

LANZAROTE COMMITTEE

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

1st implementation report

Adopted by
the Lanzarote Committee
on 4 December 2015

**Protection of
children against
sexual abuse
in the circle
of trust:
The framework**



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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and Sexual Abuse
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Executive Summary

■ The 1st monitoring round of the implementation of the Lanzarote Convention focuses on the protection of children against sexual abuse in the circle of trust. Two reports will cover this theme in the 26 States which were Parties to the Convention at the time the monitoring round was launched.¹

■ This 1st report² provides the general framework to sexual abuse of children in the circle of trust, addressing four sets of issues: i) criminalisation of sexual abuse of children in the circle of trust; ii) collection of data on child sexual abuse in the circle of trust; iii) best interests of the child and child friendly criminal proceedings related to cases of child sexual abuse in the circle of trust; and iv) corporate liability with respect to such cases.

■ With regard to criminalisation of sexual abuse of children in the circle of trust, the Lanzarote Committee found that a majority of Parties protects children against sexual abuse within the context of certain specific relationships and settings (e.g. within the family, at school, in institutions). A few Parties more generally criminalise sexual abuse of children resulting from “abuse of a position, status or relationship”. None but one uses, in the definition of the offence, the broader Lanzarote Convention wording of “abuse of a recognised position of trust, authority or influence” by the perpetrator over the victim. The Lanzarote Committee regrets that the vast majority of Parties does not cover all possible persons in the child’s circle of trust who might abuse their position of trust, authority or influence (e.g. a parent’s friend or colleague, an older sibling’s friend, a neighbour, etc.).

■ As to data collection, the Lanzarote Committee found that in the majority of Parties, there are no specific data collection mechanisms or focal points tasked with collecting data on child sexual abuse generally, including with regard to sexual abuse committed in the circle of trust. Data is collected in a piecemeal manner within the broader context of all types of child abuse and neglect. Specific data on sexual abuse, including in the circle of trust, is however essential to develop, adjust and assess policies to protect children in this field. When the data collected is comprehensive, reliable and comparable internationally, it facilitates a better understanding and effective design of policies to tackle the phenomenon of sexual abuse in the circle of trust. The designation/setting-up of a coordinating agency/mechanism or focal point at the national or local level tasked with collecting and assessing such data and making the data available is thus urgent. Where a comprehensive system of reporting of cases of child sexual abuse committed in the circle of trust is in place, the data collected is more complete. In this respect the Committee notes that mandatory reporting has an impact on data collection as a larger number of cases are reported and consequently registered.

■ As regards the best interests of the child and child friendly criminal proceedings in the context of an offence where the presumed perpetrator is someone in the child’s circle of trust, the Committee found that Parties should pay more attention to the rules, procedures, measures and settings that have proven to be effective in reducing the child’s trauma. The report thus identifies a series of promising practices in different specific areas. Such practices have been highlighted in the report as they have proven to contribute to minimising rupture in the child’s life. In particular, the Lanzarote Committee stressed the positive impact on the child of a coordinated and comprehensive approach to cases of sexual abuse of children such as those delivered by Children Houses or similar set-ups. It observed that even though all Parties acknowledge that child victims of sexual abuse should be helped and assisted in a non-traumatising environment, adequate premises to achieve this aim do not exist in all Parties and over their whole territory.

■ The Committee found that all Parties except one have implemented legislation on the basis of which legal persons, such as commercial companies, associations and legal entities, can be held liable for acts of child sexual exploitation and sexual abuse. Most Parties do not exclude individual liability when corporate liability might be assumed in a particular case.

■ The main recommendations by the Lanzarote Committee on steps to improve or reinforce the protection of children against sexual abuse in the circle of trust in the areas covered by this report are reiterated at the end of the document. Specific recommendations are at the end of each chapter. All chapters also highlight a number of promising practices. Cooperation between all relevant stakeholders, including civil society, is essential to ensure that effective measures against child sexual abuse are enacted.

1. An additional 13 States have since become Parties to the Convention. They will be part of the 2nd monitoring round.
2. The structures, measures and processes in place to prevent and protect children from sexual abuse in the circle of trust (“The Strategies”) will be the subject of the second report due in 2017.

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Introduction

■ The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“Lanzarote Convention”) provides that a specific monitoring mechanism be set up to ensure an effective implementation of its provisions by Parties (Article 1§2).

■ This report is the 1st implementation report developed by the Committee of the Parties to the Lanzarote Convention (the “Lanzarote Committee” or “the Committee”). It contains the Committee’s evaluation of the implementation by Parties of a selected number of provisions of the Lanzarote Convention which are relevant to assess the situation in Parties with respect to “the protection of children against sexual abuse in the circle of trust”.

Thematic monitoring

■ During its first meetings (September 2011 and March 2012), the Lanzarote Committee decided that its monitoring work (i.e. the assessment of the implementation of the Convention) would be based on a thematic approach.

■ The decision to start its monitoring rounds by first focusing on “the protection of children against sexual abuse in the circle of trust” was uncontroversial. International instruments preceding the Lanzarote Convention mainly had regard to sexual violence against children for commercial aims (prostitution, pornography, trafficking). The Lanzarote Committee thus wanted to put the spotlight on the fact that children are also frequently victims of sexual violence within the family framework, by persons close to them or in their “circle of trust”.

■ With a view to making its monitoring findings and recommendations known as soon as possible, the Lanzarote Committee decided to divide the 1st monitoring round into two parts:

- ▶ The first part of the 1st monitoring round (this report) assesses the criminal law framework and related judicial procedures with respect to sexual abuse of children in the circle of trust (“The framework”);
- ▶ The second part of the 1st monitoring round (the next report – due in 2017) will evaluate the structures, measures and processes in place to prevent and protect children from sexual abuse in the circle of trust (“The strategies”).

Parties involved in the 1st monitoring round

■ The 1st monitoring round concerns the following 26 Parties³ which had ratified the Convention at the time the monitoring round was launched: **Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Portugal, Romania, San Marino, Serbia, Spain, “The former Yugoslav Republic of Macedonia”, Turkey and Ukraine.**

■ The above 26 Parties were monitored at the same time to create a momentum around specific aspects of the monitoring theme. This report therefore does not address the situation in each country separately. It presents an overview of the trends which emerged from the comparison of the situation in all Parties.

■ Article 41§1 of the Lanzarote Convention provides that the “Rules of Procedure of the Committee of the Parties shall determine the procedure for evaluating the implementation of this Convention”. Accordingly, Rules 24§3 and 26§3-4 provide that:⁴

3. Since the launching of the monitoring round 13 more states ratified the Lanzarote Convention, which has 39 States Parties at the date of adoption of this report. The Parties that are not covered by the 1st monitoring round, are: Andorra, Cyprus, Georgia, Germany, Hungary, Latvia, Liechtenstein, Monaco, Poland, Russian Federation, Slovenia, Sweden and Switzerland. See Appendix I for the state of signatures and ratifications of the Convention.
4. To initiate its 1st monitoring round, the Lanzarote Committee produced a “[Thematic Questionnaire](#)” to collect information on how the Parties implement the Lanzarote Convention in the specific situation of sexual abuse of children in the circle of trust. In parallel, it also produced a “[General Overview Questionnaire](#)” to take stock of the broader legislative and institutional framework to protect children against sexual exploitation and sexual abuse at the local, regional and national levels. The relevant questions are reproduced in Appendix II.

“Rule 24§3 The monitoring round shall be initiated by addressing a questionnaire⁴ on the implementation of the relevant provisions of the Convention with respect to the selected theme”.

“Rule 26

§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 unless otherwise requested by the party concerned.

§4 The secretariat also addresses the same questionnaire to representatives of civil society, NGOs and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children. The latter shall be invited to reply to the questionnaire in one of the official languages of the Council of Europe within the same deadline as the parties. The replies shall be made public if the NGO or other body submitting them so requests.”

■ The Committee appreciates that all the information submitted by the Parties and other stakeholders was made public and underlines that the replies to the questionnaires were its main source of information to prepare this report.⁵ In this respect the Committee regrets that the Parties submitted the requested information at different times and some well after the set deadline.⁶

■ The regular up-dating of the information provided during the Lanzarote Committee meetings reflects the dynamic nature of a monitoring process carried out by a body composed of representatives of Parties. The fact that Parties are the main actors of their own assessment has the advantage of triggering change while the monitoring is underway. In this respect, the Committee particularly values the initiation of negotiations to amend relevant legislation deemed not to be fully in compliance with the Convention before the adoption of this report. These initiatives are examples of a constructive impact of the monitoring process. They are therefore singled out in the report.

■ The Committee wishes to pay tribute to the representatives of ECPAT, Missing Children Europe and eNasco, as well as the representative of the Council of Europe’s Conference of International Non-Governmental Organisations, who regularly attended its meetings and provided constructive insight to its monitoring proceedings. It is also grateful to those representatives of civil society who submitted replies to the questionnaires and in so doing enriched the Committee’s sources of information.

■ Finally, the Committee thanks the representatives of the States who acted as Rapporteurs by preparing the preliminary observations which were the basis of this report.⁷

Structure of the report

■ This report has four main chapters:

- ▶ The first chapter is an examination of the criminal offence of sexual abuse in the circle of trust (Article 18§1.b, 2nd indent) and its possible aggravating circumstances (Article 28);
- ▶ The second chapter provides a scrutiny of the mechanisms for data collection or focal points that Parties should have set up or designated to observe and evaluate the phenomena (Article 10§2.b);
- ▶ The third chapter examines the measures to ensure the best interest of the child victim of sexual abuse in the circle of trust (Articles 14§§3-4, 27§4, 30§1, 31§4) and whether the judicial proceedings⁸ concerning sexual abuse of children in the circle of trust are conducted in a child friendly manner (Articles 30§2, 32 and 36§2);
- ▶ Finally, the last chapter deals with the issue of corporate liability (Article 26).

■ Each chapter:

- ▶ Provides a comparative overview of the situation in the 26 Parties monitored, whilst a country specific summary of the information is appended to the report in the form of tables;⁹

5. All replies to the questionnaires are online at www.coe.int/lanzarote under “1st monitoring round” – “state replies”, “replies from other stakeholders” and “replies per question”.

6. A table with the dates of submission of the replies to the questionnaires appears in Appendix III.

7. The Rapporteurs for the different sections of this report were respectively: (i) Ms M. Klein (Austria), (ii) Mr G. Nikolaidis (Greece), (iii) Ms J. Paabumets (Estonia), Mr C. Azzopardi (Malta) and Ms M.-J. Castello-Branco (Portugal) and (iv) Mr E. Planken (Netherlands).

8. In line with the Council of Europe Child Friendly Justice Guidelines, the Committee had regard to procedures before, during and after the proceedings.

9. See Appendix IV.

- ▶ Highlights promising practices identified by the Committee to effectively implement the Convention;
- ▶ Pinpoints the shortcomings identified and recommends steps that Parties should take to improve or reinforce the protection of children against sexual abuse in the circle of trust.

■ Finally, in its recommendations to Parties, the Lanzarote Committee decided to use the verbs to “urge”, “consider” and “invite” to mark different levels of urgency as follows:

- ▶ “Urge”: when the Lanzarote Committee assesses that legislation or policies are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking;
- ▶ “Consider”: when the Lanzarote Committee agrees that further improvements are necessary in law or in practice to fully comply with the Convention;
- ▶ “Invite”: when the Lanzarote Committee believes Parties are on the right track but it wishes to point at one or several promising practices to reinforce the protection of children against sexual abuse in the circle of trust.

I. Criminalisation of sexual abuse of children in the circle of trust

■ Article 18 of the Lanzarote Convention requires Parties to criminalise the sexual abuse of a child.¹⁰ The provision distinguishes two main types of abuse:

- ▶ Firstly, paragraph 1 (a) criminalises the fact of a person engaging in sexual activities with a child who has not reached the age as defined in domestic law below which it is prohibited to engage in sexual activities with him or her.
- ▶ Secondly, paragraph 1 (b) criminalises the fact of a person engaging in sexual activities with a child, regardless of the age of the child, in specific circumstances (i.e. where use is made of coercion, force or threats, or when this person abuses a recognised position of trust, authority or influence over the child, or where abuse is made of a particularly vulnerable situation of the child).

■ It should be highlighted that the intention of the Convention is not to criminalise consensual sexual activities between children of similar ages and maturity.¹¹ Were the consent not to be valid and informed, the situation would nonetheless need to be scrutinised to determine whether the situation amounts to one of the types of abuse referred to above.

■ This report focuses on the legislative and other measures taken by Parties to effectively protect children against the specific criminal offence of sexual abuse in the circle of trust (Article 18§1(b), 2nd indent – see Table A in Appendix IV). For a more comprehensive overview of the national provisions corresponding to the rest of Article 18 (including the criminalisation of the fact of a person engaging in sexual activities with a child who has not reached the age of sexual consent) please refer to Table B in Appendix IV.

I.1 Article 18§1(b), 2nd indent: Engaging in sexual activities with a child where abuse is made of a recognised position of trust, authority or influence over the child, including within the family¹²

Article 18 – Sexual abuse

1. Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

a. (...)

b. engaging in sexual activities with a child where:

▶ (...)

▶ abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or

▶ (...)

Explanatory Report

123. The second indent relates to abuse of a recognised position of trust, authority or influence over the child. This can refer, for example, to situations where a relationship of trust has been established with the child, where the relationship occurs within the context of a professional activity (care providers in institutions, teachers, doctors, etc) or of other relationships, such as where there is unequal physical, economic, religious or social power.

10. According to Article 3 (a) of the Lanzarote Convention a “child” is “any person under the age of 18 years”.

11. See Article 18§3 of the Lanzarote Convention as well as §129 of the Explanatory Report.

12. The findings of the Lanzarote Committee on the implementation of Article 18§1(b), 2nd indent of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 10 of the Thematic Questionnaire and the relevant part of Question 16 of the General Overview Questionnaire](#) prepared by Ms Martina Klein (Austria), who acted as a Rapporteur for this specific section of the report.

124. The second indent provides that children in certain relationships must be protected, even when they have already reached the legal age for sexual activities and the person involved does not use coercion, force or threat. These are situations where the persons involved abuse a relationship of trust with the child resulting from a natural, social or religious authority which enables them to control, punish or reward the child emotionally, economically, or even physically. Such relationships of trust normally exist between the child and his or her parents, family members, foster or adoptive parents, but they could also exist in relation to persons who:

- ▶ have parental or caretaking functions; or
- ▶ educate the child; or
- ▶ provide emotional, pastoral, therapeutic or medical care; or
- ▶ employ or have financial control over the child; or
- ▶ otherwise exercise control over the child.

Volunteers who look after children in their leisure-time or during voluntary activities, for example at holiday-camps or in youth organisations, can also be viewed as holding positions of trust. This list is not exhaustive, but aims at giving a description of the wide range of the recognised positions of trust, authority or influence.

125. The reference to “including within the family” clearly intends to highlight sexual abuse committed in the family. Research has demonstrated this to be one of the most frequent and most psychologically damaging forms of child sexual violence with long-lasting consequences for the victim. Further, the term “family” refers to the extended family.

I.1.a Abuse of a recognised position of trust, authority or influence over the child

■ Regardless of the specific wording chosen by domestic law, the intention of the authors of the Lanzarote Convention was to ensure that relationships based on “trust”, “authority” or “influence” be all encompassed in the criminal offence defined by Article 18§1(b), 2nd indent (hereafter named “sexual abuse of children in the circle of trust” for ease of reference).

■ To this effect, the Convention’s Explanatory Report provides an open-ended list of situations where “abuse of a recognised position of trust, authority or influence over the child” may occur. In the same line, from the very outset of this monitoring round,¹³ the Committee embraced a broad interpretation of the notion of “circle of trust” holding that it should be understood to include members of the extended family, persons having care-taking functions or exercising control over the child, persons with which the child has relations, including his or her close peers (i.e. another child who may exert influence over the child and may thus obtain his or her invalid and non informed consent to engage in sexual activities).

■ None of the criminal code provisions of the 26 Parties examined (Table A in Appendix IV compiles all the relevant provisions) contain a definition of “circle of trust”.

■ **Spain** however explicitly uses the Lanzarote Convention wording “abuse of a recognised position of trust, authority or influence over the child”. Article 182 of the recently revised Spanish Criminal Code reads “Whoever, by deceit or abuse of a recognised position of trust, authority or influence on the victim, engages in acts of sexual nature with a person over the age of sixteen¹⁴ and under the age of eighteen, shall be punished (...)”

■ Several Parties (**Bosnia and Herzegovina, Croatia, Finland, Montenegro, Serbia, “The former Yugoslav Republic of Macedonia”**) do not use the Lanzarote Convention exact wording but generally refer to “abuse of a position, status or relationship”. In these cases the definition of the criminal offence states who abuses such a position, status or relationship (e.g. a father, a teacher, a doctor, a police officer, etc). The Committee considers that when such an enumeration is open-ended (for example if it ends with “or any other person in child’s circle of trust”/ “or any other trusted person by the child”), the situation is in conformity with the Convention as there is enough flexibility to determine on a case by case basis whether the alleged perpetrator abused his or her position of authority, influence or trust. Likewise, the situation is in conformity in Parties where the criminal offence is worded more broadly, such as in **France** where reference is made to abuse of authority “in fact and in law” and case-law has interpreted this as covering abuse of recognised positions of trust or influence (see Table A in Appendix IV).

13. The Lanzarote Committee opted for a broad definition of the notion of “circle of trust” when it elaborated the Thematic Questionnaire to collect information by Parties on the protection of children against sexual abuse in the circle of trust. (See [Thematic Questionnaire Preliminary remarks](#), §9).

