

# Protection of Children against Sexual Abuse in the Circle of Trust: Legal Frameworks (Lanzarote Convention Monitoring Questionnaire)

Fields marked with \* are mandatory.

## Introduction

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1. The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all forms of child sexual abuse. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1 § 2), decided that:

*“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.*

*2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.*

*3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time-limit set by the Lanzarote Committee.”[1]*

### **The notion of the circle of trust**

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.[2]

### **The previous and current monitoring rounds on the circle of trust**

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched[3]. Since then, the Convention has been ratified by 22 other Parties,[4] and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment

where the vast majority of sexual abuse occurs.[5] The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee's recommendations by the 26 Parties that had.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

#### ***Involvement of civil society and other relevant stakeholders in the monitoring round***

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

#### ***Type of questions and elements to be borne in mind when replying***

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee's first monitoring round recommendations and findings, as well as a few new questions based on the Committee's adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust ("Legal frameworks").

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee's Rules of Procedure:

*"...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as "contact person".*

*3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.*

*5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation."*

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/ “consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

[1] Rule 24 of the Lanzarote Committee’s [Rules of Procedure](#)

[2] See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#)

[3] Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine

[4] Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom

[5] See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125

## IDENTIFICATION OF THE RESPONDER

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\* Name of the Party responding or concerned by your response

Armenia

\* Name of the contact person/coordinator

\* Email address of the contact person/coordinator

## KEY NOTIONS Question 1. Does your national legal framework:

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a. **have a reference to “abuse of a recognised position of trust, authority or influence” as a separate sexual offence against children?**<sup>[6]</sup> If yes, please provide a copy of the relevant provision(s).

[6] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework” adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

- Yes  
 No

If appropriate, please provide more information (1.a No)

Abuse of a recognized position of trust, authority or influence is not referenced as a separate sexual offence against children in the legislation of the Republic of Armenia.

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Belgium and Luxembourg] establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the perpetrator holds that position just as an “aggravating circumstance”?**<sup>[7]</sup> If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes  
 No

If appropriate, please provide more information (1.b No)

Sexual abuse of children by someone in a recognized position of trust, authority or influence is not defined as a separate sexual offence against children in the legislation of the Republic of Armenia Such a connection between the abuser and the victim is prescribed as an aggravating circumstance.

Here you can upload any file(s) in support of your answer

c. list specific categories of adults in contact with children automatically qualifying as holding this position?<sup>[8]</sup>

[8] *Ibid*, Recommendation 4. Examples: members of the extended family (including new partners), persons having caretaking functions (including trainers of any kind) or exercising control over the child professionally or on a voluntary basis (including persons who look after children in their leisure-time) and any other person trusted by the child (including other children).

- Yes  
 No

If appropriate, please provide more information (1.c No)

There is no specific definition of “position of trust” in the legislation of the Republic of Armenia. Articles 198 (Violent Actions of Sexual Nature) part 3 clause 1, 199 (Compelling to Actions of Sexual Nature) part 3 clause 1, 200 (Performance of Actions of Sexual Nature towards a Person not having Attained the Age of 16 years) part 3 clause 1, 201 (Committing a Lecherous Act) part 3 clause 1 of the Criminal Code of the Republic of Armenia (hereafter the Criminal Code) provide the types of relationships between the offender and the victim which would constitute an aggravating circumstance namely when the act of violence is committed by a “senior relative, or a person who is entrusted with the upbringing, care or treatment of the child”.

The word “senior” is not defined by the legislation. However, based on Article 11 clause (b) of the Family Code the Republic of Armenia (hereafter the Family Code) , which deals with prohibitions of marriage between certain groups, the term “senior relative” is used in the following manner: “marriage is forbidden ... (b) between close relatives (direct senior and junior relatives: parents and children, grandfather, grandmother and grandchildren, as well as close and co-parental or co-maternal brothers and sisters, aunt, uncle, uncle and cousin's children).”

Here you can upload any file(s) in support of your answer

d. define the notion of “circle of trust”?<sup>[9]</sup>

[9] *Ibid*

- Yes  
 No

If appropriate, please provide more information (1.d No)

Here you can upload any file(s) in support of your answer

## VICTIMS' AGE Question 2. Does your national legal framework:

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a. [for 22 Parties + Italy, Portugal, San Marino, and Türkiye] provide that every child up to 18 years of age is protected against the criminal offence of sexual abuse by someone in a recognised position of trust, authority or influence?<sup>[10]</sup>Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.a Yes)

CRIMINAL CODE OF THE REPUBLIC OF ARMENIA

“Article 198. Violent Actions of Sexual Nature

1. Sexual intercourse or other acts of sexual nature, including imitation of sexual intercourse or satisfying sexual needs, which have been committed against the will of the victim of crime, or by disregarding the will of the victim of crime, by use of violence or threat of use thereof, or abuse of the helpless situation of the victim of crime or other person,

2). towards a minor

3) committed by a close relative or partner or ex-partner:

shall be punished by imprisonment for a term of five to ten years.

Article 199. Compelling to Actions of Sexual Nature

5. Sexual intercourse or other sexual actions, including imitation of sexual intercourse or satisfaction of sexual needs, that have been committed through blackmail, or under the threat of destruction, damage or seizure of property or by using the material or other dependence of the victim of crime, or without reasonable belief in his/her consent or his/her compelling to sexual intercourse or other actions of sexual nature in the same manner, if the elements of criminal offences established in Articles 188 and 189 of this Code were absent, The act provided for in Parts 1 or 2 of this Article, which:

a. has been committed towards a person not having attained the age of 18, by an up-going relative or a person who has an obligation of upbringing, care or treatment of the child; shall be punished by imprisonment for a term of six to twelve years.

Here you can upload any file(s) in support of your answer

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b. [for 22 Parties + North Macedonia and Ukraine] indicate that the child’s legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?<sup>[1]</sup> Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.b Yes)

It is defined as a sexual crime not depending of the age of the child.

Here you can upload any file(s) in support of your answer

## SCOPE OF OFFENCE Question 3. Does your national legal framework criminalise sexual abuse of children:

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a. **where the offender abuses a recognised position of influence?** [12] Please refer to the specific legal provisions.

[12] *Ibid.*, Recommendation 1

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.a Yes)

if the child is under the age of 16 , defined by Criminal Code of Armenia, Article 200, 201

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Belgium] where the victim is below 18 and emancipated through marriage, and the perpetrator is the victim's spouse or marital partner?**[13] Please refer to the specific legal provisions.

