmissibility to remain within such residence.

If the a danger that the accused person will repeat the criminal offence he is being prosecuted for, or that he will finish the criminal offence he has attempted or realize the criminal offence he has prepared or threatened with is too high, the court may, after meeting other requirements, completely restrict the personal freedom of the accused person by taking him into custody.

Measures taken to avoid contact of the victim with the accused person are also laid down in Section 17 of the No. Act 45/2013 Coll., on Victims of Crime, which grants the victim the right to request at any stage of the criminal proceeding or even before the start of such proceeding to take necessary measures to avoid the contact with the person whom the victim described as the offender, who is suspect of committing criminal offence or against whom the criminal proceeding is conducted.

A person under eighteen years of age may be confronted with another person only in exceptional cases, if it is necessary for clarification of the matter. In such case provisions of Section 102 of the Criminal Procedure Code will apply accordingly. A witness, whose identity is being concealed for reasons referred to in Section 55 subsection (2) of the Criminal Procedure Code, may not be confronted with another person. According to Section 104 subsection (5) of the Criminal Procedure Code, a face to face confrontation is impossible also in case of an aggrieved person under eighteen years of age with the accused person in case of criminal offence against human dignity in sexual area.

- 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**).

Section 6 of the Act on Victims of Crime grants the victim, upon his or her request, free legal assistance under the conditions laid down in Criminal Procedure Code.

Under Section 51a subsection (2) of the Criminal Procedure Code, an aggrieved person under the age of 18 is entitled to legal assistance provided by the agent free of charge even in case the conditions referred to in Section 51 a sub-section (1) are not met, unless a criminal offense of negligence of mandatory support according to Section 196 of the Criminal Code is concerned. The Amendment No. 56/2017 Coll., to the Act on Victims of Crime grants the same right to a particularly vulnerable victim.

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**);

Protection from repeat victimisation is laid down in provisions from Section 17 to Section 22 of the Act No. 45/2013 Coll., on Victims of Crime.

Section 17 grants the victim the right to request at any stage of the criminal proceeding, or even before the start of such proceeding, to take necessary measures to avoid the contact with the person whom the victim described as the offender, who is suspect of committing criminal offence or against whom the criminal proceeding is conducted.

Section 18 prescribes that questions regarding intimate area of questioned person may be asked only if it is necessary for clarification of matters significant for criminal proceedings.

The victim may also request that he or she be heard in preliminary proceedings by the person of same or opposite sex. The request of particularly vulnerable victim shall be granted, unless there are serious reasons preventing that.

Conditions of hearing of particularly vulnerable victims are stipulated in Section 20. A particularly vulnerable victim shall be heard in an especially careful way and with regard to circumstances that make the victim particularly vulnerable. If the victim is a child, preliminary hearing shall be always conducted by a person trained for such cases, with the exception of cases where the preliminary hearing must be conducted immediately and such person is not available. The hearing of the particularly vulnerable victim shall be conducted in such a way so that it does not have to be repeated.

In order to protect the victim from repeat victimisation, the Section 21 grants the victim the right of accompaniment to legal actions of criminal proceedings by a confident. The confident may be any legally capable person chosen by the victim who provides the victim with any necessary assistance, especially the psychological assistance. Person appointed as a confident may be a proxy of the victim. Accused person, lawyer of the accused person, witness, expert or translator on the other hand may not be appointed as a confident.

Pursuant to Section 43 subsection (4) of the Criminal Procedure Code, the aggrieved person, who is a victim of crime pursuant to the Act on Victims of Crime, is entitled to make a statement on how the committed crime affected his life in any stage of criminal proceedings. The statement may be also made in writing.

- 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**);

One of the main principles of criminal proceedings is the principle of legality, which is laid down in Section 2 subsection (3) of the Criminal Procedure Code as an obligation of the public prosecutor to prosecute all criminal offences which they gain knowledge of, unless the law or a promulgated international treaty binding the Czech Republic stipulates otherwise.

Although the principle of legality is primarily addressed to public prosecutors, it also applies to Police authorities. This is further stipulated in Section 158 of the Criminal Procedure Code, pursuant to which is the police authority obliged, based on their own findings, criminal reports, and incentives from other persons and authorities, which may lead to conclusions on a suspicion that a criminal offence has been committed, to make all necessary investigations, to take measures to reveal the facts indicating that a criminal offence has been committed and to aim towards identifying the offender.

According to Section 163 of the Criminal Procedure Code, principle of legality may be set aside by the institute of criminal prosecution with the consent of the aggrieved person. The consent of the aggrieved person to the criminal prosecution for any of the criminal offences referred to in Section 163 subsection (1) is not required, if such an act caused death, the aggrieved person is unable to give his consent due to a mental illness or disorder, for he was mentally incapacitated or due to which was his legal capacity restricted, the aggrieved person is a person under 15 years of age, the circumstances clearly show that the consent was not given or was withdrawn in distress caused by threats, coercion, dependence or subordination (Section 163a of the Criminal Procedure Code).