14. The age in Spain for which it is legal to engage in sexual activities is 16.

■ While taking into account Article 7¹⁵ of the European Convention on Human Rights, which requires criminal law to be precise, the Committee recommends that legislation be worded in a manner to allow enough margin of appreciation to the judicial authorities to decide on a case by case basis. Sometimes, legislation that covers relationships within the family or relationships within the context of a professional activity may exclude e.g. enlarged family, specific professionals, a family friend or neighbour, etc. Indeed, it emerged from the analysis of the information submitted by Parties and other stakeholders that there are loopholes in the protection of all children from sexual abuse in the circle of trust as Parties rarely cover all instances of abuse of a position of trust, authority or influence.

■ *Abuse of a position of "trust"* is specifically spelled out by **Greece** only. Other Parties more generally seem to identify a position of "trust" with relationships within the family and enumerate the persons to be considered within such context as a child is entrusted to him or her for up-bringing, custody or care. In this regard, a large number of Parties recognise that positions of trust/authority are not limited to consanguinity and also include step parents and adoptive parents. Foster parents and guardians who have similar positions towards a child are explicitly mentioned in some Parties' legislation or case-law. Additionally, in **Belgium, Iceland and Italy**, other persons living with the child (e.g. the life companion of a single parent) are also regarded as holders of a position of trust, authority or influence. In **Denmark**, a parent's life companion is considered to hold such a position of trust/authority even if he/she does not live with the child. Due to the change in family relations, the Committee encourages the inclusion not only of stepfathers and mothers in the criminal law provisions but also new partners of a parent who are not necessarily married to the parent.

■ It should be underlined that the Explanatory Report (see above) specifically draws attention to the fact that volunteers who look after children in their leisure-time or during voluntary activities, for example at holiday-camps or in youth organisations, can also be viewed as holding positions of trust. Only **Denmark and Italy** pointed out that this specific category falls within their understanding of relationships of trust. Since anecdotal evidence suggests that sexual abuse of children is perpetrated also by persons in contact with them in the above mentioned contexts, the Committee encourages all Parties to fill in this gap.

■ *Abuse of a position of "authority"* is included explicitly in the criminal provisions of some Parties (**Albania, Austria, France, Greece, Iceland, Italy, Netherlands, Romania**). Others more generally identify the position of "authority" with specific professions (e.g. teacher, trainer of any kind, doctor, police officer, welfare authority representative, employee in a school, institution, prison, etc.) or the position of the victim with respect to the perpetrator. (i.e. the victim is entrusted to the perpetrator for up-bringing, education, custody, spiritual guidance, supervision).

■ In most Parties teachers and other educators commit a criminal offence if they engage in sexual activities with a pupil under the age of 18 years. Also persons having caretaking functions are specifically referred to in the criminal provisions of most of the Parties.

■ Only the **Greek** Criminal Code specifically refers to "trainers of any kind" which facilitates the protection against sexual abuse of children in sports. However in a number of Parties (**Denmark, France, Iceland**) case law concerning educators covers trainers of various kinds. Since anecdotal evidence suggests that sexual abuse of children is perpetrated also in the context of sports activities, the Committee encourages all Parties to fill in this gap.

■ Several Parties explicitly consider that positions of trust/authority may be abused in the context of medical and other therapeutic care (**Austria, Denmark, Greece, Iceland, Republic of Moldova, Netherlands, Portugal, Romania, "The former Yugoslav Republic of Macedonia", Turkey**).

■ A few Parties additionally indicate that positions of authority may be abused by public officers (**Austria, Iceland, Netherlands, Turkey**).

■ *Abuse of a position of "influence"* is rarely explicitly mentioned. If so, it is generally associated with dependency (**Albania, Bulgaria, Finland, Iceland, Lithuania, Romania**).

■ Additionally, none of the 26 reviewed Parties provided information on situations where the position of influence of a child may induce a younger and more vulnerable child to engage in sexual activities with him or her. The Committee invites Parties to consider how to take into account in their legislation the fact

15. Article 7§1 of the European Convention on Human Rights reads: "No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. (...)"

that a child may sexually abuse another child by taking advantage of his or her position of influence or trust. The Committee believes that Article 16§3 of the Convention¹⁶ is of particular relevance in these situations.

■ From the above examination, it results that most of the Parties enumerate specific types of relationships within which sexual abuse of a child may occur. None however, with the exception of the recent **Spanish** legislation which uses the Lanzarote Convention wording, may clearly be said to cover all possible relationships of trust, authority or influence. The Committee reiterates that where the detailed list of possible relationships are not open-ended there is a risk of excluding certain relationships where positions of trust, authority or influence may be abused (e.g. with parents' friends/colleagues, older siblings' friends, neighbours, volunteers, sports trainers, etc). The Committee thus observes that provisions (like those in the vast majority of the Parties) which restrict the criminal offence to situations where abuse is made of a position of trust and authority are not in conformity with Article 18§1(b), 2nd indent as situations where the abuse of a position of influence are not covered.

■ The Committee thus recommends that Parties introduce in their legislations a clear reference to the possible "abuse of a recognised position of trust, authority or influence". Any rigid listing of very specific situations risks leaving other situations without protection, thus jeopardising the enjoyment by children of their right to be safe from sexual abuse in the circle of trust.

■ The Committee notes that in the legislation of some Parties (**Belgium** and **Luxembourg**), abuse of a recognised position of trust or authority is only an aggravating circumstance. However, the specificity of Article 18§1(b), 2nd indent is that it requires States to have a criminal offence where the abuse of such positions is a constituent element of the crime, not an aggravating circumstance.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges Parties to review their legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R1);
- ▶ Urges **Belgium** and **Luxembourg** to establish in their legislation the offence of sexual abuse in the circle of trust instead of considering the fact that sexual abuse is committed by someone that has a recognised position of trust, authority or influence just as an aggravating circumstance of the offence of sexual abuse (R2);
- ▶ Invites Parties to introduce in their legislation a clear reference to the possible "abuse of a recognised position of trust, authority or influence" and to avoid any rigid listing of very specific situations as it risks leaving children in other situations without protection (R3);
- ▶ Invites Parties to review their legislation to include a reference to the notion of "circle of trust" which would comprise 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) (R4).

I.1.b Protecting all children, including those having reached the age for engaging in sexual activities

■ The specificity of all the offences provided by Article 18§1(b) is that it requires States to protect all children, notwithstanding whether they are below or above the age for engaging in sexual activities.

■ Most Parties' legislation (see Table A in Appendix IV for more details) either provides that all children/ persons are covered by their provisions concerning sexual abuse based on the abuse of a position of trust/ authority (**Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Finland, Greece, Iceland, Lithuania, Luxembourg, Malta, Montenegro, Netherlands**). Some specify that in this specific case of abuse also the children that are above the age of sexual consent (**Croatia, France, Romania, Spain**) are covered (not just those below such age). The Committee holds that both kinds of provisions are in compliance with Article 18§1(b).

16. Article 16§3 of the Lanzarote Convention reads: "Each Party shall ensure, in accordance with its internal law, that intervention programmes or measures are developed or adapted to meet the developmental needs of children who sexually offend, including those who are below the age of criminal responsibility, with the aim of addressing their sexual behavioural problems."

■ The legislation referred to below is instead not in compliance with the Article 18§1(b), 2nd indent as not all children under the age of 18 are clearly protected in cases where abuse may be made of a position of trust, authority or influence over the child.

- ▶ Article 189§2 of the Criminal Code of “**The former Yugoslav Republic of Macedonia**”, which refers to children under 14 years. Children above 14 years are not explicitly guaranteed the required protection;
- ▶ Article 156 of the **Ukrainian** Criminal Code, which concerns corruption of an individual under the age of 16. Children above 16 years are not explicitly guaranteed the required protection.

■ In some Parties (**Italy, Portugal, San Marino and Turkey**) the situation is complex as the protection of children against sexual abuse is addressed in separate provisions for different age groups above the age of sexual consent. Such provisions do not however cover the same circumstances.

■ In order to eliminate ambiguity and better guarantee that all children are protected against sexual abuse in the circle of trust, the Committee considers that domestic law should specify that the child’s age is not relevant in the context of the criminal offence of sexual abuse in the circle of trust.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges “**The former Yugoslav Republic of Macedonia**” and **Ukraine** to review their legislation to specify that the child’s age for engaging in sexual activities is not relevant in the case of sexual abuse in the circle of trust (R5);
- ▶ Considers that **Italy, Portugal, San Marino and Turkey** should review their legislation to clearly specify that every child up to 18 years is protected in the context of the basic criminal offence of sexual abuse in the circle of trust (R6).

I.1.c Criminalising sexual abuse in the circle of trust even where no coercion, force or threat is used by the perpetrator

■ Children in certain relationships (of trust, authority, influence) must be protected from sexual abuse even when the perpetrator does not use coercion, force or threat.¹⁷

■ Most countries criminalise incest as well as sexual intercourse between a professional working with children and a child. In most of the provisions examined, the use of coercion, force or threat is indeed not a constituent element of the crime. It might be an aggravating circumstance in the determination of the sanctions.

■ In the case of the **Republic of Moldova** it is not sure that the offence of sexual abuse in the circle of trust is constituted also when the perpetrator does not use coercion, force or threats. Article 171 of the Criminal Code in fact refers to “sexual intercourse committed by the physical or mental coercion of the person”. There is instead no reference to coercion, force or threats in Article 201 of the said Criminal Code which concerns incest but, as mentioned above, not all sexual abuse resulting from abuse of a position of trust concerns just the circle of the family.

■ In **Belgium**, the criminal law provision which was indicated as the legal basis to criminalise sexual abuse in the circle of trust (Article 372 of the Criminal Code) does not apply to children under the age of 18 years who are emancipated through marriage. Protection against sexual abuse of a spouse aged 15 or above where no use of force is involved is thus not explicitly provided for. The Committee considers this situation not to be in compliance with Article 18§1(b), 2nd indent. It therefore welcomes the fact that following discussions in this regard, the Belgian authorities have informed it that the removal of the above mentioned exception is being examined.

17. See §124 of the Convention’s Explanatory Report.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges the **Belgian** authorities to ensure the protection of Article 18§1.b, 2nd indent to all children under the age of 18 years regardless of their marital status and invites all other Parties with legislation with exceptions concerning emancipation through marriage to lift such exceptions as well (R7);
- ▶ Considers that the **Moldovan** legislation should clearly state that the offence of sexual abuse in the circle of trust is constituted even when the perpetrator does not use coercion, force or threats (R8).

1.2 Article 18: Issues concerning the criminal offence of sexual abuse in general

1.2.a Defining “sexual activities”

■ Only a few Parties define the term “sexual activities” in their legislation. However, in most Parties, physical contact is a prerequisite of the sexual activities constituting the criminal offence against children.

■ In some Parties other forms of contact are also covered (**Belgium, Bulgaria, Croatia, Italy** and **Malta**). In **Finland**, no physical contact between the offender and the victim is necessary; the offence may also be committed through, for example, visual connection. In a number of Parties the definition of “sexual activities” has been established through case-law of the Supreme Court (**Austria, Belgium, Italy** and **Luxembourg**). The **Italian** Supreme Court of Cassation has for example defined “sexual activity” in the context of sexual abuse as any act which constitutes an unsolicited and unwarranted intrusion in the sexual sphere of the victim, through any behaviour which may constitute the expression of sexual instincts. This includes, for instance, mere touching of bodily parts which may be generally considered as erogenous or even acts which, though not implying physical contact, may endanger the freedom of sexual determination of the victim.

Recommendation as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

Invites Parties to review their legislation to address all serious harm to the sexual integrity of children by not limiting their criminal offences to sexual intercourse or equivalent acts (R9).

1.2.b Criminalising sexual abuse without discrimination

■ The implementation of the provisions of the Lanzarote Convention has to be secured without discrimination on any other ground. The Committee did not identify discrimination based on any ground but that based on “sex” and “sexual orientation” which are amongst the prohibited grounds listed by Article 2 of the Lanzarote Convention.¹⁸

■ The Committee notes that the **Bulgarian** Penal Code has a provision criminalising sexual abuse based on sex. The Committee considers that the singling out of women in the provision on rape is not in conformity with Article 2 of the Lanzarote Convention. The Committee welcomes the information provided by the Bulgarian authorities that this is in the process of being addressed.

■ It should be highlighted that practically none of the reviewed Parties make a distinction between sexual abuse of children depending on whether the abuse is committed within a heterosexual or homosexual sexual activity. Some exceptions were however identified:

- ▶ In **Bulgaria** the offence of sexual abuse of children is structured differently: minimum penalties differ depending on whether the sexual abuse of the child is committed in a heterosexual or homosexual sexual activity.

18. Article 2 of the Lanzarote Convention reads: “The implementation of provisions of this Convention by the Parties, in particular the enjoyment of measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation state of health, disability or other status.”

- ▶ In **Albania** and in the **Republic of Moldova** the sanctions for sexual abuse of a child within a heterosexual or a homosexual sexual activity are the same. However, the mere existence of a distinct reference to 'homosexual activities' is stigmatising.

■ The Committee reiterates that any discrimination should be removed in law and in practice.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges **Bulgaria** to review its legislation to guarantee gender equality (R10);
- ▶ Urges **Bulgaria** to review its legislation to ensure equal sanctions for sexual abuse committed within a heterosexual or homosexual sexual activity (R11);
- ▶ Urges the **Albanian** and **Moldovan** authorities to review the wording of their legislation to avoid stigmatisation of sexual activities based on sexual orientation (R12).

I.3 Article 28: Aggravating circumstances¹⁹

Article 28 - Aggravating circumstances

Each Party shall take the necessary legislative or other measures to ensure that the following circumstances, 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 as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention:

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

Explanatory report

199. *The fourth aggravating circumstance concerns where the offence was committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority. This would cover various situations where the offence has been committed by a parent or other member of the child's family, including the extended family, or any person in loco parentis, such as a child-minder or other care provider. A person cohabiting with the child refers to partners of the child's parent or other persons living within the same household as the child. A person having authority refers to anyone who is in a position of superiority over the child, including, for instance, a teacher, employer, an older sibling or other older child.*

■ The Committee reiterates that engaging in sexual activities with a child where abuse is made of a recognised position of trust, authority or influence over the child, should be a criminal offence in itself as required by Article 18§1(b), 2nd indent.

■ Some of the Parties (**Austria, Finland, Iceland, Italy**) specified that the "aggravating circumstance" of such offence is constituted by the combination of the abuse of trust, authority, influence over the child with other circumstances such as the age of the child or the severity of the harm inflicted on the child. In **Greece**, the exploitation of the child's intimacy may be considered as an aggravating circumstance in addition to the exploitation of the position of trust, which is a constituent element of the crime in itself anyway.

19. The findings of the Lanzarote Committee on the implementation of Article 28 of the Convention are based on the analysis of the replies by Parties and other stakeholders to Question 12 of the Thematic Questionnaire.

■ Some Parties (**Belgium, Croatia, Greece and Malta**) attach the severity of the sanction for sexual abuse in the circle of trust to the degree of closeness of the relationship between the perpetrator and the victim. Thus, more severe sanctions are established when the perpetrator is a member of the victim's family.

■ Most of the other Parties (**Austria, Finland, Iceland, Luxembourg, Montenegro, Portugal, Romania, San Marino, Spain and Turkey**) do not subject the severity of the penalty to the nature of the relationship of trust: sanctions are just more severe when the perpetrator is part of the child's circle of trust as compared to a perpetrator who is a stranger to the child.

II. Collection of data on child sexual abuse in the circle of trust

II.1 Article 10§2(b): Mechanisms for data collection or focal points for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children²⁰

Article 10§2(b) - National measures of co-ordination and collaboration

(...)

2. Each Party shall take the necessary legislative or other measures to set up or designate:

(...)

b. 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.

Explanatory Report

83. Paragraph 2 (b) requires Parties to set up or designate mechanisms for data collection or focal points at the national or local levels, in collaboration with civil society, for observing and evaluating the phenomenon of sexual exploitation and abuse of children. Although there can be no doubt that the sexual exploitation and abuse of children is a serious and increasing problem, there is a lack of accurate and reliable statistics on the nature of the phenomenon and on the numbers of children involved. Policies and measures may not be best developed and appropriately targeted if reliance is placed on inaccurate or misleading information. The obligation provided in paragraph 2 (b) aims at taking measures to address the lack of information.

84. The data referred to are not intended to cover personal data on individuals, but only statistical data on victims and offenders. Nevertheless, the negotiators wished to highlight the importance of respecting data protection rules in the collection of any data, by including the phrase “with due respect for the requirements of personal data protection”.

■ It is essential to have reliable data on child sexual abuse and exploitation committed in the circle of trust in order to frame, adjust and evaluate policies and measures in this field and assess the level of risk for children. As pointed out in the explanatory report, at the time it was drafted, there was a lack of accurate and reliable statistics on the nature of the phenomenon of sexual abuse and exploitation and on the numbers of children involved. This justified the inclusion in the Convention of an obligation for Parties to set up mechanisms for data collection or focal points at national or local level (Article 10, §2(b) of the Lanzarote Convention).