[13] *Ibid.*, Recommendation 7

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.b Yes)

if the child is under the age of 16 , defined by Criminal Code of Armenia, Article 198, 200, 201

Here you can upload any file(s) in support of your answer

c. **[for 22 Parties + the Republic of Moldova] where no coercion, force or threat is used by the perpetrator holding the position of trust, authority or influence?**[14] Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.c Yes)

if the child is under the age of 16 , defined by Criminal Code of Armenia, Article 198, 200, 201

Here you can upload any file(s) in support of your answer

## SCOPE OF OFFENCE Question 4. Does your national legal framework:

a. **criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?**<sup>[15]</sup>

Please specify which other acts are covered and whether violation of a child's "sexual integrity" specifically is criminalised.

[15] *Ibid.*, Recommendation 9

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.a Yes)

Article 200. Performance of Actions of Sexual Nature towards a Person not having Attained the Age of 16 years  
1. Sexual intercourse or other actions of sexual nature, including imitation of sexual intercourse or satisfaction of sexual needs

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Bulgaria] ensure equal sanctions for sexual abuse committed within a heterosexual and homosexual sexual activity?**<sup>[16]</sup> Please refer to the specific legal provisions.

[16] *Ibid.*, Recommendation 11

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.b Yes)



Here you can upload any file(s) in support of your answer

c. **[for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?**<sup>[17]</sup> Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes  
 No

If appropriate, please provide more information (4.c No)

Here you can upload any file(s) in support of your answer

## EX OFFICIO PROSECUTION Question 5. Does your national legal framework:

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a. **contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his /her legal representative?** <sup>[18]</sup> Please refer to the specific legal provisions.

[18] *Ibid.*, Recommendation 57

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.a Yes)

Here you can upload any file(s) in support of your answer

b. **contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint /statements?**<sup>[19]</sup> Please refer to the specific legal provision(s).

[19] *Ibid*

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.b Yes)

It is proceeded no matter of the fact of the complaint and the statement

Here you can upload any file(s) in support of your answer

c. **[for Portugal]** in case of a sexual act committed by an adult in respect of a child aged 14-16 years old which does not result in the child's death or suicide, require the child victim to lodge a complaint as a prerequisite for investigation and prosecution?<sup>[20]</sup>

[20] *Ibid.*, Recommendation 56

- Yes  
 No

Here you can upload any file(s) in support of your answer

## MEASURES IN RESPECT OF CHILDREN WHO SEXUALLY OFFEND AND CHILDREN DISPLAYING RISKY AND HARMFUL SEXUAL BEHAVIOUR Question 6. Does your national legal framework:

a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?<sup>[21]</sup> Please provide details.

[21] Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.a Yes)

There is a preventive notice by the Police which is a non criminal measure, applied to the children above 12 years.

Here you can upload any file(s) in support of your answer

b. differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children?<sup>[22]</sup> Please refer to the specific legal provision(s)

and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.b Yes)

For offences committed by children of the age of 14-18, sanctions are mitigated, and almost half of the years of imprisonment, defined for adult offenders

Here you can upload any file(s) in support of your answer

## CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

### Question 7. Does your national legal framework:

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a. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?<sup>[23]</sup> Please provide details.

[23] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.a Yes)

for the best interest of the child, also for conducting proper investigation

Here you can upload any file(s) in support of your answer

b. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?<sup>[24]</sup> Please provide details.

[24] *Ibid*

- Yes

No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.b Yes)

Article 69 of the Criminal Procedure Code (quoted in question 7(a)) provides that in cases where the legal guardian of the minor is suspected of having committed an offence against that minor, they cannot participate in the proceedings. This includes the interview process of a child.

Furthermore, the Family Code (article 53 as quoted in question 7(a)) stipulates that parental rights cannot be exercised to the detriment of the child and in case it is suspected that the child's safety may be endangered by the parents the guardianship and trusteeship body has the right to immediately take the child away from the parents.

Thus, the authorities have the right to conduct the interviews of the child without acquiring the consent of the parents/legal guardians of the minor if it is in the interests of the child.

Here you can upload any file(s) in support of your answer

c. **allow for the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of sexual abuse of a child living in the same environment together with the suspect?**<sup>[25]</sup> Please provide details.

[25] This question results from the Committee's reasoning that "before resorting to the removal of the victim, the removal of the perpetrator should be preferred" (page 28 of the 1st implementation report).

Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.c Yes)

the Law on Domestic Violence provides for 3 distinct measures of protection in cases of domestic violence namely a warning, emergency intervention order and a protection order.

Article 7 of the Law on Domestic Violence provides that an emergency intervention order is made by the authorities in cases where one member of the family has committed violence (which includes sexual violence within the definition of the Criminal Code) against another member of the family and there is a reasonable belief of imminent risk of repeated or continuing violence.

Article 7 Part 3 Clause 1 of the Law on Domestic Violence provides that: " An emergency intervention order may apply the following restraining measures: 1) Immediately and forcibly remove the perpetrator of violence within the family from the residence of the victim of violence within the family and prohibit his return until the date established in the order;"

In case where an emergency intervention order has been made and where the victim of violence is a minor and the violence has been committed by the sole caretaker of the child, the guardianship and trusteeship body must be immediately notified of such order after which it will assume the temporary care of the child. Such intervention must be made as soon as possible, but no later than 24 hours, after receiving the copy of the emergency intervention order.

Furthermore, the Article 58 of the Family Code (as quoted in question 7(a)) provides that in case of the direct threat to the health and life of a child the trusteeship and guardianship body is authorized immediately take

the child from the parents (one of them) or the persons under whose care the child is placed.

Here you can upload any file(s) in support of your answer

d. **consider the removal of the child victim from the family environment as a last resort procedure? Is that procedure clearly defined, and does it set out conditions for and duration of the removal?**<sup>[26]</sup> Please provide details.

[26] *Ibid.*, Recommendation 27

- Yes  
 No

If appropriate, please provide more information (7.d No)

There is no specific reference to the removal of a child from the family environment as the "last resort" per se. The legislation of the Republic of Armenia provides a certain degree of flexibility for the authorities to determine what is in the best interests of the child.

Article 12 of the Law on Child's Rights provides that every child has the right to live with his/her parents except where the separation of the child from the parents is necessary in the interests of the child.

Article 41 of the Family Code also provides that "Every child has the right to live and be brought up in a family, to know his/her parents, to be cared for by them (as much as possible), to live together with them, except in cases where this contradicts the child's best interests."

Article 58 of the Family Code (as quoted in question 7(a)) on the other hand states that: "In the event of an immediate threat to the child's life or health, the guardianship and trusteeship body has the right to immediately take the child from the parents (one of them) or the persons to whom the child's care is entrusted."