- 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**);

Under Section 34 of the Criminal Code, criminal liability for a criminal offence shall expire upon the lapse of the period of limitation, which amounts to a) fifteen years where the upper punishment limit of a prison sentence amounts to a minimum of ten years, b) ten years where the upper punishment limit of a prison sentence amounts to a minimum of

five years, c) five years where the upper punishment limit of a prison sentence amounts to a minimum of three years, d) three years for other criminal offences. Statutory period will differ from case to case based on whether or not the particular criminal offence was committed in especially aggravating circumstances, because the length of statutory period is bound by the upper penalty limit stipulated for such criminal offence by the Criminal Code.

The period of time during which a victim of human trafficking pursuant to Section 168 of the Criminal Code or any of the criminal offences referred to in Chapter III of a special part of the Criminal Code, on Sexual criminal offences against human dignity, was younger than 18 years, shall not be counted into the period of limitation.

- 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;

Pursuant to Section 45 of the Criminal Procedure Code, if the aggrieved person is legally incapacitated or if his legal capacity is restricted, his rights will be exercised by their statutory representative in accordance with this Code.

In cases where the statutory representative of the aggrieved person is not able to exercise his rights and is in danger of delay, the presiding judge and in pre-trial proceedings the public prosecutor will appoint a guardian for exercising the rights of the aggrieved person.

- 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 45 subsection (2) of the Criminal Procedure Code, in cases where the statutory representative of the aggrieved person is not able to exercise his rights as referred to in sub-section (1) and is in danger of delay, the presiding judge and in pre-trial proceedings the public prosecutor will appoint a guardian for exercising the rights of the aggrieved person. Social and legal protection of children authority or its specific worker may be appointed as such guardian.

- 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**);

Methods of the use of covert operations in criminal proceedings include operative-search means, intercepting and recording of telecommunication traffic.

Pursuant to Section 158b subsection (1) of the Criminal Procedure Code, operative-search means include simulated transfer, surveillance of persons and items and use of an agent. These means may be used only in proceedings on an intentional criminal offence and only if the purpose in view may not be reached in other ways or if its reaching would otherwise be considerably more complicated. For the purposes of acquiring evidence, audio, visual and other records acquired by using operative search means may be used as evidence.

If there is a reasonable belief that it will transmit information essential for criminal proceedings and the pursued purpose may not be achieved in other ways, or if reaching this purpose would otherwise be considerably more complicated and only if a criminal proceeding is conducted for a crime, for which the law prescribes a sentence of imprisonment with the upper limit of at least eight years, or for a criminal offence of machinations in insolvency proceedings pursuant to Section 226 of the Criminal Code, breach of regulations on rules of economic competition pursuant to Section 248 (1) (e) and (2) to (4) of the Criminal Code, arranging advantage in commission of public contract, public contest and public auction according to Section 256 of the Criminal Code, machinations in commission of public contract and public contest according to Section 257 of the Criminal Code, machinations in public auction according to Section 258 of the Criminal Code, abuse of competence of a public official according to Section 329 of the Criminal Code or for another intentional criminal offence, for prosecution of which is the Czech Republic bound by a promulgated international treaty, an order for intercepting and recording telecommunication traffic may be issued,. Intercepting and recording of telecommunication traffic for the needs of all authorities involved in criminal proceedings will be performed by the Police of the Czech Republic.

If it is necessary for the purposes of criminal proceedings conducted for a criminal offence, for which the law prescribes a sentence of imprisonment with the upper limit of at least three years, for a criminal offences of Breach of secrecy of correspondence pursuant to Section 182 of the Criminal Code, Fraud pursuant to Section 209 of the Criminal Code, Unauthorised access to computer systems and information media according to Section 230 of the Criminal Code, Obtaining and possession of access device and computer system passwords and other such data according to Section 231 of the Criminal Code, Dangerous threatening pursuant to Section 353 of the Criminal Code, Dangerous pursuing according to Section 354 of the Criminal Code, Spreading of alarming news pursuant to Section 357 of the Criminal Code, Incitement to criminal offence according to Section 364 of the Criminal Code, Approval of criminal offence pursuant to Section 365 of the Criminal Code or for an intentional criminal offence, prosecution of which is stipulated by an international treaty binding the Czech Republic, to ascertain data on telecommunication traffic that are subject to the telecommunication secrecy or to which applies protection of personal and mediated data and if the followed purpose may not be achieved otherwise or if its achieving would be substantially more difficult, the presiding judge shall order submitting the data to the court in trial proceedings, and in pre-trial proceedings the judge will order their submitting to the public prosecutor or to the Police authority upon a motion of the public prosecutor.

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

Section 112 subsection (1) of the Criminal Procedure Code stipulates that the pornography in visual form will be subject to proving as material evidence. According to Section 213 subsection (1), the opinions, reports of the State and other authorities and other documents and other material evidence will be provided to the parties for inspection in the course of the trial and, if necessary, to the witnesses and experts as well. Audio, visual or audiovisual recording shall be executed by replaying such recording.