■ The Lanzarote Committee concludes from its evaluation that the situation in the Parties regarding data is generally cause for concern and, more specifically, that data on child sexual abuse committed in the circle of trust are non-existent in most Parties.²¹

■ In the majority of cases, there are no specific data collection mechanisms or focal points tasked with collecting data on child sexual abuse (and even less so with regard to child sexual abuse committed in the circle of trust). In contrast, there are general data collection mechanisms relating to child abuse and neglect (of all types). The Committee reiterates that the Convention does not demand the setting up of specific mechanisms. Accordingly, general mechanisms may suffice, but these general mechanisms must make it possible to produce accurate and reliable data on the phenomenon of child sexual abuse committed in the circle of trust by means of specific sub-totals extrapolated from overall figures. This equates, therefore, for the Parties to an obligation of result not of means. Where, as in most Parties, the aggregated data on child victims that exist do not make it possible to produce accurate and reliable data on the phenomenon of child sexual abuse committed in the circle of trust, then the situation is not in compliance with the requirements of the Convention.

20. The findings of the Lanzarote Committee on the implementation of Article 10§2(b) of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 1 of the Thematic Questionnaire](#) prepared by Mr George Nikolaidis (Greece), who acted as a Rapporteur for this specific section of the report.

21. See Table C in Appendix IV for specific replies by Parties.

Promising practices

In **France**, the National Observatory for Children at Risk (*Observatoire national de l'enfance en danger* - ONED) is mandated to collect from all country's Departments case-based data of child abuse and neglect cases in all its forms thus including child sexual abuse committed in the circle of trust (P1).

In **Spain**, the social services, schools, healthcare services and the police in each region report cases of child sexual abuse to the social health centres and public bodies responsible for the protection of minors (the information recorded covers age, sex, type of abuse, seriousness of abuse, source of the report and the nationality of the victim). The Ministry of Health, Social Services and Equality, in conjunction with the autonomous communities, manages a national online database containing the transferred data (Unified Child Abuse Register (*Registro Unificado de Maltrato Infantil* - RUMI). All protection services can access this register (P2).

■ The Committee notes a great variety of mechanisms for collecting data on child abuse and neglect. There are huge variations in the methods adopted, the variables used, the measurement and recording units used, the approaches adopted and the results obtained, even between various agencies from the same country.

■ The Committee observes that databases are developed by various agencies operating in separate sectors without any co-ordination between them.

■ There are significant disparities in the operational procedures, scope and focus of the data, depending on their primary target and the sector in which they are recorded. The most decisive factor impacting the type of data which is effectively collected is the sector which is responsible for data collection.

■ There are at least four major sectors involved in dealing with cases of child sexual abuse, each collecting data:

- ▶ justice,
- ▶ the law enforcement agencies,
- ▶ health,
- ▶ social services/social welfare.

■ The volume and seriousness of the cases to be dealt with, and accordingly recorded, by each of these sectors differ depending on the specific area of interest of the sector in question. This explains why the data presented by the Parties is only partially or not at all comparable. For example, two Parties may well produce different data for the simple reason that one records criminal cases of child sexual abuse resulting in prosecution or conviction while the other may record cases referred to social welfare centres which include suspicions for which there is no proof, or simple requests for therapeutic interventions. The different data collection mechanisms obtain their data from different sectors and, accordingly, refer to different aspects of the overall child sexual abuse phenomenon, inevitably resulting in incompatibilities between data.

■ Generally speaking, Parties use a primary source of data but may also have secondary sources. In some Parties different sources of data are complementary.

Sector	Primary source	Secondary source
Justice	Austria, Croatia, Finland, Luxembourg, Portugal, San Marino, Turkey, Ukraine	Belgium, Bosnia and Herzegovina, France, Iceland, Italy, Lithuania, Malta, Montenegro
Law enforcement	Albania, Austria	Belgium, Croatia, Denmark, Iceland, Finland, Spain
Health	Greece, Montenegro	Iceland, Portugal, San Marino, Serbia, Spain
Social services / Social Welfare	Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, France, Iceland, Italy, Lithuania, Malta, Republic of Moldova, Romania, Serbia, Spain, "The former Yugoslav Republic of Macedonia"	Austria, Croatia, Montenegro, San Marino

■ In most Parties, social services (usually referred to as "social welfare" although there are also a variety of other terms used in the administrative structure of the different Parties) represent the sector with the greatest involvement in the majority of cases to be recorded.

■ The type and focus of the data collected serve different purposes depending on the sector or agency involved. As a general rule, the justice and law enforcement sectors collect data referring primarily to offences or their perpetrators and can offer information providing insight into the relationship between victim and offender. The agencies in the health and social services/social welfare sectors place a greater emphasis on the child victims, their families, the type of abuse and the measures (both social and law enforcement measures) taken. Collection mechanisms focusing on data relating to the (forensic) examination of the victim tend to provide additional information regarding the health status of victims; those focusing on offenders tend to cross-reference information from the offenders' criminal record with information on their offending and reoffending history, etc. There are, however, some significant exceptions: for example, the justice and law enforcement sectors also gather information on victims, and the social services/social welfare sector sometimes gathers information on offenders and the offences committed. In general, case-based databases can provide aggregated data and tend to refer to (i) children-victims, (ii) offenders, (iii) families and (iv) offences committed.

■ These various factors illustrate the challenge involved in having compatible and comparable data collected by various agencies in the same Party, and – more importantly – in drawing up a more complete and reliable statistical picture of the phenomenon of child sexual abuse committed in the circle of trust and identifying trends over time.

Promising practice

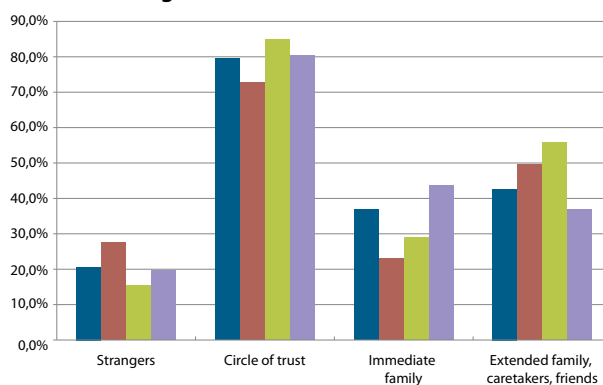
A minimum set of variables and practicable procedures to collect data on registered cases of child abuse was developed under the **European Union DAPHNE III** programme (DG Justice of the European Commission). This tool, entitled "Co-ordinated Response to Child Abuse and Neglect (CAN) via Minimum Data Set (MDS)" is available for any Party interested in using it (P3).

■ The Committee notes that data derived from judicial interviews or any other overall assessment of child victims carried out by specialist centres responsible for dealing with any cases notified to them (for example *Barnahus*, child advocacy centres, child protection centres) are a very good source of information having both disaggregated and aggregated data that can be made available in a variety of ways. Even where the primary focus of these centres is child abuse in general (and not exclusively child sexual abuse), it is relatively easy to produce series of data on different sub-types of child abuse, including child sexual victimisation; the same applies to quantifying the cases of child sexual abuse committed in the circle of trust. These centres have comprehensive information covering all the main aspects of child abuse, in particular the detailed statistics required for registering cases in a variety of potentially useful ways.

Promising practice

In **Iceland**, the *Barnahus* collects data on child sexual abuse committed in the circle of trust deriving from interviews conducted there. The Government Agency for Child Protection has been analysing this data since 2011 (P4).

Iceland: Degree of relationship between the child victim and the sexual offender, including within the "circle of trust" (2011-2014)



■ 2011 (136)	20,6%	79,4%	36,8%	42,6%
■ 2012 (117)	27,4%	72,6%	23,1%	49,6%
■ 2013 (163)	15,3%	84,7%	28,8%	55,8%
■ 2014 (147)	19,7%	80,3%	43,5%	36,7%

■ The Committee takes note that the situation among the Parties is very diverse.

■ Where the data recording unit is that of child victim cases, it is possible in parts of **Belgium, Denmark, Iceland, San Marino** and **Serbia** to produce sub-totals highlighting reports of child sexual abuse from overall figures of child abuse. In other cases, where the recording unit is the type of offence committed (in this case, sexual abuse), bearing in mind that responsibility for keeping the registers falls primarily to the justice and law enforcement sectors, the availability of detailed data on child sexual abuse varies from country to country, depending on the national legislation in force. The Parties where this is possible are **Albania, Austria, Croatia, Finland, Greece, Iceland, Lithuania, Republic of Moldova, Portugal, San Marino** and **Spain**.

■ Some data referring to children as victims of sexual abuse are available in Parties such as **Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Iceland, Italy, Lithuania, Malta, Republic of Moldova, Romania, San Marino, Serbia** and **Spain**. Similarly, **Austria, Belgium, Bulgaria, Croatia, Denmark, Malta** and **Serbia** have some information on the perpetrators of child sexual abuse. In **Austria, Belgium, Bulgaria, Iceland, Lithuania, Malta, Montenegro, Portugal, Romania, San Marino, Serbia** and **Spain** data is recorded by type of case. **Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Iceland, Lithuania, Malta, Portugal, Romania, San Marino** and **Spain** have aggregated data which can, nevertheless, be broken down into types of case. The Committee notes, in particular, the need for gender disaggregated data which may have strong implications in the way policies and measures are framed, adjusted and evaluated. The Committee also notes that there are ongoing initiatives to develop new systems or mechanisms for data collection in various sectors in **Greece, Italy, Portugal, Spain** and **Turkey**.

■ The Committee further points out that in most Parties, there is a lack of data being collected relating specifically to child sexual abuse committed in the circle of trust, except in Parties which have registers containing reliable data on such cases. However, some registers contain details of the relationship between the child victim and the perpetrator of the sexual abuse (**Austria**, parts of **Belgium, Croatia, Denmark** and **Portugal**). Others refer to specific cases of “domestic” sexual violence against children, which represents only a proportion of child sexual abuse committed in the circle of trust.

■ The Committee notes that in some cases, the quality of the data collected is not ideal, whether in terms of completeness (not all cases are systematically recorded) or validity (not all required fields are filled in for each case, information is not always up-to-date or accurate, etc.).

■ Furthermore, the Committee notes that mandatory reporting is an additional factor in data collection, since where it is in force, a larger number of cases are reported and consequently registered.

■ Nonetheless, the Committee observes that one of the most important factors, crucial for the availability of data on child sexual abuse committed in the circle of trust, is undoubtedly the appointment of an agency tasked with producing a periodic report on aggregated data or recording case-based information on child abuse and neglect. In those Parties where such is the case, the information made available to the public (generally aggregated data) and authorised groups of users (generally case-based information) is, on the whole, much more reliable and complete.

■ Lastly, the Committee notes that Parties still need to address the issue of managing the effectiveness of the various mechanisms or focal points. The Committee stresses that this is vitally important as it is essential that data collection mechanisms are constantly assessed to ensure their ability to depict the actual situation on the ground and produce accurate and reliable data, bearing in mind that on the whole it takes several years before optimal functioning is achieved.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges Parties to take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R13);
- ▶ To this end, where such specific mechanism is not already in place, invites Parties to ensure that existing general data collection mechanisms are able to produce accurate and reliable data on the phenomenon of child sexual abuse committed in the circle of trust by means of specific sub-totals extrapolated from overall data on abuse (R14);
- ▶ Considers that Parties must set up a national or local system for recording case-based data for child sexual abuse in the circle of trust cases in the various sectors liable to come into contact with children victims in such instances; such administrative data collection systems should be implemented allowing to compare and cross-check the data thus collected at national level and avoid duplication (R15);
- ▶ Invites Parties to consider elaborating and subsequently implementing guidelines establishing a minimum set of variables and procedures to collect data on child sexual abuse cases, which could subsequently make data collected in different Parties internationally compatible and comparable between them (R16);
- ▶ Invites Parties to disaggregate data on the basis of the gender of the child victim and of the perpetrator, should this not be already the case (R17);
- ▶ Invites Parties to establish a comprehensive system of reporting of cases of child sexual abuse committed in the circle of trust, which will ensure the completeness of the data collected (R18);
- ▶ To improve the extensiveness and quality of collected data, invites Parties to consider setting up data collection systems integrated with specific points of comprehensive management of child sexual abuse cases at the level of specialist centres such as, for example, the Children's Houses (R19);
- ▶ Invites Parties to appoint a national or local agency tasked with providing periodic reports on aggregated data or recording information on child sexual abuse committed in the circle of trust (R20);
- ▶ Invites Parties to ensure ongoing evaluation of the effectiveness of their mechanisms or focal points with regard to their ability to depict the actual situation on the ground and produce accurate and reliable data (R21).

III. Best interest of the child and child friendly criminal proceedings

■ Child sexual abuse is typically a very intimate and secretive act. Children are often too ashamed or too frightened to seek professional advice and support, and will frequently decide alone whether to disclose their sexual victimisation. In cases where they have been abused by a family member or by someone in their circle of trust, victims will face additional fears and concerns: will their disclosure have a negative impact on their family environment and friends, support and life overall? A child's ability and willingness to report their victimisation plays a crucial role in legal and therapeutic intervention. It represents the most valuable source of information and it is on this that the whole case may rest.

■ In this respect it is crucial to avoid the negative consequences which result from inappropriate and repetitive interviewing techniques and adverse facilities where these interviews may take place. To guarantee the rights and best interests of child victims of sexual abuse, authorities need to recognize that they have to act collectively, not just as a government or a judicial system, but all together as a society. Acting collectively means implementing measures to protect children, which are not confined to individual actions, such as incarcerating perpetrators or providing family therapy, but which are truly child-focused and comprehensive with regard to prevention, intervention and rehabilitation. An interdisciplinary and multi-agency approach delivered by all the different entities in society whose responsibility is to carry out these tasks is therefore paramount.

■ This chapter examines what specific legal safeguards have been taken by Parties to guarantee the best interests of children victims of sexual abuse in their circle of trust and that criminal proceedings are held in a child friendly way.

III.1 Article 30§1: Best interest of the child in investigations and criminal proceedings²²

Article 30 – Principles

1. *Each Party shall take the necessary legislative or other measures to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child.*

(...)

Explanatory report

215. *This is why paragraphs 1 and 2 establish two general principles to the effect that investigations and judicial proceedings concerning acts of sexual exploitation and sexual abuse of children must always be conducted in a manner which protects the best interests and rights of children, and must aim to avoid exacerbating the trauma which they have already suffered.*

■ The Lanzarote Committee stresses the overwhelming importance of the implementation of the best interest of the child in every aspect of the investigations and criminal proceedings concerning acts of sexual exploitation and sexual abuse of children in general. It goes without saying that this is fundamental also within the specific context of proceedings concerning sexual abuse of children in the circle of trust. As the UN Committee on the Rights of the Child, the Lanzarote Committee underlines that the respect of the child's best interests is a substantive right, a fundamental, interpretative legal principle and a rule of procedure.

22. The findings of the Lanzarote Committee on the implementation of Article 30§1 of the Convention are based on the analysis of the replies by Parties and other stakeholders to [Question 13 of the Thematic Questionnaire and to Question 22\(d\) of the General Overview Questionnaire to which it refers](#) prepared by Ms Joanna Paabumets (Estonia), who acted as Rapporteur for this part of the report.

United Nations Committee on the Rights of the Child: General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Article 3 paragraph 1 Convention on the Rights of the Child)

“6. (...) The child’s best interests is a three-fold concept:

(a) **A substantive right:** The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.

(b) **A fundamental, interpretative legal principle:** If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child’s best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

(c) **A rule of procedure:** Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child’s best interests; what criteria it is based on; and how the child’s interests have been weighed against other considerations, be they broad issues of policy or individual cases.”

■ Article 30§1 of the Convention safeguards the rights and best interests of the child victim during investigations and criminal proceedings. The Committee underlines that, as specified in the Fundamental Principles of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice “in assessing the best interests of the involved or affected children: a. their views and opinion should be given due weight; b. all other rights such as the right to dignity, liberty and equal treatment should be respected at all time; c. a comprehensive approach should be adopted by all relevant authorities so as to take due account of all interests at stake, including psychological and physical well-being and legal, social and economic interests of the child” (Chapter B.2).

■ The Committee notes that although Parties mentioned respecting the child’s best interest during proceedings and conducting a protective approach towards the child thereof, none (except **Austria, Croatia, Iceland**) indicated which legislative or other measures they took to ensure this nor which special criminal procedural regulations would apply for the child’s best interest in cases where the alleged perpetrator is within the child’s circle of trust.²³

■ The Committee notes that, within the context of criminal procedure, there is, amongst the Parties, little use of the specific notion of circle of trust. Whether or not the abuse has been committed in the child’s circle or trust, general measures of protection respecting the child’s best interest must be applied.

■ If the child has no direct family support during the proceedings, the possibility for the child to understand his or her rights in the penal procedure, especially the right to participate, is paramount. In **Denmark** for example, prosecution will inform the child’s legal guardian and counsel whether the suspect is prosecuted and whether the child has to testify in court.

■ Several Parties (**Austria, Belgium, Croatia**) have pointed out the importance of other stakeholders in informing and guaranteeing the child’s rights and best interests during criminal proceedings. In **France** for example, non-governmental associations, financed by the Ministry of Justice, help to inform the child victim of his or her rights.

■ The Committee calls for more Parties to consider establishing or reinforcing a close cooperation between competent bodies and professionals assigned to cases involving child victims, such as in the examples from **Belgium, Denmark, France** and **Iceland**. A closer cooperation, such as required by Article 10 of the Convention, will not only offer children the possibility to quickly obtain emotional support which is paramount in cases of sexual abuse in the circle of trust, but will also push different stakeholders to focus on the child’s best interest overall.

23. See Table D in Appendix IV for specific replies by Parties.

Promising practices

In **Bosnia and Herzegovina**, [Safe Houses/Medica Zenica](#) are structures for victims of violence in general, which also welcome child victims of sexual abuse. Children in the safe house are provided therapy and assisted in making contacts with relevant government agencies (police, social service center, judiciary, prosecutor's office, municipality administration and other institutions) and other non-governmental organisations for comprehensively exercising their rights and fulfilling their needs. During their stay in the houses they are also involved in education and upbringing processes (P5).