Here you can upload any file(s) in support of your answer

e. **ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?**<sup>[27]</sup> Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.e Yes)

Government Decree of the Republic of Armenia, 2015, 1044 \_N

Article 26 part 2 of the law of the Republic of Armenia on the Protection of Personal Data (hereafter the Law on the Protection of Personal Data) provides that special category personal may be shared with third parties

in exceptional cases provided for by law for protecting the life, health, or freedom of the data subject. “Special category of personal data” is defined to include information relating to health and sex life of the person.

#### THE LAW OF THE REPUBLIC OF ARMENIA ON THE PROTECTION OF PERSONAL DATA

“Article 26. Transfer of personal data to third parties

1. The processor may transfer personal data to third parties or grant access to data without the personal data subject's consent, where it is provided for by law and has an adequate level of protection.
2. The processor may transfer special category personal data to third parties or grant access to data without the personal data subject's consent, where:
  - 1) the data processor is considered as a processor of special category personal data prescribed by law or an interstate agreement, the transfer of such information is directly provided for by law and has an adequate level of protection;
  - 2) in exceptional cases provided for by law special category personal data may be transferred for protecting life, health, or freedom of the data subject.”

Here you can upload any file(s) in support of your answer

## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

### Question 8. Does your national legal framework clearly distinguish:

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- cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
- cases of withdrawal of parental rights once the court has convicted the said parent?<sup>[28]</sup> Please provide details.

[28] *Ibid.*, Recommendation 32

- Yes  
 No

Please provide information in support of your answer, if possible by referring to specific legal provisions and their exact wording (8 Yes)

Article 59 of the Family Code (quoted in question 8(a)) clearly prescribes cruel treatment of children, including use of physical or mental violence against them, violation of their sexual integrity or the commission of a criminal offence against them as grounds for termination of parental rights. Therefore, if the parent is convicted of an offence against the child this will be grounds for termination of their parental rights.

#### FAMILY CODE OF THE REPUBLIC OF ARMENIA

“Article 59. Withdrawal of parental rights

1. In order to protect the best interests of the child, parents or one of them may be deprived of parental rights if they:
  - 1) maliciously avoid fulfilling parental duties, including paying alimony, for one year in a row;

- 2) do not change their behaviour within six months after the court decision on the restriction of parental rights enters into force;
  - 3) without justifiable reason refuse to pick up their child from the maternity hospital or organizations providing medical care and service;
  - 4) refuse to take their child from educational, social protection or other similar institutions for a year without a justifiable reason;
  - 5) abuse their parental rights, including inflicting a harmful influence on the child with their behaviour;
  - 6) suffer from chronic alcoholism, drug addiction;
  - 7) suffer from chronic mental illnesses, the list of which is established by the Government of the Republic of Armenia;
  - 8) treat the child cruelly, in particular
    - a. they regularly use such physical violence against the child, which does not contain the characteristics of the criminal offense provided for by the Criminal Code of the Republic of Armenia,
    - b. regularly inflict psychological violence on the child, that is, intentionally causing severe mental suffering, including the threat of physical and sexual violence, periodic humiliation of dignity.
2. A parent is deprived of parental rights if he/she is convicted of an intentional crime against his/her child.
3. The cases set forth in clauses 1, 3 and 4 of part 1 of this article are not grounds for deprivation of parental rights, if the parent is in a medical facility, disciplinary battalion, correctional facility, a place where arrestees or detainees are kept, participates in training gatherings or is in compulsory military service, in the armed forces during combat operations, in captivity, has gone on a foreign business trip, if the deprivation of parental rights does not result from the best interests of the child. The court may also consider reason as reasonable cause.

#### Article 63. Limitation of parental rights

1. Proceeding from the child's interests, the court can decide to take the child from the parents (one of them) without deprivation of parental rights (restriction of parental rights).
2. The restriction of parental rights is allowed if leaving the child with parents or one of them is dangerous for the child because of the circumstances beyond the parents/ one of them (mental or chronic disease, existence of grave circumstances etc.).  
The restriction of parental rights is also allowed in cases when despite the fact that leaving the child with the parents is dangerous for the child due to the behaviour of the latter, there are no sufficient ground to deprive the parents or one of them of the parental rights. If the parents or one of them do not change their behaviour, after six months from the entry into force of the court verdict to restrict the parental rights, the department of custody and guardianship is obliged to apply to the court with a suit on deprivation of parental rights. The department of custody and guardianship can present a suit on deprivation of the parent/parents of parental rights before this term expires proceeding from the child's interests.
3. A suit on restriction of parental rights can be presented by the close relatives of the child, other departments and organizations who bear the obligations of the protection of child's rights, pre-school, educational and other organizations.
4. The cases of restriction of parental rights are considered with the obligatory presence of the department of custody and guardianship.
5. Within three days after the entry into force of the court verdict on restriction of parental rights the court is obliged to send the extract of the verdict to the state Civic Status Registration Department of the child's birthplace."

Here you can upload any file(s) in support of your answer

## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

### Question 9. Does your national legal framework provide for:

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a. [automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending?](#)<sup>[29]</sup> Please provide details.

[29] Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

- Yes  
 No

If appropriate, please provide more information (9.a No)

The process is not automatic. However, there are measures such as the temporary suspension of parental rights (Article 63 of the Family Code as quoted in question 8(a)), or emergency intervention order (Article 7 of the Law on Domestic Violence as quoted in question 7(c)) to protect the child until a court decision is made.

Here you can upload any file(s) in support of your answer

b. [automatic withdrawal of parental rights of parents convicted of sexual abuse of own child?](#)<sup>[30]</sup> Please provide details.

[30] *Ibid*

- Yes  
 No

If appropriate, please provide more information (9.b No)

Here you can upload any file(s) in support of your answer

## GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES

### Question 10.

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[How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?](#)<sup>[31]</sup>



[31] Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

The laws on defamation or libel are strictly applied to statements made in public. There is no right to claim defamation or libel for reporting a suspicion to the police.

Medical professionals have the right to report information regarding the patient to the authorities where they have grounds to suspect that the injuries may have been inflicted as a result of abuse or other unlawful acts. (Article 11, part 5 clause 8 of the law of the Republic of Armenia on Medical Aid and Population Services).

The Law on the Protection of Personal Data, by virtue of Article 26 part 3 clause 2 (as quoted in question 7 (e)) provides that: “ The processor may transfer special category personal data to third parties or grant access to data without the personal data subject’s consent, where: (2) in exceptional cases provided for by law special category personal data may be transferred for protecting life, health or freedom of the data subject.”