For the purposes of using such evidence before the court, if there is a possibility of the public session of the case endangering confidential information protected by a special Act, morality, or undisturbed course of the proceedings, or the safety or other important interests of the witnesses, the presiding judge may exclude public from a part or the whole trial. The presiding judge may also take other appropriate measures for such purposes, which include measures adopted to conceal the identity of the witness pursuant to Section 55 subsection (2) of the Criminal Procedure Code.

Question 23: Child friendly interviewing and proceedings

- a. Please describe how interviews (**Article 35**) with child victims are carried out, indicating in particular whether:
- they take place without unjustified delay after the facts have been reported to the competent authorities;
 - they take place, where necessary, in premises designed or adapted for this purpose;
 - they are carried out by professionals trained for this purpose;
 - the same persons are, if possible and where appropriate, conducting all interviews with the child;
 - the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;
 - the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

According to Section 2 subsection (4) of the Criminal Procedure Code, criminal cases must be dealt with as soon as possible and without undue delay. This provision is complemented with a number of statutory periods stipulated to authorities involved in criminal proceedings. In this case the relevant statutory periods regulate termination of verification and investigation. The authorities involved in criminal proceedings are obliged to investigate, propose and produce evidence including hearing of victims without undue delay and within the statutory periods.

Under Section 20 of the Act No. 45/2013 Coll., on Victims of Crime, the particularly vulnerable victim shall be heard in an especially careful way and with regard to circumstances that make the victim particularly vulnerable.

If the victim is a child, pursuant to Section 20 subsection (2) the preliminary hearing shall be always conducted by a person trained for such cases, with the exception of cases where the preliminary hearing must be conducted immediately and such person is not available.

Section 20 subsection (2) also prescribes that the hearing of the particularly vulnerable victim shall be conducted in such a way so that it does not have to be repeated. If repeated, the person hearing such victim shall be the same person, unless there are serious reasons preventing that.

Section 21 of the Act on Victims of Crime grants the victim the right of accompaniment to legal actions of criminal proceedings by a confidant. The confidant may be any legally capable person chosen by the victim who provides the victim with any necessary assistance, especially the psychological assistance. The confidant may not interfere with the process of the action. Person appointed as a confidant may be a proxy of the victim. Accused person, lawyer of the accused person, witness, expert or translator on the other hand may not be appointed as a confidant.

Testimonies of children as particularly vulnerable victims given under conditions laid down in Section 102 subsection (1) of the Criminal Procedure Code shall be conducted in special hearing facilities with audio and visual recordings or through audiovisual device pursuant to Section 111a of the Criminal Procedure Code.

- 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;

According to Section 52a of the Criminal Procedure Code, if it is necessary for the protection of rights of persons, especially with regard to their age or health condition, or if it is required by security or other serious reasons, technical devices for transferring picture and sound may be used in the course of performing acts in criminal proceedings, if the nature of these acts allow it and if it is technically possible.

In the trial, pursuant to Section 211 subsection (1), a protocol on a witness testimony may be read instead of questioning a witness, if the court does not consider a personal interview of the witness necessary and the public prosecutor and the defendant give their consent. If a defendant, who was duly summoned to the trial, fails to appear without an excuse, or if he leaves the courtroom without a serious reason, the consent of the defendant to reading of such a protocol on a witness testimony is not necessary, and the consent of the public prosecutor will be sufficient. The accused person must be notified thereof in the writ of summons.

Section 211 subsection (2) prescribes that the protocol on the testimony of a co-defendant or witness shall also be read, if the questioning was performed in a manner corresponding to the provisions of the Criminal Procedure Code, and such a person has died or gone missing, may not be reached due to a long term stay abroad, or suffers from a permanent illness, which makes his questioning impossible either permanently or for the foreseeable future, or in case an urgent or non-repeatable action performed pursuant to Section 158a is concerned.

Under Section 102 subsection (2) of the Criminal Procedure Code, the questioning may be conducted without concealing the identity or appearance in exceptional cases and under the condition that the questioning will not endanger life, health or further service duties referred to in subsection (1) or endanger life or health of a close person, but only upon a motion of a public prosecutor and on the basis of the competent director of the security corps.

- 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**).

If there is a possibility of public session of the case endangering confidential information protected by a special Act, morality, undisturbed course of the proceedings or the safety or other important interests of the witnesses, the public may be excluded from such session or the whole trial; the presiding judge may also take other appropriate measures for such purposes. According to Section 200 subsection (1) of the Criminal Procedure Code, if a person referred to in Section 102a subsection (1) stands before the court without concealment of his or her identity or appearance, the public will always be excluded.

If the particularly vulnerable victim does not wish to be in a direct visual contact with the accused person or a person against whom the criminal proceeding is conducted, the appropriate measures shall be taken to avoid the contact, unless there are some serious reasons for not taking such measures. In cases where it is technically possible, audiovisual technology is usually used. The statute does not include a list of measures, so apart from audiovisual technology other measures such as various curtains may be also used.

The Amendment No. 56/2017 Coll., to the Act on Victims of Crime prescribes that the hearing of particularly vulnerable victims (including children) in preliminary proceedings shall be conducted in facilities modified or adapted for such purpose, if possible.