In **Denmark**, a number of Children's Houses/*Børnehuse* have been set up to provide a nationwide framework for child-friendly and multiagency investigation of child abuse, including sexual abuse. This includes a mandatory referral of cases to the *Børnehuse* if either the police or the health service sectors are involved in the investigation of alleged sexual abuse in addition to the municipal authorities. In the *Børnehuse*, the police, the prosecution service, authorized healthcare professionals and the municipal authorities work and cooperate to help the child. In this respect the authorities can exchange information in relation to the case regarding private matters concerning the child's personal and family circumstances where the exchange is considered necessary for the child's health and development (P6).

In **Denmark**, a child victim receives the name and telephone number of a contact person from the police service whom he or she may call and talk to about the case (P7).

In **France**, national law provides that non-governmental organisations may assist the child throughout his or her hearings (P8).

In **Iceland**, [Children's House/Barnahus](#) represent a child-friendly, interdisciplinary and multiagency centre where different professionals work under one roof and investigate suspected child sexual abuse cases and provide appropriate support for child victims. The activities are based on a partnership between the State Police, the State Prosecution, the University Hospital and the local child protection services as well as the Government Agency for Child Protection which is responsible for its operation. The basic concept of the Children's House is to avoid subjecting the child to repeated interviews by many agencies in different locations (P9).

Recommendations for the measures to be taken to improve the implementation in practice of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Considers that when sexual abuse is inflicted by someone in the child's circle of trust, the child victim is in a particularly delicate situation of having to report a crime made by someone who he or she trusted, respected and possibly loved. This situation which can create a serious disturbance on the child's family life and overall wellbeing, needs to be addressed specifically by Parties (R22);
- ▶ Considers that information and advice should be provided to child victims in a manner adapted to their age and maturity, in a language they understand and which is gender and cultural sensitive (R23);
- ▶ Considers that Parties should address and encourage as much as possible the coordination and collaboration of the different players who intervene for and with the child victim during criminal proceedings. This comprehensive and interdisciplinary approach offers extra support to the child victim and in some cases, the possibility for intervention not to be delayed and appropriate support to be provided immediately after the disclosure (R24);
- ▶ Invites Parties to ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate (R25);
- ▶ Invites Parties to provide for interviewing the child without informing in advance the parents/legal guardians or acquiring their prior consent in cases in which there is a reasonable suspicion of sexual abuse in the circle of trust and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse (R26).

III.2 Article 14§3, 2nd indent: Removing the victim from his or her family environment when parents or persons who have care of him/her are involved in his or her sexual abuse²⁴

Article 14 – Assistance to victims

(...)

3. When the parents or persons who have care of the child are involved in his or her sexual exploitation or sexual abuse, the intervention procedures taken in application of Article 11, paragraph 1, shall include:

- ▶ the possibility of removing the alleged perpetrator;
- ▶ the possibility of removing the victim from his or her family environment. The conditions and duration of such removal shall be determined in accordance with the best interests of the child.

Explanatory report

99. Paragraph 3 provides for the possibility, where the parents or carers of the victim are involved in the case of sexual exploitation or abuse, of removing either the alleged perpetrator or the victim from the family environment. It is important to stress that this removal should be envisaged as a protection measure for the child and not as a sanction for the alleged perpetrator. (...) The other option may be to remove the child from the family environment. In such case, the length of time of the removal should be determined in the best interests of the child.

Article 14 of the Lanzarote Convention sets out the measures that Parties are required to take to assist victims of any of the offences of sexual abuse and sexual exploitation defined in the Convention. In the context of this 1st monitoring report the Committee chose to examine in particular whether and how Parties implement the possible removal of the victim from his or her family environment when parents or persons who care for him or her are involved in his or her sexual abuse in accordance with Article 14§3, 2nd indent.

Before outlining its findings with respect to the measures in place to remove the child from his or her family environment, the Committee wishes to highlight that when parents or persons who care for the child victim are involved in his or her sexual abuse, Article 14§3 of the Convention also refers to the possible removal of the alleged perpetrator. As pointed out by the Committee of Ministers of the Council of Europe in its Recommendation to member states on children's rights and social services friendly to children and families, "situations of child abuse and neglect require supportive and comprehensive services with the aim to avoid family separation for him or for her. Maintaining the family unity should not, however, be an aim in itself. In the best interest of the child and his or her protection, out-of-home placement is sometimes necessary. Moreover, when the parents are involved in the sexual abuse or exploitation of the child, the intervention procedures shall include the possibility of removing the alleged perpetrator from the family home."²⁵

The Committee thus considers that before resorting to the removal of the victim, the removal of the perpetrator should be preferred. The Committee holds that generally this measure corresponds better to the child's best interest as children tend to perceive their removal from their family environment as a punishment for having disclosed their abuse. Additionally, the removal of the child involves extra difficulties for him or her (e.g. having to change school), which may contribute to his or her secondary victimisation. To minimise rupture in the child's life as far as possible, the Committee recommends that the removal of the alleged perpetrator be taken into consideration first.

All the Parties generally indicated that removing either the alleged perpetrator or the victim are possibilities which are covered by their domestic law.²⁶ Most pointed out that the removal of the victim is generally allowed within an emergency context as a precautionary measure on the basis of a court order. In some Parties (**Denmark, Finland, Iceland**) however, this decision can be taken by the child protection services or social services.

Some Parties (**Denmark, Iceland, Italy, Montenegro**) specified that the removal of the victim is handled in a multidisciplinary framework to provide a safe, professional and coordinated effort with regard to the

24. The findings concerning the implementation of Article 14§3, 2nd indent, of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 9\(a\), 1st indent, of the Thematic Questionnaire](#) prepared by Mr Charlie Azzopardi (Malta), who acted as Rapporteurs for this part of the report.

25. Council of Europe Committee of Ministers [Recommendation Rec\(2011\)12](#) to member states on children's rights and social services friendly to children and families, adopted by the Committee of Ministers on 16 November 2011 at the 1126th meeting of the Ministers' Deputies, Guideline III, C.2.

26. See Table E in Appendix IV for specific replies by Parties.

investigation of the alleged sexual abuse and the best interest of the child. These approaches are deemed to be in full compliance with the Convention.

■ In the same line, a few Parties (**Bulgaria, Finland, Iceland, Lithuania**) highlighted that the needs and rights of children are dealt with explicitly and specifically in a “Child Protection Act”. The Committee acknowledges that where such acts exist, the repertoire of options for protecting the child’s best interests appears to be wider. It however emphasises that it is important to ensure that such options, while available legally, are also implemented in practice.

■ The Committee holds that when the removal of the victim from his or her family environment is inevitable, to guarantee his or her best interests, it is paramount that Parties have an array of options to select from and clear procedures to follow. In this respect the Committee views it very useful that Parties bear in mind the overall guiding principles that should be applied whenever a child is placed outside the family and underlines that every placement must ensure that the child’s human rights are fully respected as underlined by the Committee of Ministers of the Council of Europe in its Recommendation to member states on the rights of children living in residential institutions.²⁷

■ In this context, several Parties (e.g. **Austria, Bulgaria, Croatia, Denmark, Italy, Netherlands, Portugal, Romania, Serbia, Turkey**) referred to different placement possibilities available depending on the specific circumstances and the best interest of the child.

- ▶ **Portugal** indicated the following options, some of which are common to other Parties: placing the child with another family member; confiding him or her to a suitable person; hosting of the child in another family or in an institution.
- ▶ **Italy** additionally referred to the experimental use of “neutral places” to monitor how the situation evolves in the cases in which a child has been removed from the family because of intra-family violence, there is a reason to believe that neither parents may take care of the child and there is a multiple case of neglect. In these cases, the adult-child relationship is observed and evaluated in order to decide whether the child can be reunited with his or her parents or with the non-abusing adult, as well as in the judicial proceedings to investigate allegations of abuse.

Promising practices

Having clear victim removal procedures based on the best interests of the child.

In this context, the following specific procedures were highlighted as promising:

- ▶ Providing various time frames for removal, including emergency removal, short and long term removals, plus other options like indefinite removal (**Croatia**) (P10);
- ▶ Since August 2015, the child protection act of **Portugal** has been amended, authorising the judiciary, following a complaint to the latter by the Commission for the protection of children and young people at risk, to remove a child victim of sexual violence from his or her family environment, without having to obtain the consent of the parent or legal guardian who has been indicted or suspected of having committed such a crime against the child (P11);
- ▶ Specifying that the type of placement and intervention is age specific and attention has to be given to placing siblings together (**Romania**) (P12).

■ The Committee noted that in many Parties (**Albania, Greece, Malta, the Republic of Moldova, Montenegro, Serbia, “The former Yugoslav Republic of Macedonia”**) the removal process (be it of the child or the perpetrator) is foreseen within the context of a “Domestic Violence” law. The Committee holds that in such cases Parties should ensure that a specific reference is included to child sexual abuse. Where this is not the case, children might not sufficiently be guaranteed against sexual abuse in the circle of trust. The Committee therefore recommends that where this is not the case, legislation be reviewed to include an explicit reference to sexual abuse within the context of domestic violence.

■ From the information submitted by some Parties, it emerged that NGOs play a crucial role in promoting the child’s best interests with respect to the assistance of victims, including within the removal process. In this respect, the Committee is of the view that it would be useful if local, national and international NGOs could be supported to better share their good practices.

27. Council of Europe Committee of Ministers [Recommendation Rec\(2005\)5](#) to member states on the rights of children living in residential institutions, adopted by the Committee of Ministers on 16 March 2005 at the 919th meeting of the Ministers’ Deputies.

Finally, the Committee stresses that temporarily suspending the parental rights of the parent who is the alleged perpetrator should be made possible, as an accompanying measure to protect the child. In such a case, the urgency principle of the proceedings allowing for such a suspension of parental rights should be applied to provide a speedy response. The Committee holds that judicial or other appropriate authorities should have the possibility to take decisions which are immediately enforceable in cases where this would be in the best interest of the child.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Considers that, in the context of sexual abuse in the circle of trust, the removal of the victim from his or her family environment should be foreseen as a last resort procedure, which should be clearly defined, setting out the conditions for and duration of the removal (R27);
- ▶ Considers that interventions and measures which are taken in the context of domestic violence operate on a different *modus operandi* to those established in child sexual abuse cases. An explicit mention of sexual abuse should therefore be included in all protection measures with regard to domestic violence (R28);
- ▶ Invites Parties to support the exchange of good practices developed by civil society to ensure that the best interest of the child principle is respected while determining the most appropriate assistance to children who have been sexually abused within the circle of trust (R29).

III.3 Article 14§4: Therapeutic assistance, including emergency psychological care for persons close to the victim of sexual abuse in the circle of trust²⁸

Article 14 – Assistance to victims

(...)

4. *Each Party shall take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care.*

Explanatory report

100. *The negotiators recognised that the application of paragraph 4 would be limited, but felt that in certain particularly serious cases it would be justified for those persons close to the victim, including for example family members, friends and classmates, to benefit from emergency psychological assistance. These assistance measures are not meant to benefit the alleged perpetrators of sexual exploitation and abuse, who can instead benefit from the intervention programmes and measures in Chapter V.*

This part of the report assesses specifically whether Parties have taken measures to assist the non-offending persons close to the victim. Assisting the victim *per se* is not addressed in this specific section.

Half of the 26 Parties monitored provided some answer to this question (**Austria, Bosnia & Herzegovina, Croatia, Denmark, Greece, Iceland, Italy, Luxembourg, Netherlands, Montenegro, Portugal, San Marino and Spain**). The Committee regrets that notwithstanding the numerous appeals to submit the relevant info, this was not always done and it is therefore difficult to truly assess the situation.²⁹

Italy, Portugal and San Marino point out that the services offered are meant to face emergency situations and provide immediate support, including of psychological nature, but they are also aimed at subsequently taking care of the victim and persons close to him or her in the medium-term, also for the purpose of recovering family relationships.

A few Parties (**Bosnia and Herzegovina, Denmark, Iceland**) highlighted that child protection multidisciplinary structures (see previous section) provide assistance (crisis support and psychological counselling) also to persons close to the victim.

28. The findings concerning the implementation of Article 14§4 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 9\(a\), 1st indent, of the Thematic Questionnaire](#) prepared by Mr Charlie Azzopardi (Malta), who acted as Rapporteurs for this part of the report.

29. See Table F in Appendix IV for specific replies by Parties.

Promising practices

In **Croatia**, the health-care system provides for the non-offending parent specific treatment such as counselling with a professional. The parent will have the opportunity to not only discuss and focus on the child victim, but also share his or her feelings in relation to the sexual abuse of his or her child (P13).

The Children's House in **Iceland** provides medical and psychological help to the child and to the persons close to the victim. Iceland also offers temporary housing and financial assistance if need be (P14).

■ From the rest of the information submitted it emerged that a specific legal framework for the provision of services to close relatives of children victims of sexual abuse is lacking. However, services may be provided through the national social and health welfare services or through NGOs. These services seem to be part of generic services and are not dedicated services tailored for sexual abuse of children and the persons close to them.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30);
- ▶ Invites Parties, when determining the support required to the victim and the persons close to him or her, to take into account the fact that child's disclosure should not worsen his or her situation and that of the other non-offending members of the family (R31).

III.4 Article 27§4: Measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons³⁰

Article 27 – Sanctions and measures

(...)

4. *Each Party may adopt other measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons.*

Explanatory report

191. *The Convention provides also for the possibility for Parties to adopt other measures in relation to perpetrators, such as the withdrawal of parental rights. This measure could be taken, for instance, in relation to a person who was removed from the family environment as an assistance measure to the victim in accordance with Article 14 paragraph 3.*

192. *Other measures designed to make it possible to monitor and supervise convicted perpetrators of offences might be considered in order, for example, to facilitate assessment of the risk of re-offending or to ensure that intervention programmes and measures are effective. Such measures might include placing under supervision convicted persons, persons subject to suspended sentences or conditional release, as well as persons who have served their sentences.*

Withdrawal of parental rights

■ The Committee stresses that what is at stake in Article 27§4 of the Convention, is the withdrawal of parental rights as a protective measure to the victim once the perpetrator has been convicted. Article 27§4 does not address the issue of suspension of parental rights as a measure to protect the child during the judicial proceedings before the court reaches a decision.

30. The findings concerning the implementation of Article 27§4 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 13 the Thematic Questionnaire](#) prepared by Ms Joanna Paabumets (Estonia) who acted as Rapporteur for this part of the report.

■ The Committee notes that Parties often confuse these two aspects in their law and practice.³¹ Indeed, Parties foresee some kind of withdrawal of parental rights in cases where the alleged perpetrator is a parent or guardian. This decision is often taken within the civil procedure (i.e. regardless of the criminal procedure or court decision) but may also be a complementary or accessory penalty decided within the criminal procedure with a court decision (**Romania** and **Spain**). However, this withdrawal differs from one Party to another, especially with regard to length and to what this withdrawal covers overall.

■ **Finland** indicated that although a child may be placed into care, it is not possible to permanently withdraw parents of their rights. **San Marino** specified that the loss of parental rights may take different forms, depending on the duration of punishment. Finally, **Bosnia and Herzegovina** stated that even if without rights, parents still have the duty to support the child.

■ For any child victim, the ability and willingness to disclose his or her abuse can be extremely frightening. Moreover, in cases where the abuse has been committed by a parent, it can be even more difficult. The child usually knows that the disclosure may have devastating outcomes for his or her family as a whole, with for example, other members of the family remaining loyal to the abuser and taking sides.

■ Some Parties such as **France** and **Belgium** have stated that the parental right of the offending parent may be withdrawn with regard to all of his or her children even if the prosecuted case concerns only one child. The Committee stresses that such decisions should be made on a case-by-case basis, based on risk assessment for recidivism, safety and best interest of the child. Automatic withdrawal of parental rights of the offender, including with respect to the siblings of the child victim, may have the adverse effect that the child victim may refrain from, delay disclosing or recant disclosure because of inevitable consequences.

■ The following Parties did not provide information on their national situation with regard to the removal of parental rights: **Lithuania, Malta** and **Ukraine**.

Recommendation as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

Invites Parties to clearly distinguish in their legislation and practice:

- ▶ 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 had convicted the said parent (R32).

Monitoring or supervision of convicted person

■ According to Article 27§4 Parties may monitor or supervise the convicted person. The aim of monitoring and supervision of the convicted person is to make sure that the offender is precluded from the possibility of repeating his or her offence. This is particularly relevant in cases where the offender was in the child victim's circle of trust and may therefore likely be in a position to be in contact with the child again.

■ The Committee notes that Parties share no common interpretation of what is meant by "supervision of convicted person" and none gave information on the assessment tools or monitoring procedures of convicted sex offenders.³²

■ The Committee holds that the safety of children should be a primary concern for all the Parties and urges them to implement Article 27§4 of the Convention.

■ Furthermore, the Committee emphasises that, in order to prevent the sexual abuse of children, intervention programmes or measures targeting sex offenders should be proposed. These interventions programmes are covered by Articles 15 to 17 of the Convention "Intervention programmes or measures", provisions which are however not covered by the current monitoring cycle.

■ Other protective measures are also highlighted, though in a different context, by other Articles of the Convention such as Article 30§2 which calls Parties to adopt a protective approach towards victims and Article 14§3, 1st and 2nd indents, where Parties have the possibility to remove either the alleged perpetrator or the child victim from his or her family environment (see above, section III.2).