Moreover, Article 43 part 3 of the Family Code (quoted in question 2(a)) states that “Individuals in positions of authority and ordinary citizens who become aware of instances where a child's life and well-being are at risk, or their rights and interests are being violated, are required to promptly notify the guardianship and trusteeship body. Once this information is received, the child protection agency must take all necessary actions to safeguard the child's rights and well-being.”

Here you can upload any file(s) in support of your answer

## ASSISTANCE TO THIRD PARTIES Question 11.

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What kind of legislative or other measures does your national legal framework have in place to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care?<sup>[32]</sup>

[32] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”, Recommendation 30

There are special support centres that have been established by legislation of the Republic of Armenia. These centres, amongst other duties, provide free psychological and legal assistance and other necessary social services to victims of domestic violence. (Article 19 part 2 of the Law on Domestic Violence) Starting from 2020, state-funded support facilities for individuals who have suffered from domestic abuse have been established across all regions of the Republic. These support facilities offer a range of services including psychological and legal aid (such as legal counsel and hotline services), as well as legal protective measures. The intention is to relocate victims of domestic violence and those under their care to a shelter, provided that they give their consent in a manner outlined by the law when there is a risk of recurring abuse. The Support Centres are tasked with the arrangement for the provision of free and necessary psychological and legal assistance and other necessary services to the victims of domestic violence as soon as possible after an emergency intervention order or a protection order has been received by them.

Here you can upload any file(s) in support of your answer

## ASSISTANCE TO THIRD PARTIES Question 12.

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When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of the other non-offending members of the family?<sup>[33]</sup>

[33] *Ibid.*, Recommendation 31

Article 7 part 1 of the Law on Domestic Violence (quoted in question 7(c)), provides that once a complaint is lodged by a victim of domestic violence (including minors) the police officers to whom the complaint was made makes a decision on emergency intervention. Part 3 the same article sets out the measures that may be undertaken in an emergency intervention in the following manner:

“The following restrictions may be applied by the decision of emergency intervention:

1. The individual who committed domestic violence is mandated to leave the residence of the victim immediately and is prohibited from returning until the specified period as defined by the decision has elapsed.
2. To prohibit the person who committed domestic violence from visiting the victim who resides in a different area from him/her. the person who committed domestic violence is further prohibited from visiting persons under the care of the victim at their place of work, study, recreation, residence, or other places;
3. The person who committed domestic violence is restrained from approaching the victim of domestic violence, and if necessary, also the individuals under their care, at a distance that would reasonably cause fear for the personal safety of the person subjected to domestic violence. The decision specifies the exact size of the distance to be maintained.
4. The weapon in the possession of the person who committed the violence is to be seized and taken into custody before the period specified by the decision ends. Upon being informed about the decision, if the individual involved in the family violence possesses a weapon, they are required to promptly surrender it to the police officer responsible for implementing the decision.
5. The person who committed family violence is restricted from communicating with the victim of family violence through phone, letter, or any other means of communication. If required, this prohibition also extends to communication with the individuals under the care of the victim.”

Article 7 part 8 of the Law on Domestic Violence requires that the police officer remain at the premises where the victims reside until such time as the person who committed the domestic violence collects his/her belongings and leaves the premises.

The article further stipulates that the person who committed the act of violence can only return to the premises with the aim of collecting personal belongings once and while being accompanied by a police officer.

In case where the person who committed the act of domestic violence is the sole caretaker of the minor victim, the guardianship and trusteeship body must be immediately notified of such order after which it will assume the temporary care of the child. Such intervention must be made as soon as possible, but no later than 24 hours, after receiving the copy of the emergency intervention order from the police or the officer who made the order.

Chapter 3 Point 22 of the charter of the trusteeship and guardianship body imposes upon them the right and the obligation to swiftly remove the child from their parents' or guardians' care in situations where there is an immediate threat to a child's safety or well-being. The child will be placed in a temporary accommodation to ensure their safety. Within a period of 7 days, the trusteeship and custodianship body is required to take legal action and approach a court to either terminate or limit the parental rights of one or both parents.

Here you can upload any file(s) in support of your answer

## MONITORING OF OFFENDERS Question 13. Does your national legal framework provide for:

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a. a mechanism to monitor or supervise persons convicted of child sexual abuse and, specifically, persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence?<sup>[34]</sup>

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

Article 11 part 1 of the Law on Domestic Violence requires that “The police place under preventive monitoring a person who has committed family violence and against whom a warning, emergency intervention, or protection decision has been issued. Additionally, an adult who has been convicted of a crime related to family violence is also included in this monitoring.”

As per article 11 part 3 of the same law, the police officers or social worker of the territorial authority are tasked with conducting at least one meeting per month to monitor the behaviour of the person who is registered for preventative monitoring and the victims of domestic abuse. If the social worker of the territorial body detects a risk of violence recurrence during the monitoring, he/she immediately informs the police about it.

Here you can upload any file(s) in support of your answer

b. sharing with other countries data concerning persons convicted of child sexual abuse?<sup>[35]</sup> Please provide details.

[35] Based on Article 38 of the Lanzarote Convention.

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

THE LAW OF THE REPUBLIC OF ARMENIA ON THE PROTECTION OF PERSONAL DATA

“Article 27. Transfer of personal data to other states

1. Personal data may be transferred to other country by the data subject's consent or where the transfer of data stems from the purposes of processing personal data and/or is necessary for the implementation of these purposes.

Here you can upload any file(s) in support of your answer

## MEASURES IN RESPECT OF PROFESSIONALS AND LEGAL PERSONS Question 14. Does your national legal framework:

a. **allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?**<sup>[36]</sup> Please provide details.

[36] Based on Article 27§3(b) of the Lanzarote Convention.

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

The Labour code of the Republic of Armenia (hereafter the Labour Code), Article 122 part 1 clause 2 provides that the employer has the right to terminate the employment contract on the grounds of loss of confidence in the employee where the employee while carrying out teaching and educating functions, has committed an act that is incompatible with the continuation of the given task.

When terminating the employment contract on the grounds of loss of confidence the employer has the right to rescind the employment contract without notifying the employee. (Article 123 of the Labour Code)

Here you can upload any file(s) in support of your answer

b. **ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”**<sup>[37]</sup> **settings are held liable?**<sup>[38]</sup> Please provide details.

[37] In accordance with the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse adopted at its 25th meeting (15-18 October 2019), “out-of-home care” represents all settings in which children can be placed out of their home for care (see point b of the Declaration).

[38] Based on the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse, point 6.

- Yes  
 No

If appropriate, please provide more information (13.b No)

Article 43 part 3 of the Family Code (as quoted in question 2(a)) states that “Individuals in positions of authority and ordinary citizens who become aware of instances where a child’s life and well-being are at risk, or their rights and interests are being violated, are required to promptly notify the guardianship and

trusteeship body.

The consequences for failure to report, however, are unclear.

Here you can upload any file(s) in support of your answer

c. **ensure that legal persons failing to protect children in their care from sexual abuse are held liable?**<sup>[39]</sup>

Please provide details.

[39] *Ibid.*, see point 7.

- Yes  
 No

If appropriate, please provide more information (13.c No)

There is no such regulation in the legislation of the Republic of Armenia.

Here you can upload any file(s) in support of your answer

## SPECIAL REPRESENTATIVES Question 15. How does your national legal framework ensure that special representatives and guardians ad litem who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:

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a. **receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?**<sup>[40]</sup>

[40] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35

The responsibilities of guardians ad litem in cases where a child is left without parental care, is undertaken by guardianship and trusteeship bodies.

According to the constitution of the guardianship and trusteeship bodies, established by the Government Decision N 631-Ն from 2 June 2016 guardianship and trusteeship bodies are provided with comprehensive assistance, guidance, and information concerning state policies, legal provisions, and documents designed to safeguard the well-being of children. They benefit from methodological clarifications and directives furnished by the Ministry of Labour and Social Affairs of the Republic of Armenia. Additionally, regional governors, Yerevan Municipality within Yerevan, as well as qualified individual experts and relevant public organizations and foundations, are readily available sources for essential advice, support, and information in this domain.

Here you can upload any file(s) in support of your answer

b. [avoid combining the functions of a lawyer and guardian ad litem in one person?](#)<sup>[41]</sup>

[41] Ibid., Recommendation 36

Lawyers and guardians are two different entities in the legislation of the RA. The guardianship is conducted by the guardianship and trusteeship body, while the legal representation is undertaken by attorneys. The Criminal Procedure Code distinguishes between legal representatives and authorized representatives. (Article 6)

The CPC defines legal representatives as parents, adopters, guardians, trustees, employees of the trusteeship and guardianship body, within their authorized capacity, close relatives of deceased defendants or individuals who were accused of a crime but have passed away or the leader of a legal entity who is either the victim or the defendant in a property-related case. (Article 6)

The legal representatives are appointed by the investigator (Article 46 part 1 clause 15 & Article 53 part 2 of Criminal Procedure Code).

The authorized representatives within the meaning of the CPC are attorneys who have been duly authorized to represent the person in a case as well as the duly authorized employee of a legal entity. (Article 6)

Here you can upload any file(s) in support of your answer

c. [are provided free of charge for the child victim?](#)<sup>[42]</sup>

[42] Ibid., Recommendation 37

CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA

“Article 19. Provision of legal aid

1. The arrested person, the accused, their respective legal representatives, the victim, their legal representative, the property defendant, their legal representative, and the witness during the proceedings all have the right to receive legal assistance from a lawyer of their choosing, and in cases specified by law, such assistance may also be provided at the expense of state funds.

2. The body responsible for conducting the procedure is not authorized to prohibit the presence of the lawyer during proceedings involving their client.”

Article 41. Public defense

1. Free legal aid, provided in accordance with the cases outlined in this article, is regarded as a form of public defense.

...

2. The Public Defender's Office, except for the provision of legal aid to individuals who have been arrested or accused within the context of criminal proceedings, as well as those cases detailed in part 6 of this article, offers free legal assistance, as stipulated in this article, to the following individuals:

16) Victims of domestic violence within the definition of the law of Republic of Armenia on the Prevention of Domestic Violence, the protection of persons subjected to domestic violence, and the restoration of family peace.

Here you can upload any file(s) in support of your answer

## SPECIAL REPRESENTATIVES Question 16. [for 22 Parties + Malta]

a. Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?<sup>[43]</sup> Please provide details.

[43] *Ibid.*, Recommendation 34

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.a Yes)

In case where an emergency intervention order has been made due to the occurrence of domestic violence and where the victim of violence is a minor and the violence has been committed by the sole caretaker of the child, the guardianship and trusteeship body must be immediately notified of such order after which it will assume the temporary care of the child. Such intervention must be made as soon as possible, but no later than 24 hours, after receiving the copy of the emergency intervention order from the police or the officer who made the order.

Furthermore, The Criminal Procedure Code defines legal representatives as parents, adopters, guardians, and trustees, employees of the trusteeship and guardianship body, within their authorized capacity, close relatives of deceased defendants or individuals who were accused of a crime but have passed away or the leader of a legal entity who is either the victim or the defendant in a property-related case. (Article 6)

The legal representatives are appointed by the investigator (Article 41, part 1 clause 15 & article 53 part 2 of Criminal Procedure Code). This means that when there is a conflict of interest between the parents and the child the person responsible for investigation of the case has the right to appoint a legal representative for the child on their own accord. This will either be another relative of the child or the trusteeship and guardianship body.

Similarly, in the case of a protection order (Article 8 part 8 of the law Domestic Violence), where the victim of violence is a minor and the violence has been committed by the sole caretaker of the child, the court will order the guardianship and trusteeship body to assume the temporary care of the child.

Here you can upload any file(s) in support of your answer

b. Is this person allowed to be present throughout the criminal proceedings?<sup>[44]</sup> Please provide details.

[44] *Ibid*

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.b Yes)

According to article 53 of the Criminal Procedure Code the legal representative of the victim has all the rights and duties of the victim apart from those rights and duties which are inseparable from the victim. Pursuant to the same article the legal representative of the victim has the right to be informed when the victim is called to the body conducting the proceedings, and to accompany him as well as to participate in the questioning and other evidentiary operations involving the victim (as defined by article 6, clause 38 of the CPC).

Here you can upload any file(s) in support of your answer

## SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 17. In investigative and judicial proceedings how does your national legal framework ensure that:

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- a. [protection measures are available to all children irrespective of their age](#)?<sup>[45]</sup> Please provide details.

[45] *Ibid.*, Recommendation 38

The word "Minor" is described as a person who has not yet reached the age of 18. Any provisions in the Criminal Procedure Code which provide protection for a minor are applicable to all persons under the age of 18 indiscriminately.

Here you can upload any file(s) in support of your answer

- b. [specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child](#)?<sup>[46]</sup> Please provide details.

[46] *Ibid.*, Recommendation 39

According to the article 212 of the Criminal Procedure Code a psychologist, who meets the qualifications outlined by the Government's established procedure, is engaged in conducting an investigative operation that involves a minor, an incapacitated individual, or a person with mental health challenges. Article 212 of the Criminal Procedure Code Part 3 provides that "For the purposes of safeguarding the legitimate interests of a minor, incapacitated person or a person with mental health problems, and by the recommendation of a psychologist, the investigative actions are carried out under such conditions (place, duration, number of participants, etc.) that will allow for the guarantee of the victim's best interests in as much as possible."