31. See Table G in Appendix IV for specific replies by Parties.

32. See Table G in Appendix IV for specific replies by Parties.

■ Parties such as **Albania, Austria, Bosnia-Herzegovina, Bulgaria, Denmark** and **Iceland** have reported the possibility to implement protection orders for the child victim. **Lithuania** states the possibility to prohibit the offender to approach the victim up to expiry of time laid down by the court or the obligation to live separately from the victim. The content of these orders can therefore vary: prohibition to enter a specific area close to the victims' place of residence (**Denmark**); in **Spain**, the protection order is sent to the coordinating points of the autonomous regions.

Recommendation as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

Invites Parties to envisage taking steps to monitor or supervise the persons convicted of child sexual abuse in the child's circle of trust (R33).

III.5 Article 31§4: Appointment by the judicial authorities of a special representative for the victim to avoid a conflict of interest between the holders of parental responsibility and the victim³³

Article 31 – General measures of protection

(...)

4. *Each Party shall provide for the possibility for the judicial authorities to appoint a special representative for the victim when, by internal law, he or she may have the status of a party to the criminal proceedings and where the holders of parental responsibility are precluded from representing the child in such proceedings as a result of a conflict of interest between them and the victim.*

Explanatory report

227. *Paragraph 4 makes provision for the situation in cases of sexual abuse within the family, in which the holders of parental responsibility, while responsible for defending the child's interests, are involved in some way in the proceedings in which the child is a victim (where there is a "conflict of interest"). In such cases, this provision makes it possible for the child to be represented in judicial proceedings by a special representative appointed by the judicial authorities. This may be the case when, for example, the holders of parental responsibility are the perpetrators or joint perpetrators of the offence, or the nature of their relationship with the perpetrator is such that they cannot be expected to defend the interests of the child victim with impartiality.*

■ When a child victim is involved in criminal proceedings, courts will often decide on what type of services, actions and orders will best serve him or her. These measures should be made by considering a number of factors related to the child's best interest, such as the child's ultimate safety and well-being.

■ Parents, or more generally the person(s) holding parental responsibility, are chosen to represent the child in such legal process. However, when the parent is the alleged perpetrator, an adequate and independent representation from the parents should be guaranteed. Article 31§4 of the Convention requires Parties to provide, by law, for the possibility for the judicial authorities to appoint a special representative for the child victim where there is a conflict of interest with the holders of parental responsibility. This special representative may either be a guardian *ad litem* or another independent representative.

■ This possibility is of the upmost importance in cases of sexual abuse within the family in order to defend with impartiality the interests of the child victim.

■ As specified in guideline 42 of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, the function of a guardian *ad litem* or other special representative differs from the functions of a legal counsel. The guardian is appointed by a court, not by a 'client' per se, and should help the court in deciding what is in the best interests of the child. The essence of a special representative is to assist the child during the criminal proceeding and to make sure investigation and procedures do not violate the child's interests.

33. The findings concerning the implementation of Article 31§4 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 13 the Thematic Questionnaire](#) prepared by Ms Joanna Paabumets (Estonia) who acted as Rapporteur for this part of the report.

■ Most Parties foresee the possibility of appointing a special representative for a child in the case of conflict of interest with the child's legal representative.³⁴

■ However the Committee notes that there are no common practices among the Parties. Special representatives may be appointed for different instances with different responsibilities: **Bulgaria's** special representative will for example act as a trustee during the penal procedure; in **Portugal** the prosecutor has the power to represent the child and in **Spain** a defender represents the child in and out of the court.

■ Furthermore, the Committee highlights that some Parties did not specify what the tasks of the special representatives are.

■ The Committee regrets **Malta's** indication that no official legal impositions are made for a child victim to be represented by an independent person when the parents have a conflict of interest to assist the child. In **Malta**, although it appears that an "understanding" with judiciary and the police prosecuting the case offers social workers the possibility to accompany the child before and after the interview, they are not allowed to be part of the overall proceeding as this is often seen as a mean which can influence a child's testimony.

■ The Committee underlines that regardless whether a special representative or a guardian *ad litem* is appointed by judicial authorities, all should receive appropriate legal knowledge and necessary information to ensure and safeguard the best interests of the child during the criminal investigations and proceedings. As outlined in guideline 14 of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, all professionals working with and for children should receive necessary interdisciplinary training on the rights and needs of children of different age groups, and on the proceedings that are adapted to them.

■ However, combining the functions of a lawyer and a guardian *ad litem* in one person should be avoided due to the potential conflict of interests that may arise.³⁵ Because of the emotional assistance and support attached to the guardian's role, children should be given the opportunity to request a guardian or representative of their choice. Children should also, as available in **Luxembourg**, be able to replace their guardian or representative if no good relationship has been produced during the child's interview. The Committee therefore welcomes **Iceland's** policy where both a legal counsel and a guardian are appointed to a child victim.

■ Considering that the level of family support is one of the most important predictors of the degree to which the child can adjust following his or her disclosure, family support can be heavily disrupted when the alleged perpetrator is part of the child's family environment. In **Belgium** and **Croatia** the non-offending parent will often be appointed as special representative if this is in the child's best interest. However, although this option can provide valuable emotional support for the child's future wellbeing, it may also create a conflict of interests with the child, especially if the non-offending parent is involved emotionally.

■ Finally, the Committee considers that the appointment of a guardian *ad litem* or a special representative should be free of charge for the child victim, such as guaranteed by **Austria, Denmark** (if the victim is not privately insured), **Iceland, Luxembourg** and **San Marino**.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges **Malta** to appoint a special representative or a guardian *ad litem* when there is a conflict of interest with the child. This person should be allowed to be present throughout the criminal proceedings (R34);
- ▶ Invites Parties to ensure that special representatives and guardians *ad litem* receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings (R35);
- ▶ Invites Parties to avoid combining the functions of a lawyer and a guardian *ad litem* in one person (R36);
- ▶ Invites Parties to provide a special representative or guardian *ad litem* free of charge for the child victim (R37).

34. See Table H in Appendix IV for specific replies by Parties.

35. See Explanatory Memorandum of the Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, §105.

III.6 Article 30§2: Protective approach towards victims, ensuring 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 appropriate³⁶

Article 30 – Principles

(...)

2. *Each Party shall adopt a protective approach towards victims, ensuring 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.*

(...)

Explanatory Report

211. *Existing international legal instruments on the protection of children give only an indication of the need for a special judicial procedure adapted to the child victim. Recommendation Rec (2001) 16, which is certainly the most detailed such instrument, recalls in particular the need to safeguard child victims' rights without violating the rights of suspects, the need to respect child victims' private life and to provide special conditions for hearings with children. The Optional Protocol to the Convention on the Rights of the Child, which deals exclusively with the sale of children, child prostitution and child pornography, provides in Article 8 for recognition of child victims' vulnerability, adaptation of procedures to their special needs, their right to be kept informed of the progress of proceedings and to be represented when their interests are at stake, protection of their privacy and, lastly, protection from intimidation and retaliation. In Resolution 1307 (2002) the Parliamentary Assembly of the Council of Europe calls on member States to give priority attention to the rights of child victims unable to express their views.*

212. *Beyond these objectives, the definition and implementation of rules of procedure adapted to child victims are left to the discretion and initiative of each State. Recent analyses, including REACT, highlight the differences and discrepancies in the area.*

213. *The negotiators considered that a number of provisions should be made to implement a child-friendly and protective procedure for child victims in criminal proceedings. However, paragraph 4 underlines that these measures should not violate the rights of the defence and the principles of a fair trial as set out in Article 6 ECHR.*

214. *The central issue has to do with the child's testimony which constitutes a major challenge in the procedures of numerous States, as witnessed by a number of cases that have received intensive media coverage and the changes that criminal procedure systems have undergone in the last decades. In this context, it has become urgently important for States to adopt procedural rules guaranteeing and safeguarding children's testimony.*

215. *This is why paragraphs 1 and 2 establish two general principles to the effect that investigations and judicial proceedings concerning acts of sexual exploitation and sexual abuse of children must always be conducted in a manner which protects the best interests and rights of children, and must aim to avoid exacerbating the trauma which they have already suffered.*

■ Adopting a protective approach to child victims of sexual abuse in judicial process (from the investigation phase to the one after the court decision) contributes to fulfilment of the principle of the child's best interests recalled in Article 30§1. This approach is still more important when placed in the context of a crime when the accused person is a member of the victim's immediate family or a person in a recognised position of trust, authority or influence vis-à-vis the victim. Article 30§2 of the Convention concentrates on two specific obligations for the victim's protection: not to aggravate the trauma experienced by the child because of the investigations and criminal proceedings, and to provide for assistance to the child accompanying the criminal justice response, where appropriate.

Investigations and criminal proceedings not aggravating the trauma experienced by the child

■ The Committee stresses that the obligation arising from the Lanzarote Convention in this respect is an obligation to achieve a result, that of not aggravating the trauma experienced by the child during the

36. The findings concerning the implementation of Article 30§2 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 14 of the Thematic Questionnaire](#) prepared by Ms Maria-José Castello-Branco (Portugal) who acted as Rapporteur for this part of the report, and takes into account findings of the European Union Commission in its [studies on children's involvement in judicial proceedings](#).

investigations and criminal proceedings. The Convention requests Parties to adopt a protective approach to child victims and thus leaves it to their discretion to choose the means of achieving this. It therefore does not impose any specific solution on the Parties. The Committee's subsequent conclusions take account of this situation which consequently points more to promising practices than to national situations where the approach adopted by the Parties would not meet the requirements of the Convention. The Committee stresses, however, that some of the measures presented below, avoiding aggravation of the trauma experienced by the child, are obligations under Article 35 of the Convention.

■ Additionally, the Committee highlights that all child victims regardless of the legal age for sexual activities should be protected in the investigation and criminal proceedings, especially in cases where the abuse has occurred in the circle of trust.

■ In the Committee's view, this approach protecting the child victim should begin as from the initial lodging of the complaint or of any other reporting of the case to the competent authorities, which is to be regarded as the first stage of the investigation.

■ First of all, and in general, the Committee regrets that in most Parties the specificity of sexual abuses committed in the child's circle of trust does not receive more attention as regards the risk of aggravating the trauma for the child victim, when this trauma is obviously aggravated by the simple fact that the sexual abuse has been committed by someone in the child's entourage. An enhanced protective approach should consequently apply to a child victim of sexual abuse committed in his or her circle of trust.

■ Moreover, and more specifically, as regards the phase of the interview of the child victim during the investigation, the Committee stresses that it is one of the particularly sensitive phases when there is a significant risk of aggravating trauma for the child. The Parties have developed a series of promising rules and practices to allow the investigation to proceed under good conditions and the child victim to be heard, while reducing the risks of aggravating trauma.

■ The Committee notes that in some Parties child victims of sexual abuse are able to give their statement at the initial stage of the criminal investigation under the auspice of a court judge (**Bulgaria**, and for children up to 15 years, *Barnahus Iceland*) or the police (children up to 12 years, *Børnehuse Denmark*) with the aim of saving the child from repeating his or her statement and avoid confrontation with the suspected person in the courtroom if an indictment is made at a later stage. This requires that the human rights principle of the "due process" must be met, including the principle of "equality of arms". Therefore, the defence must be able to observe the interview and submit questions to the child via the interviewer as appropriate. This is video-recorded and is accepted as valid evidence in court proceedings, if the case is prosecuted, a procedure which has been established as just by the case-law of the European Court of Human Rights (*Kovač v. Croatia*, no. 503/05, 12 July 2007, §30). This arrangement can be seen as beneficial for all child victims of sexual abuse as it avoids the aggravating trauma involved in waiting for long duration of time (months, possibly years) in order to testify during the main hearing of the case. This is especially true for child victims of sexual abuse within the family.

European Court of Human Rights, Kovač v. Croatia, no. 503/05, 12 July 2007

"25. (...) All the evidence must normally be produced in the presence of the accused at a public hearing with a view to adversarial argument. This does not mean, however, that the statement of a witness must always be made in court and in public if it is to be admitted in evidence; (...)

26. The Court further reiterates that the use in evidence of statements obtained at the stage of the police inquiry and the judicial investigation is not in itself inconsistent with paragraphs 1 and 3 (d) of Article 6, provided that the rights of the defence have been respected. As a rule these rights require that the defendant be given an adequate and proper opportunity to challenge and question a witness against him either when he was making his statements or at a later stage of the proceedings (see, among other authorities, *Isgrò v. Italy*, judgment of 19 February 1991, Series A no. 194-A, p. 12, §34; and *Lucà v. Italy*, no. 33354/96, §§40-43, ECHR 2001-II).

27. In appropriate cases, principles of fair trial require that the interests of the defence are balanced against those of witnesses or victims called upon to testify. In this respect, the Court has had regard to the special features of criminal proceedings concerning sexual offences. Such proceedings are often conceived of as an ordeal by the victim, in particular when the latter is unwillingly confronted with the defendant. These features are even more prominent in a case involving a minor. In the assessment of the question whether or not in such proceedings an accused received a fair trial, the victim's interest must be taken into account.

The Court therefore accepts that in criminal proceedings concerning sexual abuse certain measures may be taken for the purpose of protecting the victim, provided that such measures can be reconciled with an adequate and effective exercise of the rights of the defence. In securing the rights of the defence, the judicial authorities may be required to take measures which counterbalance the handicaps under which the defence labours (see *S.N. v. Sweden*, no. 34209/96, §47, ECHR 2002–V with further references).

(...)

30. (...) The Court notes that the applicant was not provided with an opportunity to observe the manner in which the child was questioned by the investigating judge. This could have been arranged, for instance, by the applicant watching M.V. giving her statement in another room via technical devices. Furthermore, because M.V.'s statement to the investigating judge was not recorded on videotape, neither the applicant nor the trial court judges were able to observe her demeanour under questioning and thus form their own impression of her reliability (see *Bocos-Cuesta v. the Netherlands*, no. 54789/00, §71, 10 November 2005). The applicant was not at any stage of the proceedings provided with an opportunity to have questions put to her. Thus, he was not given any opportunity to contest her statement. (...)"

■ The Committee underlines that child sexual abuse is not only a judicial issue as other sectors assume important responsibilities with regard to the safety and physical and psychological recovery of the child. In order to carry out these responsibilities the relevant agencies need to access the child's disclosure to ensure appropriate intervention. Thus parallel with the criminal investigation, a social investigation is of particular importance in situations of sexual abuse within the family for the purpose of assessing the best interest of the child victim, for example with regard to alternative care or other measure of support. The Committee points out that joint investigative interviews of law enforcement and child protection/social services are likely to alleviate the aggregated trauma by reducing the number of interviews the child victim is subjected to in different locations.

■ Traditionally children have given evidence during the investigation or court proceedings mainly in police stations and court houses and this is still a common practice in Europe. The Committee considers that interviews with children, whether during the trial or pre-trial stages of the proceedings should be carried out in facilities designed and adapted for that purpose (see Article 35§1 (b) of the Lanzarote Convention). A large number of Parties are paying heightened attention to organising interviews with the child within a structure and an environment suited to him or her (**Albania, Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Iceland, Luxembourg, Republic of Moldova, Montenegro, Portugal, Spain, "The former Yugoslav Republic of Macedonia"** and **Ukraine**). These efforts should be continued to ensure that all children benefit from this. The Committee indicates that such interviews should take place in a room separate from the usual premises where investigation and interviews are conducted, and located outside police, hospital or court premises. In fact this makes it possible firstly to avoid the child's being overawed by the building itself (court or police station) and secondly to limit substantially the risk of the child victim's encountering the offender. The room where the child is received is therefore generally adapted in order that the child's surroundings are more welcoming and comforting. Some Parties have set up child-friendly houses for the purposes of conducting forensic interviews and court statements (**Denmark, Iceland**).

■ By child-friendly setting, the Committee means a place which, for example, is decorated in a colourful "non-institutionalised manner" and has posters, books and toys if relevant to the age of the child. This place should be set up so that the child feels at ease. The person interviewing the child should be seated at the level of the child so as not to appear as being overwhelming to the child.

■ The Committee nevertheless observes that although the Parties seem to have realised the need to receive child victims in a non-traumatising environment, these premises do not exist in all Parties and throughout their territory.

■ Although the Parties acknowledge how important it is for the child victim's interview to be conducted by a qualified, well-trained professional (see Article 35§1 (c) of the Lanzarote Convention), the Committee notes that this is not always so in practice.

■ For instance, it appears that, in some Parties (**Bulgaria, Lithuania, Malta, Romania**), there are neither special units within the police that deal with child victims nor has provision been made to provide individual members of the regular police force with training on how child victims should be treated.

Promising practices

Europol organises training for police officers in Europe and beyond which focuses on child sexual abuse cases (P15).

In **Croatia**, the police officers assigned to interview children undergo six weeks' training in interviewing techniques for children (P16).

In **Iceland**, interview sessions with child victims are entrusted to childhood specialists trained in techniques of forensic interviewing in child-friendly facilities (*Barnahus*) (P17).

Officers who form part of the Youth Protection department of **Luxembourg's** national police must attend a three-week training course at the Police Academy of Freiburg (Germany) that offers a multi-disciplinary programme (juvenile criminal law, child psychology, communication with children, social questions, crime prevention, forensics). This is followed by another two-week training course that focuses on the specific issue of sexual abuse of children. The Youth Protection department of Luxembourg's national police also organises a seminar on 'cognitive hearing', which is a special interview technique aimed at creating a positive relationship between the child and the investigator in order to avoid traumatising (P18).

■ As to the question of having the child accompanied in the interview room by a support person, the Committee observes that authorisation should be granted on a case by case basis, after hearing the opinion of the child concerned. Indeed, the Committee notes that the child ought not to be accompanied, in the interviewing room, by someone who might influence him or her emotionally if only by their presence. This is still more significant in case of sexual abuse in the circle of trust. This presence may furthermore have adverse effects on the subsequent judicial procedure since the defence might use the argument of such influence to refute the child's testimony (see Article 30§4 of the Convention).

■ It is also essential, in order to avoid aggravating trauma, to interview the child victim as soon as possible after the disclosure of the offence (**Denmark, Portugal and Spain**) (see Article 35§1(a) of the Lanzarote Convention) and also to limit the duration and number of interviews (**Belgium, Croatia, Denmark, Greece, Iceland, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Portugal, San Marino, Spain and Turkey**) (see Article 35§1(e) of the Lanzarote Convention) having regard to the child's age and attention span. If another interview proves indispensable, the Committee stresses that it should be conducted by the person who performed the first (**Belgium, Denmark, Greece, Luxembourg, Montenegro and Romania**) (see Article 35§1(d) of the Lanzarote Convention) and under the same material conditions, to contain the impact of this further interview on the child.

Promising practice

Belgium stresses the need to respect the child's natural rhythm to avoid interviews late in the evening or at night (P19).

■ In **Serbia**, the child can be interviewed on several occasions during proceedings. The Committee finds that repetitive interviews are common practice in various Parties whilst the number of interviews should be limited in so far as strictly necessary for the purpose of criminal proceedings. The Committee holds that these Parties should not pursue such practices.

■ One of the effective means used to avoid having to interview the child victim again is video recording of the interview, a practice applied in a large number of Parties (in particular **Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Portugal, Romania, San Marino, Spain, "The former Yugoslav Republic of Macedonia", Turkey and Ukraine**). It must be possible to use this recorded testimony as evidence in the trials (see Article 35§2 of the Lanzarote Convention). When the defence had been offered the possibility of contesting the child's disclosure during the interview by posing questions, use of video also obviates the need for the child to be present in the court room during the proceedings, whether through projection of the interview recorded beforehand during the investigation or through remote interview of the child by the judges.

■ The phases of the criminal proceedings following the interview of a child victim of sexual abuse in his or her circle of trust are also important moments during which the Parties must take every step to avoid aggravating the trauma experienced by the child victim.

■ One way is to take adequate measures to guard against the child's renewed contact with the presumed offender during the criminal proceedings.³⁷ Several types of measure are conceivable. There may be a strict ban on confronting the child victim with the presumed offender (**Croatia, Montenegro** for children up to 14 years). It may also be a matter of providing the possibility for the child victim to be questioned without the physical presence of the presumed offender (**Austria, Denmark, Finland, Lithuania**). Certain Parties have set up a system enabling the offender to observe the child's interview without being physically present in the same room as the child (through an observation mirror or on closed circuit television – **Iceland** – or by videoconferencing – **Iceland, Spain**). Another way is to make sure that the presumed offender and the victim are not invited to come and testify at the same time on the same premises, in order to avoid their meeting (**Belgium, Denmark**). The Committee recalls for this purpose guideline 70 of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (2010) stressing that the existence of less strict rules on testimony by the child victim should not in itself diminish the value given to a child's testimony or evidence.

■ Protecting the privacy of a child victim of sexual abuse committed in his or her circle of trust is also among the means to avoid aggravating the child's trauma. This protection must operate as from the initial phase, throughout the whole investigation and the court proceedings, and even after the trial and in the subsequent years. The Parties have established an array of measures to protect the privacy of these children. For instance, access to information may be restricted (**Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, Iceland and Portugal**). Moreover, making the identity of a sexually abused child public is treated as an offence in **Croatia, Denmark, France, Greece, Lithuania and Luxembourg**. Also, dissemination in the media of the child's personal data and photos is limited in **Belgium, Italy and Portugal**. In **Finland**, sensitive information which may be detrimental to the child must remain secret. The Committee recalls in that regard guideline 6 of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (2010) stressing that no information or personal data may be made available or published, particularly in the media, which could directly or indirectly disclose the child's identity, including images, detailed descriptions of the child or the child's family, names or addresses, audio and video recordings, etc. It invites the Parties to prevent violations of these privacy rights by the media through legislative measures or monitoring of media self-regulation mechanisms (guideline 7).

■ Another measure taken by some Parties to limit the trauma experienced by the child in the criminal proceedings is to set up specialised courts (including specially adapted court rooms in ordinary / adult courts) which are competent to adjudicate on cases with child victims (**Belgium, Croatia, France, Luxembourg, Malta, Romania**).

Promising practice

France's Juvenile Courts (*Juges pour Enfants*) are involved whenever there are strong grounds for believing that a child is a victim. The Juvenile Court can take actions of a civil nature when the child is in need of protection. Juvenile Courts are attached to High Courts (*Tribunaux de Grande Instance*) and are present throughout the French territory. In addition, special brigades have been set up within France's national police force (*brigades de protection des mineurs*) and national gendarmerie (*brigades de prévention de la délinquance juvénile*) to deal with juvenile justice matters. These brigades are responsible for conducting the investigation and interviews of child victims (and, depending on the case, also child witnesses) (P20).

Criminal justice response accompanied by assistance, where appropriate

■ The Lanzarote Convention is not specific about what is signified by the requirement of assistance accompanying the criminal justice response as inferred from Article 30§2. The Committee nevertheless recalls that the assistance accompanying the criminal justice response must be understood in the light of the obligations arising from Article 14§1 of the Convention regarding assistance (in general) to victims (which is not the subject of this 1st implementation report on implementation). The Committee stresses that the child's best interests require a child victim of sexual abuse in the circle of trust to be assisted throughout the criminal proceedings, including after the criminal justice decision has been taken.

Promising practice

In **Belgium**, if a minor is a victim of sexual abuse in his or her family, the police officer must refer the minor to a trusted centre for ill-treated children in the Flemish Community and to the "SOS-enfant" teams in the Wallonia-Brussels Federation (14 approved teams). The functions of reception, mentoring and information in the context of criminal proceedings, coming within the ambit of assistance to victims, have been assigned

37. The question of restrictions on contact between the child victim and the presumed offender outside the context of the criminal proceedings is not addressed in this chapter.

to the victim support services attached to the public prosecution departments and the courts, established as from 1993 and incorporated into the Department of Justice Houses (*Service des maisons de justice*) in 1999 (their tasks are defined in joint circular no. 16/2012 of 12 November 2012 of the Ministry of Justice and the College of State Prosecutors attached to the courts of appeal concerning reception of victims in prosecution departments and courts). The victim support service is responsible for providing victims and their family members with all types of assistance and specifically information on their case throughout the judicial proceedings (from the lodging of the complaint to the execution of sentence) (P21).

■ The fact that the sexual abuse has been committed in the child victim's circle of trust does not seem to have an influence on the types of assistance proposed by the Parties.

■ Various types of professionals may assist child victims during the interview phase, for example psychologists or psychiatrists (**Albania, Austria, Belgium, Croatia, Finland, France, Italy, Lithuania, Republic of Moldova, Montenegro and San Marino**), police officers specialising in questions relating to children (**Albania, Belgium, Croatia, Denmark, Spain and "The former Yugoslav Republic of Macedonia"**), an investigator from the child welfare department (**Denmark and Romania**, for trafficking) or the social services (**"The former Yugoslav Republic of Macedonia"**), a paediatrician or an ad hoc administrator (**France**), a specialist in childhood questions appointed by the judge (**Iceland**).

■ Assistance to the child victim consists notably in legal assistance at the various stages of the criminal proceedings, particularly through a representative (**Albania, Austria, Belgium, Croatia, Denmark, Finland, France, Iceland, Lithuania, Luxembourg, Republic of Moldova, Montenegro, San Marino, Serbia, "The former Yugoslav Republic of Macedonia", Turkey**). This role may be held by a guardianship authority (**Bosnia and Herzegovina, Italy, Luxembourg, Republic of Moldova, Ukraine**) or even by an NGO (**Romania**).

■ In most Parties, the child can receive free legal aid or assistance before the court (**Albania, Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Portugal, Romania, San Marino, Serbia, Spain, "The former Yugoslav Republic of Macedonia" and Turkey**), albeit sometimes subject to conditions such as the victim's level of income (**Austria** – with regard to legal aid only, not to trial assistance, **France and Greece**) or help in defraying court costs (**Italy**).

■ The Committee stresses the importance for the child victim of being entitled to representation by a lawyer in his or her own right, particularly in proceedings where a conflict of interest is liable to arise between the child and his or her parents or other parties concerned. This right is even more important in case of sexual abuse committed in the child's circle of trust (guidelines 37 and 43 of the Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (2010)). Lawyers representing these children should be trained and well-acquainted with children's rights and related questions, and be capable of communicating with children at their level of understanding (guideline 39).

Promising practice

■ In **Croatia, Montenegro** and **"The former Yugoslav Republic of Macedonia"**, lawyers appointed to represent children must have recognised knowledge of children's rights (P22).

■ The Committee notes that the Parties do not seem to have made provision for assistance to child victims once the criminal justice decision has been taken. Such assistance may take the form, for instance, of an explanation of the court decision in a manner suited to the child's age and degree of maturity and in a language which he or she can understand.

■ Finally, the Committee notes that Article 30§2 of the Convention applies only to victims and not also to children who have witnessed sexual abuse committed in their circle of trust. It stresses, on the other hand, that the Istanbul Convention on preventing and combating violence against women and domestic violence (CETS No. 210), adopted some years after the Lanzarote Convention, affords child witnesses protection and support. Although the Parties to the Lanzarote Convention have not legally undertaken to adopt a protective approach to child witnesses of sexual abuse, the Committee notes that several Parties also include them as this follows in particular from the application of the principle of the child's best interests.

Promising practice

In **Austria**, the interview of children witnesses is made in order to prevent secondary traumatisations. This takes place in a separate room without the physical presence of the parties, in particular the accused, and with the possibility to be interviewed by a psychologist instead of a judge. It is even compulsory when the child witness is less than 14 (section 165 of the Code of Criminal Procedure) (P23).

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee invites Parties:

- ▶ to ensure that protection measures in investigative and judicial proceedings are available to all children irrespective of their age, especially in cases where the abuse has occurred in the circle of trust (R38);
- ▶ to take account of the specificities of sexual abuse committed in the child's circle of trust in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child (R39);
- ▶ to ensure that their justice system more fully accommodates the specificities linked with minors as victims and no longer solely as perpetrators of criminal offences (R40).

As to the investigation phase:

- ▶ to arrange the interview of the child victim in a child friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), by taking into consideration the best practices in this field, and to provide such settings throughout their territory (R41);
- ▶ to ensure that all staff responsible for interviewing child victims have undergone suitable qualifying training (R42);
- ▶ to amend their procedures so as to embody the principles of conducting the interview with the child victim as soon as possible after the offence, to limit the duration and number thereof, and to take account of the child's age and attention span (R43);
- ▶ to amend their procedures so as to embody the principle that, where it is absolutely indispensable to interview the child victim more than once, the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first (R44);
- ▶ to offer the defence the possibility of contesting the child's disclosure during the interview by posing questions, which obviates the need for the child to be present in the court room during the proceedings (R45).

As to the court proceedings:

- ▶ to make systematic use of video equipment to record the interview of the child victim or enable him or her to testify remotely during the proceedings (R46);
- ▶ to regard the video recording of the interview of the child victim as admissible evidence (R47);
- ▶ to take all appropriate measures to guard against any further contact between the child victim of sexual abuse in his or her circle of trust and the presumed offender during the criminal proceedings, particularly by taking the child's testimony without the presumed offender being present and ensure that face-to-face confrontation with the defendant during the proceedings does not take place (R48);
- ▶ to prevent, through legislative measures or verification of self-regulation mechanisms, the child victim's rights relating to privacy from being violated by the media by disclosure or publication of personal information or data capable of directly or indirectly revealing the child's identity, notably images, detailed descriptions of the child or of his or her family, names and addresses, audio and video recordings (R49);
- ▶ to grant free legal aid to child victims of sexual abuse in their circle of trust under the same conditions as, or more lenient conditions than, adults (R50);
- ▶ to grant child victims of sexual abuse in their circle of trust the right to be represented in their own name by a lawyer trained in these questions (R51);
- ▶ to provide assistance intended for child victims of sexual abuse in their circle of trust, once the criminal justice decision has been taken (R52);
- ▶ to extend to child victims of other forms of sexual abuse the application of the measures taken in respect of child victims of sexual abuse in their circle of trust (R53).

The Lanzarote Committee considers that:

- ▶ **Serbia** should find alternative means in order for child victims not to be repeatedly interviewed during the proceedings (R54).

III.7 Article 32: Necessary legislative or other measures to ensure that investigations or prosecution of offences established in accordance with this 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 statements³⁸

Article 32 – Initiation of proceedings

Each Party shall take the necessary legislative or other measures to ensure that investigations or prosecution of offences established in accordance with this 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 statements.

Explanatory Report

230. Article 32 is designed to enable the public authorities to prosecute offences established in accordance with the Convention without the victim having to file a complaint. The purpose of this provision is to facilitate prosecution, in particular by ensuring that victims do not withdraw their complaints because of pressure or threats by the perpetrators of offences.

■ It is essential to aid the conduct of investigations and prosecutions of offenders of sex offences committed against children. Indeed, this contributes to better protection of children as it helps the sex offender from reoffending either against the initial child victim or against other children.

■ That is why there is no need, under the Lanzarote Convention (Article 32), for a child victim to lodge a complaint in order to commence an investigation or prosecution. Likewise, where the child victim has lodged a complaint, its withdrawal should not terminate the prosecution. The Parties to the Convention should take legislative or other measures to that effect.

■ This provision of the Lanzarote Convention is still more important in the case of a sex offence committed in the circle of trust as the child victim is more under the influence of the sex offender who, in particular, can pressure or threaten him or her to withdraw his or her statements.

Commencement of investigations and prosecution

■ It emerges from the assessment made by the Lanzarote Committee that most Parties have a system based on the possibility of instituting proceedings *ex officio*, without the prior lodging of a complaint (**Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Romania, Serbia, Spain and Turkey**).

■ It also emerges from the assessment, that even though it is possible to institute proceedings *ex officio*, without the prior lodging of a complaint, for sexual abuse crimes against children in **Albania**, this is not possible in the cases of sexual abuse with children in the circle of trust. In these cases, the proceedings will stop if the complaint is withdrawn.

■ The legislation of **Portugal** provides for the possibility of instituting proceedings *ex officio*, without the prior lodging of a complaint, except in cases of crimes linked with sexual activities with adolescents (children from 14 to 16 years) unless the victim dies (Articles 173 and 178§3 of the Penal Code).

■ “**The former Yugoslav Republic of Macedonia**” did not provide information of its national situation in this regard.

Withdrawal of the child victim’s complaint

■ Likewise, it emerges from the assessment made by the Lanzarote Committee that in most Parties, when the proceedings have been instituted after the lodging of a complaint by a child victim, such proceedings can continue even where the complaint is withdrawn (**Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Malta, Republic of Moldova, Turkey and Ukraine**).

38. The findings concerning the implementation of Article 32 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 14 of the Thematic Questionnaire](#) prepared by Ms Maria-José Castello-Branco (Portugal) who acted as Rapporteur for this part of the report.

■ If proceedings have been instituted *ex officio*, even if there has been a complaint by the child victim, its withdrawal plainly has no effect on the continuation of the proceedings (this is so in: **Austria, Bulgaria, Luxembourg, Montenegro, Serbia**).

■ The following Parties have not provided information of their national situation in this regard: **Albania, Lithuania, Netherlands, “The former Yugoslav Republic of Macedonia”**.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges **Albania** to review its legislation in order to make proceedings *ex officio* possible in all cases of alleged sexual abuse in the circle of trust and to enable the proceedings to continue even though a complaint made is to be withdrawn (R55);
- ▶ Urges **Portugal** to remove the exception concerning adolescents aged 14-16 years requiring them to lodge a complaint when they are victims, so that the proceedings are instituted *ex officio* in these cases also (R56);
- ▶ Invites Parties who have not provided information of their national situation, to examine their situation in the light of the foregoing considerations, and urges them, where appropriate, to bring it into line with the requirements of the Convention (R57).

III.8 Article 36§2: Necessary legislative or other measures to ensure, according to the rules provided by internal law, that: a. the judge may order the hearing to take place without the presence of the public; b. the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies³⁹

Article 36 – Criminal court proceedings

(...)

2. *Each Party shall take the necessary legislative or other measures to ensure, according to the rules provided by its internal law, that:*
 - a. *the judge may order the hearing to take place without the presence of the public;*
 - b. *the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies.*

Explanatory Report

242. Paragraph 2 contains provisions adapting certain principles governing criminal proceedings in order to protect children and make it easier to interview them. These principles concern the presence of the public and arrangements for ensuring that both parties are represented. Thus, sub-paragraph a allows the judge to order the hearing to take place without the presence of the public, and sub-paragraph b enables the child to be heard without necessarily being confronted with the physical presence of the alleged perpetrator, in particular through the use of videoconferencing.

■ Protecting child victims is a crucial factor in their ability to recover from the violence they have suffered and avoid re-victimisation. At the same time, the criminal trial must be able to be conducted properly, in a way that respects the rights of the alleged perpetrator (see Article 30§4 of the Convention). Article 36§2 of the Convention helps to reconcile these two sometimes seemingly disparate approaches, in that it provides for the possibility of adapting the principles governing the conduct of criminal trials, such as a public hearing and adversarial proceedings, in order to enable children to be heard and make it easier to interview them, while at the same time affording them the best possible protection. Article 36§2 of the Convention accordingly provides that the judge must be able to order the hearing to take place without the presence of the public and that the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies.