Article 212 part 4 of the Criminal Procedure Code provides that based on the psychologist's advice and with the goal of safeguarding the legal rights of the underage victim or witness, the investigator prepares and collaborates with the psychologist to determine the questions that will be posed to the minor prior to commencing the investigative procedure of taking the minor's testimony.



Article 212 part 5 of the Criminal Procedure Code provides that “Based on the psychologist’s recommendation and with the objective of safeguarding the legitimate interests of the minor victim or witness, the inquiries directed at the child by the arrested person, the defendant or their representative are posed to the minor only after coordination with the psychologist and without direct communication with the minor”.

#### CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA

“Article 212. Specificities of an investigative operation involving a minor, an incapacitated person or a person with a mental health problem

1. A psychologist, qualified in accordance with the procedure set by the Government, is engaged in the execution of an investigative operation that involves a minor, an incapacitated individual, or a person with mental health issues. The legal representative of a minor, an incapacitated person, or a person with mental health problems has the right to participate in the investigative operation concerning the person he/she represents.
2. Before commencing the investigative operation, both the psychologist and the legal representative are informed about their rights to participate in the investigative operation and provide comments. In addition, those participating in the investigative operation pertaining to testimonies are informed of their right to ask questions, with the psychologist also having the right to offer professional input regarding the ongoing investigative operation. The examiner retains the right to omit the questions raised or decline to accept the suggestions made; however, it is mandatory that these questions and suggestions be documented in the record in any case.
3. Based on the psychologist’s recommendation and with the aim of safeguarding the lawful interests of a minor, incapacitated person, or an individual with mental health issues, the investigative action is conducted under conditions (including location, duration, number of participants, etc.) designed to maximize the protection of their best interests.
4. Upon the psychologist’s recommendation and with the objective of safeguarding the legal interests of the minor victim or witness, prior to initiating the investigative action related to testimony, the investigator formulates and agrees with the psychologist on the questions to be posed to the minor.
5. Based on the psychologist’s recommendation and with the aim of safeguarding the legitimate interests of the minor victim or witness, the questions directed towards the arrested person, the accused, or their defense counsel are presented to the minor after coordination with the psychologist, without direct communication with the minor.
6. A minor below the age of sixteen who takes part in an investigative operation related to providing testimony is informed of their obligation to provide a truthful testimony. However, they are not cautioned about the criminal consequences that may arise from refusing to testify or providing false testimony.”

Here you can upload any file(s) in support of your answer

c. **a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children’s psychological well-being**?<sup>[47]</sup> Please provide details.

[47] Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021

According to the article 212 of the Criminal Procedure Code (quoted in question 17(b) above) a psychologist, who meets the qualifications outlined by the Government’s established procedure, is engaged in conducting an investigative operation that involves a minor, an incapacitated individual, or a person with mental health challenges.

There is a designated division of police force which deals with cases of domestic violence. The officers serving in the division are required to undertake continuous training to better deal with cases of domestic violence. (Article 15 of the Law on Domestic Violence)

Here you can upload any file(s) in support of your answer

## SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 18.

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Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?<sup>[48]</sup> Please provide details.

[48] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 40

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (18 Yes)

Armenia was not yet party to the convention in 2015. However, it must be mentioned that the latest amendments of the Criminal and the Criminal Procedure Code have come into force in 2022. The amendments incorporate more detailed regulations regarding the participation of child victims in the criminal proceedings and the specificities of the investigation of cases involving a child victim.

Here you can upload any file(s) in support of your answer

## INVESTIGATION Question 19. In the investigation phase:

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***In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.***

a. are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?<sup>[49]</sup> Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes

No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.a Yes)

Article 212 part 3 of the Criminal Procedure Code (as quoted in question 17(a) above) provides that “ For the purposes of safeguarding the legitimate interests of a minor, incapacitated person or a person with mental health problems, and by the recommendation of a psychologist, the investigative actions are carried out under such conditions (place, duration, number of participants, etc.) that will allow for the guarantee of the victim’s best interests in as much as possible.”

Furthermore, part 6 of the article 214 of the Criminal Procedure Code provides that in exceptional cases, when a person's presence during the execution of an investigative operation is hindered by health conditions or their location, or when there's a necessity to guarantee an individual's safety or safeguard the lawful rights of a minor victim or a witness, in the interests of justice, the investigative operation may be conducted using video communication technology.

There are 2 Barnahus model type centers established in Armenia, and there is a plan to extend the practice of these centers in all regions.

Here you can upload any file(s) in support of your answer

b. [are all staff responsible for interviewing child victims required to undergo suitable qualifying training?](#)<sup>[50]</sup>  
Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes  
 No

If appropriate, please provide more information (19.b No)

There is no specific regulation regarding this in the legislation of Armenia. However, in cases involving a minor victim, all investigative actions are carried out with the involvement of a duly qualified psychologist. Every step, including the questions posed to the victim, is to be coordinated and agreed upon with the psychologist to ensure their well-being and appropriate handling of the situation. The investigator has the right to remove the questions asked or not to accept the proposals presented, but in any case, they must be included in the record. (Article 212 of the Criminal Procedure Code quoted in question 17(a))

Here you can upload any file(s) in support of your answer

c. [does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child’s age and attention span?](#)<sup>[51]</sup> Please provide details.

[51] *Ibid.*, Recommendation 43

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.c Yes)

In relation to the duration of the interviews article 217 part 3 of the Criminal Procedure Code provides that “The maximum duration of continuous interrogation is limited to 4 hours for regular individuals and 2 hours for minors, persons with mental health problems, or serious illnesses. After the specified time, the interrogation must pause to provide the interrogated person with a break of at least one hour for rest and food. In any day, the total duration of interrogation cannot exceed 8 hours for regular individuals and 6 hours for minors, persons with mental health problems, or serious illnesses.”

Article 212 part 3 of the Criminal Procedure Code (as quoted in question 17(a) above) further provides that “For the purposes of safeguarding the legitimate interests of a minor, incapacitated person or a person with mental health problems, and by the recommendation of a psychologist, the investigative actions are carried out under such conditions (place, duration, number of participants, etc.) that will allow for the guarantee of the victim’s best interests in as much as possible.”

Part 3 of the article 329 of the Criminal Procedure Code of the RA provides that based on the recommendation of a psychologist, the victim who is a minor will not be subjected to examination in court, if this is in his/her best interest, and if the defense had an opportunity to ask questions to the minor during the pre-trial proceedings.