39. The findings concerning the implementation of Article 36§2 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 14 of the Thematic Questionnaire](#) prepared by Ms Maria-José Castello-Branco (Portugal) who acted as Rapporteur for this part of the report.

■ This provision of the Lanzarote Convention is particularly important when the alleged perpetrator is in the child's circle of trust, as a face-to-face confrontation with this person may be very difficult for the child and could jeopardise the post-traumatic recovery process, notably by re-victimising him or her.

Possibility that the judge may order the hearing to take place without the presence of the public

■ Although the Parties consider that the principle of a public hearing is very important for ensuring due process, hearings may also be held behind closed doors in cases involving child victims of sexual abuse committed in their circle of trust.

■ The Committee notes that in some Parties, closed hearings are mandatory in cases of this kind, either for the duration of the trial or at certain stages of the proceedings (**Bosnia and Herzegovina, Croatia, France, Iceland, Republic of Moldova, Portugal, Romania and San Marino**). In the other Parties, the judge can order the hearing to take place without the presence of the public.

■ The Committee notes that there are several grounds which can be invoked to support a closed hearing, whether they be grounds for closed hearings in general or grounds which apply specifically in child sexual abuse cases: protecting the identity of witnesses (**Austria, Republic of Moldova**); protection of privacy (**Austria, Belgium, Bulgaria, Finland, Greece, Lithuania, Portugal, Romania**); safeguarding the child's interests (**Bosnia and Herzegovina, Finland, Montenegro, Portugal, Romania, Serbia**); observing official, professional or commercial secrecy (**Lithuania**); preserving morality (**Bulgaria, Montenegro, Romania, Spain**); protecting people related to the victim from a threat directed at life or health (**Finland**); avoiding intense emotional suffering on the part of the child (**Greece**) or re-victimisation (**Netherlands**); keeping certain information secret (**Austria and Montenegro**); respecting public order (**France, Montenegro, Spain**); protecting the personal or family life of the accused or the injured party (**Montenegro**); defence of the individual (**Romania**); and taking into account the interests of the victim or his or her family (**Spain**).

■ Certain individuals may attend a hearing even if it is closed, such as certain officials, academics or prominent public figures and, at the request of the alleged perpetrator, his or her spouse, partner or close relatives (**Croatia, Denmark and Romania**).

Possibility that the child victim may be heard in the courtroom without being present

■ The Committee stresses that being present in the courtroom can be damaging to child victims. It also recognises, however, that children should be able to be present during the trial if they so wish, as is the case in **Austria**. To prohibit child victims from being present in court would be a step too far.

■ The solution proposed in the Lanzarote Convention to enable child victims to be heard in the courtroom without being physically present is to use appropriate communication technologies, in particular videoconferencing. Audio-visual testimony or other appropriate communication technologies are thus used in courtrooms in a number of Parties (**Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Greece, Iceland, Lithuania, Luxembourg, Republic of Moldova, Montenegro, Portugal, Serbia, Spain, "The former Yugoslav Republic of Macedonia", Turkey, Ukraine**). In this way, child victims can be heard "live" in the courtroom and take part remotely.

■ The reasons given for using live video or audio-visual links vary, and include protecting identity (**Albania, Denmark, Ukraine**), protecting social morality (**Albania**), preventing the disclosure of data to be kept secret (**Albania, Austria**), ensuring that the hearing proceeds in an orderly manner (**Albania**), protecting witnesses (**Albania, Austria**), obtaining new testimony (**Denmark**), protecting minors through *pro memoria* statements (**Portugal, Spain**).

■ The Committee notes that no Party has introduced legal provisions to ensure the right of children to be heard in the courtroom without being present, albeit some countries allow for it under certain age limits (**Iceland**) or age/circumstances (**Finland**).

■ Another way in which child victims can testify in court is through video-recorded interviews conducted with them beforehand, during the investigation. The Committee refers to its detailed comments on this point (see above, under Article 30§2) and also to its recommendation.

■ The Committee notes that most of the Parties provide protection for child victims if they have to physically attend court to give evidence. The purpose of these measures is to protect the child victim and to prevent the presence of the alleged perpetrator from inhibiting him or her from speaking at the hearing. Examples include putting up a curtain or other type of partition so that the child cannot see the alleged perpetrator

(“**The former Yugoslav Republic of Macedonia**”) or the possibility of requiring the alleged perpetrator to leave the room (**Austria, Denmark, Finland, Iceland, Malta, Republic of Moldova, Montenegro, Portugal, Romania and Serbia**). The Committee stresses, however, that such measures should be employed only if the child’s physical presence in court is essential; if that is not the case, arrangements should be made for the child to testify remotely.

■ The Committee wishes to point out that, whatever methods are used to protect child victims, they need to be strictly regulated in order to ensure that the rights of the defence and the requirements of a fair and impartial trial are observed (see Article 30§4 of the Convention).

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Invites Parties to review the conditions under which a closed hearing may be held in cases involving child sexual abuse committed in the circle of trust, in the light of the practices identified in this report (R58);
- ▶ Invites Parties to make every effort to obviate the need for child victims to be physically present during the proceedings, including when they are giving evidence, by deploying appropriate communication technologies to enable them to be heard in the courtroom without being present (R59);
- ▶ Invites Parties to ensure to all child victims, regardless of age, the right to be heard in the courtroom without being present as well as being present in the courtroom (R60);
- ▶ Invites Parties, in cases where the child’s testimony requires that he or she be physically present in court, to provide for the possibility of requiring the alleged perpetrator to leave the courtroom, having due regard to the rights of the defence and the requirements of a fair and impartial trial (R61).

IV. Corporate liability

IV.1 Article 26: Corporate liability⁴⁰

Article 26 – Corporate liability

1. *Each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable for an offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:*
 - a. *power of representation of the legal person;*
 - b. *an authority to take decisions on behalf of the legal person;*
 - c. *an authority to exercise control within the legal person.*
2. *Apart from the cases already provided for in paragraph 1, each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of an offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.*
3. *Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.*
4. *Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.*

Explanatory report

177. Article 26 is consistent with the current legal trend towards recognising corporate liability. The intention is to make commercial companies, associations and similar legal entities (“legal persons”) liable for criminal actions performed on their behalf by anyone in a leading position in them. Article 26 also contemplates liability where someone in a leading position fails to supervise or check on an employee or agent of the entity, thus enabling them to commit any of the offences established in the Convention.

178. Under paragraph 1, four conditions need to be met for liability to attach. First, one of the offences described in the Convention must have been committed. Second, the offence must have been committed for the entity’s benefit. Third, a person in a leading position must have committed the offence (including aiding and abetting). The term “person who has a leading position” refers to someone who is organisationally senior, such as a director. Fourth, the person in a leading position must have acted on the basis of one of his or her powers (whether to represent the entity or take decisions or perform supervision), demonstrating that that person acted under his or her authority to incur liability of the entity. In short, paragraph 1 requires Parties to be able to impose liability on legal entities solely for offences committed by such persons in leading positions.

179. In addition, paragraph 2 requires Parties to be able to impose liability on a legal entity (“legal person”) where the crime is committed not by the leading person described in paragraph 1 but by another person acting on the entity’s authority, i.e. one of its employees or agents acting within their powers. The conditions that must be fulfilled before liability can attach are: 1) the offence was committed by an employee or agent of the legal entity; 2) the offence was committed for the entity’s benefit; and 3) commission of the offence was made possible by the leading person’s failure to supervise the employee or agent. In this context failure to supervise should be interpreted to include not taking appropriate and reasonable steps to prevent employees or agents from engaging in criminal activities on the entity’s behalf. Such appropriate and reasonable steps could be determined by various factors, such as the type of business, its size, and the rules and good practices in force.

180. Liability under this article may be criminal, civil or administrative. It is open to each Party to provide, according to its legal principles, for any or all of these forms of liability as long as the requirements of Article 27 paragraph 2 are met, namely that the sanction or measure be “effective, proportionate and dissuasive” and include monetary sanctions.

40. The findings of the Lanzarote Committee on the implementation of Article 26 of the Convention are based on the analysis of the [replies by Parties and other stakeholders to Question 11 of the Thematic Questionnaire and to Question 17 of the General Overview Questionnaire to which it refers](#) prepared by Mr Erik Planken (Netherlands), who acted as a Rapporteur for this specific section of the report.

181. Paragraph 4 makes it clear that corporate liability does not exclude individual liability. In a particular case there may be liability at several levels simultaneously – for example, liability of one of the legal entity’s organs, liability of the legal entity as a whole and individual liability in connection with one or other.

General remarks

■ The Committee notes that all Parties except **Ukraine** have implemented legislation on the basis of which legal persons, such as commercial companies, associations and legal entities, can be held liable for acts of child sexual exploitation and abuse as provided for by Article 26 of the Convention: first, one of the offences described in the Convention must have been committed; second, the offence must have been committed for the entity’s benefit; third, a person in a leading position must have committed the offence (including aiding and abetting); fourth, the person in a leading position must have acted on the basis of one of his or her powers (whether to represent the entity or take decisions or perform supervision).⁴¹

■ Most Parties do not exclude individual liability when corporate liability might be assumed in a particular case. This is in accordance with the rationale of Article 26 as explained in the explanatory report.

■ However, the Lanzarote Committee could not assess, due to lack of information, whether the legislation in place is implemented or not and, if so, how. No indications are found in the replies on typical case scenarios in which legal persons are held liable. The Lanzarote Committee stresses that, in its own context, the Group of Experts on Action against Trafficking in Human Beings (GRETA) also often notes in the country reports that there have been no criminal cases regarding the involvement of legal persons and raises the issue to find out why. The Lanzarote Committee therefore requests Parties to examine the reasons why no accused legal persons have been held liable for acts as those described in Article 26 of the Convention to date and, in the light of such findings, take the necessary measures to ensure that the liability of legal persons can be acted upon in practice.

■ In addition, the Lanzarote Committee notes that public bodies, such as state and local and regional authorities, are excluded from the scope of corporate liability by the Convention and in most Parties.

■ The Lanzarote Committee recalls that, according to Article 26 of the Convention, the legal person is held liable for an offence committed for its benefit. Such an offence would mainly take the form of child pornography or other forms of sexual exploitation and not that much of sexual abuse within the circle of trust. In any case, the Lanzarote Committee notes that reported cases of corporate liability are extremely rare in this context.

Specific remarks in the context of sexual abuse of children in the circle of trust

■ Cases of corporate liability are even more rare in the context of the specific theme of the monitoring round, namely, sexual abuse of children in the circle of trust. Legal persons may fall within the circle of trust of children in specific sectors and areas such as the education, health, social protection, judicial and law-enforcement sectors and areas relating to sport, culture and leisure activities. National legislations on corporate liability do not envisage specificities related to the circle of trust. The Lanzarote Committee encourages Parties to add, as an aggravating circumstance, in their legislation on corporate liability, the fact that a case of sexual abuse is committed in the circle of trust of a child.

■ In practice, cases of sexual abuse in the circle of trust of a child are committed by individuals (natural persons) on their own behalves and not for the benefit of a legal person. These cases are therefore not included in the scope of corporate liability. It may however happen in very specific circumstances that an individual creates a legal entity in order to serve as a place to attract children with a view to abuse them. Obviously, in such a case the legal entity would be held liable. The Lanzarote Committee considers that the general legislation in place in the Parties is sufficient to address this type of cases.

■ Legal persons could also be held liable in some cases of sexual abuse of a child committed by employees in the context of their work and abusing their position of trust, when such abuse is committed for the benefit of the legal person. The Lanzarote Committee is of the view that such cases could fall within the remit of Article 26 of the Lanzarote Convention if the legal person does not intervene and covers the employees’ acts for the benefit of the legal person.

■ **Malta** has not provided information on its national situation in this regard.

41. See Table I in Appendix IV for specific replies by Parties.

Recommendations as to steps to be taken to improve the effective implementation of the Lanzarote Convention

The Lanzarote Committee:

- ▶ Urges **Ukraine** to implement legislation on the basis of which legal persons can be held liable for acts of child sexual exploitation and abuse (R62);
- ▶ Invites Parties to examine the reasons why no accused legal persons have been punished for acts as those described in Article 26 of the Convention to date and, in the light of their findings, to take the necessary measures to ensure that the liability of legal persons can be acted upon in practice (R63);
- ▶ Invites **Malta** to examine its national situation in the light of the foregoing considerations, and urges it where appropriate to bring it into line with the requirements of the Convention (R64).

Main recommendations emerging from the report concerning all Parties⁴²

AS TO THE CRIMINALISATION OF SEXUAL ABUSE OF CHILDREN IN THE CIRCLE OF TRUST

The Lanzarote Committee:

- ▶ Urges Parties to review their legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence;
- ▶ Urges Parties, where appropriate, to review their legislation to clearly set forth that within the context of the criminal offence of sexual abuse in the circle of trust, the age limit for engaging in sexual activities is irrelevant and the use of force, coercion or threat is not a constituent element of the crime.

AS TO COLLECTION OF DATA ON CHILD SEXUAL ABUSE COMMITTED IN THE CIRCLE OF TRUST

The Lanzarote Committee:

- ▶ Urges Parties to take the necessary legislative or other measures, to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular.

AS TO THE BEST INTEREST OF THE CHILD AND CHILD FRIENDLY CRIMINAL PROCEEDINGS

The Lanzarote Committee:

- ▶ Considers that Parties should establish or reinforce a coordinated and comprehensive approach of all the relevant bodies and professionals involved in criminal proceedings to ensure the child's best interest in cases of sexual abuse;
- ▶ Invites, in this respect, Parties to support exchanges of good practices developed by relevant stakeholders, including civil society, to ensure that the best interest of the child principle is respected while determining the most appropriate assistance to children who have been sexually abused within the circle of trust;
- ▶ Invites Parties to take account of the specificities of sexual abuse committed in the child's circle of trust in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child;
- ▶ Considers that, in the context of sexual abuse in the circle of trust, the removal of the victim from his or her family environment should be foreseen as a procedure of last resort and that the requirements for this procedure should be clearly defined, setting out the conditions for and duration of the removal;
- ▶ Invites Parties to make every effort to avoid the need for child victims to be physically present during the proceedings, including when they are giving evidence, by deploying appropriate communication technologies to enable them to be heard in the courtroom without being present;
- ▶ Urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care;
- ▶ Invites Parties, when determining the support required to the victim and the persons close to him or her, to take into account the fact that a child's disclosure should not worsen his or her situation and that of the other non-offending members of the family.

AS TO CORPORATE LIABILITY

The Lanzarote Committee:

- ▶ Invites Parties to take the necessary measures to ensure that the liability of legal persons can be acted upon in practice.

42. Recommendations addressed to specific Parties are to be found in the recommendation boxes of each chapter of the report.

Appendix I

State of signatures and ratifications of the Lanzarote Convention

	Signature	Ratification	Entry into Force
Members of Council of Europe			
Albania	17/12/2008	14/04/2009	01/07/2010
Andorra	29/06/2012	30/04/2014	01/08/2014
Armenia	29/09/2010		
Austria	25/10/2007	25/02/2011	01/06/2011
Azerbaijan	17/11/2008		
Belgium	25/10/2007	08/03/2013	01/07/2013
Bosnia and Herzegovina	12/10/2011	14/11/2012	01/03/2013
Bulgaria	25/10/2007	15/12/2011	01/04/2012
Croatia	25/10/2007	21/09/2011	01/01/2012
Cyprus	25/10/2007	12/02/2015	01/06/2015
Czech Republic	17/07/2014		
Denmark	20/12/2007	18/11/2009	01/07/2010
Estonia	17/09/2008		
Finland	25/10/2007	09/06/2011	01/10/2011
France	25/10/2007	27/09/2010	01/01/2011
Georgia	12/03/2009	23/09/2014	01/01/2015
Germany	25/10/2007	18/11/2015	01/03/2016
Greece	25/10/2007	10/03/2009	01/07/2010
Hungary	29/11/2010	03/08/2015	01/12/2015
Iceland	04/02/2008	20/09/2012	01/01/2013
Ireland	25/10/2007		
Italy	07/11/2007	03/01/2013	01/05/2013
Latvia	07/03/2013	18/08/2014	01/12/2014
Liechtenstein	17/11/2008	11/09/2015	01/01/2016
Lithuania	25/10/2007	09/04/2013	01/08/2013
Luxembourg	07/07/2009	09/09/2011	01/01/2012
Malta	06/09/2010	06/09/2010	01/01/2011
Republic of Moldova	25/10/2007	12/03/2012	01/07/2012
Monaco	22/10/2008	07/10/2014	01/02/2015
Montenegro	18/06/2009	25/11/2010	01/03/2011
Netherlands	25/10/2007	01/03/2010	01/07/2010
Norway	25/10/2007		
Poland	25/10/2007	20/02/2015	01/06/2015
Portugal	25/10/2007	23/08/2012	01/12/2012
Romania	25/10/2007	17/05/2011	01/09/2011
Russian Federation	01/10/2012	09/08/2013	01/12/2013
San Marino	25/10/2007	22/03/2010	01/07/2010
Serbia	25/10/2007	29/07/2010	01/11/2010
Slovakia	09/09/2009		
Slovenia	25/10/2007	26/09/2013	01/01/2014
Spain	12/03/2009	05/08/2010	01/12/2010

	Signature	Ratification	Entry into Force
Members of Council of Europe			
Sweden	25/10/2007	28/06/2013	01/10/2013
Switzerland	16/06/2010	18/03/2014	01/07/2014
"The former Yugoslav Republic of Macedonia"	25/10/2007	11/06/2012	01/10/2012
Turkey	25/10/2007	07/12/2011	01/04/2012
Ukraine	14/11/2007	27/08/2012	01/12/2012
United Kingdom	05/05/2008		
Non-members of Council of Europe			
Canada			
Holy See			
Japan			
Mexico			
Morocco			
United States of America			
International Organisations			
European Union			

Appendix II

Relevant extracts from the Thematic Questionnaire

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

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

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

(...)