Here you can upload any file(s) in support of your answer

d. **[for Serbia] how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?**<sup>[52]</sup>

[52] *Ibid.*, Recommendation 54

Here you can upload any file(s) in support of your answer

e. **where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?**<sup>[53]</sup> Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes  
 No

If appropriate, please provide more information (19.e No)

There is no specific provision requiring that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first. However, according to part 1 of article 210 of the Criminal Procedure Code, the investigative action is carried out by the investigator who is authorized to conduct such actions within the relevant proceeding. This in turn means that in case where the repeated interviewing of the child victim is absolutely necessary it will still be conducted by the same investigator.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?](#)<sup>[54]</sup> Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.f Yes)

According to article 210 part 3 of the CPC in order to ensure the effectiveness of the investigative operations, the investigator is empowered to involve private participants of the proceedings as well as individuals providing support to the proceedings in the said operations. It is therefore possible for the investigator to allow for the defence to pose questions or contest the disclosure of the minor in order to alleviate the need for the child to be present in court during the proceedings.

Here you can upload any file(s) in support of your answer

## JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

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***In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.***

a. [is systematic use of video equipment made in order to record interviews of child victims or enable him or her to testify remotely during the proceedings?](#)<sup>[55]</sup> Please provide details.

[55] *Ibid.*, Recommendation 46

- Yes

No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.a Yes)

According to the article 327, part 1 of the Criminal Procedure Code, in extraordinary circumstances, if the individual under questioning cannot be physically present in court due to health issues or being outside the borders of the Republic of Armenia, or if their presence may endanger their safety or undermine the credibility of their testimony, or if it is essential to safeguard the legal rights of a minor victim or witness, the court has the discretion to conduct the interrogation via video communication using appropriate technical means. This may be done at the request of a party or at the court's own initiative.

Here you can upload any file(s) in support of your answer

b. [does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?](#)<sup>[56]</sup> Please provide details.

[56] *Ibid.*, Recommendation 59

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.b Yes)

According to the article 327 of the Criminal Procedure Code (as quoted in question 20(a) above), in extraordinary circumstances, if the individual under questioning cannot be physically present in court due to health issues or being outside the borders of the Republic of Armenia, or if their presence may endanger their safety or undermine the credibility of their testimony, or if it is essential to safeguard the legal rights of a minor victim or witness, the court has the discretion to conduct the interrogation via video communication using appropriate technical means. This may be done at the request of a party or at the court's own initiative. Article 329 part 3 of CPC (quoted in question 19(c)) provides that: "On the recommendation of a psychologist, the victim who is a minor will not be subjected to examination in court, if this is in his/her best interest, and if the defence had an opportunity to ask questions to the minor during the pre-trial proceedings." Testimony by means of deposition is also permissible under the Criminal Procedure Code (Article 306 CPC). Deposition is conducted in cases where the person giving the testimony might be unable to attend the trial or there is reasonable suspicion that the person may not give legitimate testimony during the trial.

Here you can upload any file(s) in support of your answer

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)<sup>[57]</sup> Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
- No

If appropriate, please provide more information (20.c No)

Here you can upload any file(s) in support of your answer

d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)<sup>[58]</sup> Please provide details.

[58] *Ibid.*, Recommendation 47

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.d Yes)

Pursuant to part 1 clause 3 of article 86 of Criminal Procedure Code the victim's testimony is regarded as a type of evidence in the criminal proceedings.

Article 89 of the Criminal Procedure Code defines the victim's statements as the information, whether verbal or written, provided by the victim during the trial or the pre-trial proceedings.

Furthermore, Article 214 part 4 of the CPC requires that a video recording must be continuously conducted from the initiation of the investigation operation (which includes the interview process according to article 208 of CPC) until its conclusion, with no breaks, except in the event of unforeseen technical malfunctions or other situations beyond control that make recording impossible.

Pursuant to Article 330 part 1 clause 6 of CPC, at the party's request and the court's approval, the publication of the testimony provided during pre-trial proceedings or in court, in accordance with the requirements stated in the Code, along with any accompanying materials (such as pictures, drawings, diagrams, photographs, audio recordings, video recordings, filming, video films), is permissible in the event described in Part 3 of Article 329 of the same Code.

Article 329 part 3 of CPC (as quoted in question 19(c) above) provides that: "On the recommendation of a psychologist, the victim who is a minor will not be subjected to examination in court, if this is in his/her best interest, and if the defense had an opportunity to ask questions to the minor during the pre-trial proceedings."

Here you can upload any file(s) in support of your answer

e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)<sup>[59]</sup>

[59] *Ibid.*, Recommendation 48

Article 212 part 5 of the Criminal Procedure Code (as quoted in question 17(b)) provides that “Based on the psychologist's recommendation and with the objective of safeguarding the legitimate interests of the minor victim or witness, the inquiries directed at the child by the arrested person, the defendant or their representative are posed to the minor only after coordination with the psychologist and without direct communication with the minor”.

The legislation of the Republic of Armenia established measures of special protection of persons involved in the conduct of the proceedings.

Article 73 part 1 of the Criminal Procedure Code provides that special protection measures are applied in relation to the participant of the proceedings, as well as to his family member or other close person if there's a reasonable possibility that their life, health, or lawful interests might be endangered due to the course of the proceedings. These measures can be applied on the basis of an application or of the initiative of the entity responsible for carrying out the proceedings.

According to Article 74 of the Criminal Procedure Code measures of special protection are the following:

“1. The special protection measures to be employed during the proceedings include:

- 1) Restricting approaches or communication with the protected person.
- 2) Maintaining the confidentiality of information that discloses the identity of the protected person.
- 3) Exercising oversight over the protected person, their residence, and belongings.
- 4) Providing the protected person with an individualized protection arrangement.
- 5) Arranging for the transportation of the protected person to an alternative residence.
- 6) Substituting documents that verify the protected person's identity or modifying their appearance.
- 7) Altering the protected person's employment, service, or educational institution.
- 8) Removing the protected person from the courtroom or conducting a closed court session.
- 9) Conducting the examination of the protected person in the court under special procedures.”

Furthermore, as described before, the law on Domestic Violence provides for protection order which can be made by the court to prohibit the offender from approaching the victim of the domestic violence.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)<sup>[60]</sup> Please provide details.

[60] *Ibid*

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.f Yes)

According to article 82 part 1 of the Criminal Procedure Code:

“Article 82. Removal of persons from the courtroom or holding a closed court session

1. For the purposes of safeguarding the protected person, the chairman of the court has the right to
  - 1) remove individual persons from the courtroom.
  - 2) to hold a closed court hearing.



Here you can upload any file(s) in support of your answer

g. [how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?](#)<sup>[61]</sup>

[61] *Ibid*

The Criminal Code of the Republic of Armenia provides for special protection measures for persons involved in the criminal proceedings. A special protection measure is applied to the person involved in the criminal proceedings, as well as to his family member or other close persons, if their life, health, or legitimate interests may reasonably be threatened. (Article 73 part 1 of the Criminal Procedure Code as quoted in question 20(e))

According to Article 82 of the Criminal Procedure Code (referenced in question 20(f)), the court has the authority to ensure the safety of the protected person through actions such as removing specific individuals from the courtroom and conducting closed court sessions.

There are also special measures provided under Article 83 of the same Code, for examination of persons who need protection.

Article 329 part 3 of CPC (as referenced in question 19(c)) provides that: "On the recommendation of a psychologist, the victim who is a minor will not be subjected to examination in court, if this is in his/her best interest, and if the defense had an opportunity to ask questions to the minor during the pre-trial proceedings."

#### CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA

"Article 83. The special procedure for the examination of the protected person in court

1. Interrogation of a person being defended in court, without publishing any information about his/her identity, can be done using a pseudonym. Interrogation of the protected person can be done using technical means of video communication (via video).
2. If required, the interrogation of the protected person can be conducted under circumstances that prevent the person's identity from being recognized. To achieve this, measures such as using a mask, make-up, altering the protected person's voice, and other lawful means of protection may be employed.
3. Interrogation of the protected person, out of the visibility of other participants in the proceedings, can be done with audio and other technical means (veil, protective screen, film) with the participation by other participants in the proceedings.

Here you can upload any file(s) in support of your answer

h. [what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?](#)<sup>[62]</sup>

[62] *Ibid.*, Recommendation 49

Article 28 part 3 of the CPC provides: “The court has the authority to conduct all or part of the proceedings in private, as stipulated by this Code, to safeguard the privacy of participants, protect the interests of minors, ensure justice, and maintain state security, public order, or morals. Whether requested by a party or initiated by the court, a decision to hold a closed court session is compulsory in the specified circumstances outlined in this Code.”

Article 28 part 4 of the CPC states that “During court proceedings, decrees issued by the court are generally made public. However, depending on the reasons for holding a closed court session, certain portions of the court decree may not be announced publicly as per the court's decision. Nonetheless, the introductory and final parts of these judicial acts are always published regardless of any closed session.”

According to Article 267 part 2 of the Criminal Procedure Code:

“2. Upon the request of one of the involved parties or upon the court's own initiative, a court decision can prohibit the presence of public and media representatives during a court session or a specific portion of it, if there is a legitimate need to restrict the principle of openness in order to guarantee:

- 1)The privacy of personal or family life;
- 2)The safeguarding of the minor's best interests.”

Article 22 of the Law on Domestic Violence provides the following:

1. Data concerning private life that competent authorities obtain pertaining to instances of domestic violence and/or criminal cases related to victims or purported victims of domestic violence is classified as confidential. Publishing such information through mass media or other means about these individuals is prohibited without the consent of the domestic violence victim or alleged victim, unless stipulated otherwise by the laws of the Republic of Armenia.
2. Police officers, employees of support centres and shelters are forbidden from disclosing the whereabouts of domestic violence victims and their dependents sheltered therein, or any other details that could reveal their location.
3. Transgressing the right to the inviolability of private or family life carries legal repercussions, and any harm inflicted upon the individual as a result entitles them to compensation as outlined in the law.”

#### CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA

“Article 28. Public nature of judicial proceedings

1. Court proceedings are generally open to the public, except in instances specified by this Code.
2. Any individual aged 16 and above have the right to attend open court sessions, as do participants or witnesses under the age of sixteen. Additionally, with the court's approval, another person under the age of 16 may also be present at the court session.
3. To protect the private lives of the participants of the proceedings, minors or the interests of justice, as well as state security, public order or morals, the court, at the request of a party or on its own initiative, has the right to make a decision to hold the court session or a part of it behind closed doors in the cases provided for in this Code. In the cases provided for by this Code, holding a closed court session is mandatory.
4. Court orders issued during legal proceedings are publicly disclosed. Depending on the reasons for conducting a closed court session, specific sections of the court order may, by the court's decision, remain undisclosed to the public. However, the introductory and concluding segments of these judicial orders are always made public.

i. does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?[63] Please provide details.

[63] *Ibid.*, Recommendation 50

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.i Yes)

Article 6 part 4 of the law of the Republic of Armenia on the Profession of Advocates (as referenced in question 15(c) above) provides that the Chamber of Advocates is responsible for furnishing legal assistance funded by the State, for cases presented in Articles 41 and 42 of the same Law.  
Article 41 part 5 (as referenced in question 15(c) above) clause 16 of the same law provides for free legal aid for victims of domestic violence within the meaning of the law of the Republic of Armenia on the Prevention of Domestic Violence, the protection of persons subjected to domestic violence, and the restoration of family peace.

Here you can upload any file(s) in support of your answer

j. does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?[64] Please provide details.

[64] *Ibid.*, Recommendation 51

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.j Yes)

Article 50 part 4 of the CPC provides that “The rights of a victim who is a minor, incapacitated, or has a mental health problem shall be exercised by their legal representative, in accordance with the procedure specified in this Code.”  
However, the phrase “legal representative” is defined in the Criminal Procedure Code as “the parent, the adoptive parent, guardian or trustee, the officer of the guardianship and trusteeship body (as much as it is within their competence), a close relative of the deceased accused or the person who allegedly committed a crime and died, etc. of the minor or incapacitated person.  
According to Article 53 part 2 of CPC (referenced in question 16(a) above), the legal representative is recognised by the decision of the body in charge of executing the proceedings.  
The victim also has an authorized representative (attorney) who is also recognized by the decision of the body in charge of executing the proceedings. (Article 54, part 1 of CPC).

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k. [what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?](#)<sup>[65]</sup>

[65] *Ibid.*, Recommendation 52

The assistance is based on child needs. If the court determines that there has been abuse of the child, this decision may later serve as grounds for termination of parental rights of the offender. This process however is not automatic and there should be request to court made either by relatives of the child, the other non-offending parent or the Guardianship and trusteeship body.

Furthermore, such the conviction of the parent by the court will serve as grounds for the termination of parental rights. In this case the trusteeship and guardianship body will apply to court for the termination of parental rights after which the child will either be left with the non-offending parent, other relatives or in the absence of the latter two the guardianship and trusteeship body will assume the child's care.

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