■ Question 9: Assistance to and special protection for victims

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

(...)

■ Question 10: The offence of sexual abuse

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

- a. what is understood by “intentional conduct” in internal law? (**Explanatory Report, para. 117**);
- b. what is understood by “sexual activities” in internal law? (**Explanatory Report, para. 127**).

■ Question 11: Corporate liability

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

■ Question 12: Aggravating circumstances

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

■ Question 13: Best interest of the child

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

- b. The reply to question 22(d) of the GOQ will be examined by the Committee to assess the implementation of **Article 31, para. 4** of the Convention with respect to the theme of the monitoring round;
- c. Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the victim's circle of trust, include withdrawal of parental rights or monitoring or supervision of convicted persons (**Article 27, para. 4, Explanatory Report, para. 191**).

■ **Question 14: Child-friendly justice**

- a. Please specify whether in situations where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her, a protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate (**Article 30, para. 2 and Explanatory Report, paras. 211-215**);
- b. Which legislative or other measures been taken to ensure that investigations or prosecution of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognised position of trust or authority towards him or her? (**Article 32, Explanatory Report, para. 230**);
- c. Have legislative or other measures been taken to ensure that a judge, in a criminal trial regarding an offence which can be considered to involve sexual abuse of a child within the circle of trust, may order the hearing to take place without the presence of the public or that the victim may be heard in the courtroom without being present? (**Article 36, para. 2 and Explanatory Report, para. 242**).

Appendix III

State of play of replies to the Questionnaires

States parties to the Convention	Date of receipt of the replies to the General overview questionnaire	Date of receipt of the replies to the Thematic questionnaire
Albania	31/01/2014	31/01/2014
Austria	31/01/2014	31/01/2014
Belgium	03/06/2014	03/06/2014
Bosnia and Herzegovina	06/04/2014	06/04/2014
Bulgaria	22/08/2014	22/08/2014
Croatia	21/01/2014	21/01/2014
Denmark	27/01/2014	27/01/2014
Finland	10/03/2014	10/03/2014
France	10/11/2014	04/12/2014
Greece	11/09/2014	11/09/2014
Iceland	07/04/2014	07/04/2014
Italy	06/02/2014	06/02/2014
Lithuania	29/01/2014	29/01/2014
Luxembourg	31/07/2014	31/07/2014
Malta	10/02/2014	10/02/2014
Republic of Moldova	03/02/2014	03/02/2014
Montenegro	14/02/2014	14/02/2014
Netherlands	24/03/2014	04/06/2015
Portugal	03/02/2014	03/02/2014
Romania	31/01/2014	31/01/2014
San Marino	13/03/2015	06/11/2014
Serbia	31/01/2014	31/01/2014
Spain	25/03/2014	25/03/2014
"The former Yugoslav Republic of Macedonia"	24/02/2015	24/02/2015
Turkey	31/01/2014	31/01/2014
Ukraine	05/03/2014	05/03/2014

All replies, as well as contributions from other stakeholders, are available at www.coe.int/lanzarote

Appendix IV

Tables on the situation in Parties as regards sexual abuse of children in the circle of trust

Table A - Sexual activities with a child where abuse is made of a recognised position of trust, authority or influence over the child, including within the family (Article 18§1 (b), 2nd indent)

Criminal Code Provisions	
Albania	<p>■ Article 105 - Sexual or homosexual abuse, making use of a position of authority</p> <p>Sexual or homosexual relations making use of a position of dependency or authority, is sanctioned up to 3 years of imprisonment.</p> <p>■ Article 106 - Sexual or homosexual intercourse with persons that are related (of the same blood) or persons under custody</p> <p>Having sexual or homosexual intercourse between parents and children, brother and sister, between brothers, sisters, between persons that are related in a straight line or with persons that are under custody or adoption, is sentenced by imprisonment up to seven years.</p>
Austria	<p>■ Section 212 - Sexual activities (abuse of a position of authority)</p> <p>1) with a person under age (= under 18 years of age) who is either related to the perpetrator in digressive line, or his/her adopted child, stepchild or ward (subpar. 1) or against a person under age who is under the perpetrator's education, schooling or supervision and abuses his/her position towards the victim (subpar. 2);</p> <p>2) of a doctor, psychologist, psychotherapist, nurse or pastor with a person he/she is in charge of professionally, as an employee of an educational establishment or as an official entrusted with the victim's care.</p>
Belgium	<p>■ Article 372 – Indecent assault</p> <p>Any indecent assault committed without violence or threats against the person or with the assistance of the person of a child of either sex aged under sixteen years shall be punished by five to ten years' imprisonment.</p> <p>Indecent assault committed without violence or threats by any ascendant or adoptive parent against the person or with the assistance of the person of a minor, even aged sixteen years or over but not emancipated by marriage shall be punished with ten to fifteen years' imprisonment. The same penalty shall be applied if the perpetrator is either the brother or the sister of the minor victim or any person holding a similar position within the family, or any person living habitually or occasionally with him or her and who has authority over him or her.</p> <p>■ Article 377 – Aggravating circumstances</p> <ul style="list-style-type: none"> ▶ if the perpetrator is the ascendant or adoptive parent of the victim, a direct descendant of the victim or a brother or a sister of the victim; ▶ if the perpetrator is either the brother or the sister of the minor victim or any person holding a similar position within the family, or any person living habitually or occasionally with him or her and who has authority over him or her; ▶ if the perpetrator is a person who has authority over the victim; if he or she has abused the authority or facilities conferred by his or her position; if he or she is a doctor, surgeon, midwife or health officer and the child or any other vulnerable person covered by Article 376, paragraph 3, had been entrusted into his or her care.

Criminal Code Provisions	
Bosnia and Herzegovina	<p>■ Article 205(2) - Sexual intercourse by abuse of position A teacher, educator, parent, adoptive parent, guardian, step-father, step-mother or any other person who, by abusing his status or relationship toward a juvenile (up to 18 yrs) who is entrusted to him for education, upbringing, custody or care, performs sexual intercourse or equivalent sexual act upon a juvenile shall be punished by imprisonment for a term between six months and five years.</p>
Bulgaria	<p>■ Article 150 (1) A person who performs a particular activity with the purpose to stimulate or satisfy a sexual desire without sexual intercourse with respect to a person who has completed the age of 14 years by using force or intimidation, by using his/her helpless condition or through driving him/her to such a condition or by using his/her state of dependency or supervision, shall be punished with imprisonment of two up to eight years.</p> <p>■ Article 153 A person who copulates with another, by compulsion using the other's material or official dependency upon him, shall be punished by deprivation of liberty for up to three years.</p> <p>■ Article 155c Anyone who by using force or threat, or by using a position of dependency or supervision persuades a person above the age of 14 years to participate in actual, virtual or simulated fornication, copulation, intercourse, including sodomy, masturbation, sexual sadism or masochism, and lustful depiction of sexual organs shall be punishable with imprisonment of up to five years.</p>
Croatia	<p>■ Article 159 Sexual intercourse or an equivalent sexual act</p> <ol style="list-style-type: none"> 1. with a child over the age of fifteen with whose upbringing, education, custody, spiritual guidance or care the perpetrator has been entrusted; 2. by a direct-line relative by blood or by adoption, a step-father or step-mother [...]
Denmark	<p>■ Section 210 (1) and 3 Sexual intercourse and other sexual activities with a relative in the line of descent (including adopted relationships).</p> <p>■ Section 223 (1) Sexual intercourse with a person under 18 years of age who is the offender's stepchild or foster child, or with whose education or upbringing the offender has been entrusted.</p> <p>■ Section 229 A penalty of imprisonment for a term not exceeding four years is imposed on any person who:</p> <ol style="list-style-type: none"> (i) is an employee of the Prison and Probation Service and who has sexual intercourse with someone admitted to the institution and subject to his authority; (ii) is an employee of the police and who has sexual intercourse with someone deprived of his liberty and in police custody; or (iii) is an employee or inspector of a child or youth institution, psychiatric ward, residential institution for the severely mentally impaired or a similar institution and who has sexual intercourse with someone admitted to the institution.

Criminal Code Provisions	
Finland	<p>■ Section 5 (1)</p> <p>Who abuses his or her position and entices one of the following into sexual intercourse, into another sexual act essentially violating his or her right of sexual self-determination, or into submission to such an act,</p> <p>(1) a person younger than eighteen years of age, who in a school or other institution is subject to the authority or supervision of the offender or in another comparable manner subordinate to the offender, [...]</p> <p>(4) a person who is especially dependent on the offender, where the offender blatantly takes advantage of this dependence.</p>
France	<p>■ Article 227-27</p> <p>Sexual acts committed without violence, coercion, threats or surprise on a minor aged over fifteen shall be punished by three years' imprisonment and a fine of €45 000:</p> <p>1) where they are committed by an ascendant or by any other person having legal or de facto authority over the victim;</p> <p>2) where they are committed by a person abusing the authority conferred by his position.</p> <p>In application of Article 227-27, France criminalises all "sexual acts committed without violence, constraint, threat or surprise" against a minor aged over fifteen years, in four situations:</p> <ul style="list-style-type: none"> ▶ where they are committed by an ascendant; ▶ where they are committed by any other person having de jure authority over the victim; ▶ where they are committed by any other person having de facto authority over the victim; ▶ where they are committed by a person abusing the authority conferred upon him or her by his or her functions. <p>The concept of de facto authority is broadly interpreted in the case-law and includes situations in which a person abuses an acknowledged position of trust, authority or influence over the child, including within the family. Accordingly, the following have been regarded as having de facto authority over a minor:</p> <ul style="list-style-type: none"> ▶ a victim's uncle by marriage to whom the victim had been entrusted by his or her parents (Criminal Division of the Court of Cassation, 16 March 1939) ▶ the husband of a teacher assisting his wife in the exercise of her duties (Criminal Division, 15 April 1948) ▶ the partner of the victim's mother (Criminal Division, 29 July 1911) ▶ a scout leader in connection with acts committed against minors belonging to the same youth movement (Nîmes, 9 December 1983) ▶ the husband of a nursery assistant to whom the victims had been entrusted and whom they called "Daddy" (Criminal Division, 24 September 1996) ▶ the son of a child-minder to whom the victim had been entrusted, living at the same address as his parents and who, from time to time, looked after the children in the child-minder's care (Criminal Division, 9 July 1991) ▶ a person providing academic support (Criminal Division, 19 April 2000) ▶ neighbours or friends occasionally looking after children when their parents were absent (Court of Appeal (CA) Bordeaux, 20 September 1995; CA Grenoble, 9 February 2000; CA Chambéry, 7 December 2000) ▶ a man who masqueraded as a hospital doctor or who took advantage of his role as doctor to touch the genitalia of young girls, very young girls and an old lady in a specialist hospital unit which was not one in which he worked (Full Court of the Court of Cassation, 14 February. 2003; CA Aix-en-Provence, 21 February 1986)

Criminal Code Provisions	
Greece	<p>■ Article 342 Sexual abuse or insult to the sexual dignity of a minor by a person of trust (who had undertaken his/her care or supervision). Aggravating circumstance is when the perpetrator is any kind of relative by law or blood, friend of the family, leaves with the victim, teacher or trainer of any kind, person accepting the services of the child, professional that offers his/her services to the minor (doctor, nurse, psychologist, etc.), priest.</p> <p>■ Article 343 Sexual abuse by abuse of power (i.e. public servants and any kind of personnel working in prisons, hospitals or other clinics, schools, universities).</p> <p>■ Article 9, Law 3500/2006 The family member that offends the dignity of another member through particularly humiliating words or acts pertaining to his/her sexual life, shall be punished with imprisonment of up to two years.</p> <p>The offence of the previous paragraph is subject to a punishment of 6 months to 3 years if the victim is a minor.</p> <p>The above mentioned paragraphs shall apply correspondingly when the perpetrator is working in a social care provider, and the offence/action is directed against a person, who receives services from that institution.</p>
Iceland	<p>■ Article 197 If the supervisor or an employee in a prison, another institution under the direction of the police, the prison authorities or the child welfare authorities, or in the psychiatric ward of a hospital, a home for mentally handicapped persons or another similar institution has sexual intercourse or other sexual relations with an inmate of the institution, it shall be punished by up to 4 years' imprisonment.</p> <p>■ Article 198 Anyone having carnal intercourse or other sexual intimacy with a person by gravely abusing his/her position as the latter is dependent upon him/her financially, in his/her employment or as his/her client in confidential relationship.</p> <p>■ Article 200 Any person who has sexual intercourse or other sexual relations with his or her own child or other descendant shall be imprisoned for up to [8 years] 1) and up to [12 years] 1) if the child [is 15, 16 or 17 years of age]. 2) [Sexual harassment of a type other than that specified in the first paragraph of this Article and directed at the perpetrator's own child or other descendant shall be punishable by up to 4 years' imprisonment, providing that the child is aged 15 years or older.] 2) Sexual intercourse or other sexual relations between siblings shall be punishable by up to 4 years' imprisonment. If one or both of the siblings were under the age of 18 years at the time of the offence, it may be decided to waive punishment applying to them.</p> <p>■ Article 201 Any person who has sexual intercourse or other sexual relations with a child aged 15, 16 or 17 year who is his or her adopted child, step-child, foster-child or the child of his or her cohabiting partner, or is bound to him or her by similar family relationships in direct line of descent, or is a child who has been committed to his or her authority for education or upbringing, shall be imprisoned for up to 12 years. Sexual harassment of a type other than that specified in the first paragraph of this article shall be punishable by up to 4 years' imprisonment.</p>

Criminal Code Provisions	
Italy	<p>■ Article 609 bis - Sexual Violence</p> <p>Any person who, by violence or threat, or by abuse of authority, forces a person to perform or suffer sexual acts shall be punished by imprisonment from five to ten years.</p> <p>The same penalty shall be imposed on any person who induces a person to perform or suffer sexual acts:</p> <p>(1) abusing the person's condition of mental or physical deficiency at the time of the act;</p> <p>(2) (...)</p> <p>■ Article 609 quater - Sexual acts with a minor</p> <p>The penalty set forth in Article 609 bis shall be imposed on whomever, other than in the cases envisaged by Article 609 bis, perpetrates sexual acts with a person who, at the time of the act:</p> <p>(1) is under fourteen;</p> <p>(2) is under sixteen, when the offender is the ascendant, parent, including a foster parent, or his/her live-in partner, the guardian, or other person entrusted with the child's care, education, instruction, supervision or custody or with whom the child lives.</p> <p>(...)</p>
Lithuania	<p>■ Article 151 - Sexual abuse</p> <p>1. A person who, by threatening to resort to violence, using other mental coercion or by taking advantage of a person's dependency, compels the person to have sexual intercourse with or otherwise satisfy sexual desires of the offender or a third person (...).</p> <p>2. A person who carries out the actions provided for in paragraph 1 of this Article in respect of a minor (...).</p> <p>3. A father, mother, guardian, custodian or another lawful representative of a child or another person holding statutory powers in respect of a minor who has sexual intercourse or otherwise satisfied his sexual desires with that minor, in the absence of characteristics of a rape, sexual assault or sexual abuse (...).</p>
Luxembourg	<p>■ Article 372</p> <p>Any indecent assault committed without violence or threats against persons of either sex shall be punished by eight days' imprisonment and a fine of 251 to 10 000 euros.</p> <p>(...)</p> <p>■ Article 377 - Aggravating circumstances</p> <ul style="list-style-type: none"> ▶ if the perpetrator is the ascendant or adoptive parent of the victim, a direct descendant of the victim or a brother or a sister of the victim; ▶ if the perpetrator is either the brother or the sister of the minor victim or any person holding a similar position within the family, or any person living habitually or occasionally with him or her and who has authority over him or her; ▶ if the perpetrator is a person who has authority over the victim; if he or she has abused the authority or facilities conferred by his or her position; if he or she is a doctor, surgeon, midwife or health officer and the child or any other vulnerable person covered by Article 376, paragraph 3, had been entrusted into his or her care.

<p>Malta</p>	<p>■ Article 204D Whosoever: a) compels a person under age to perform sexual activities with another person, or [...] shall, on conviction, be liable to imprisonment...</p>
<p>Republic of Moldova</p>	<p>■ Article 171 - Rape (1) Rape, i.e. the sexual intercourse committed by the physical or mental coercion of the person, or by taking advantage of the victim's incapacity to defend himself/herself or to express his/her will shall be punished by imprisonment for 3 to 5 years. (2) Rape: (...) b2) committed against a family member; (...) shall be punished by imprisonment for 5 to 12 years. (3) Rape: a) of a person who is under the care, custody, protection, education, or treatment of the perpetrator; b) of a juvenile under the age of 14; (...) shall be punished by imprisonment for 10 to 20 years or by life imprisonment. ■ Article 172 - Violent Actions with Sexual Character (1) Homosexuality or satisfying sexual needs in perverted forms, committed through the physical or mental coercion of the person or by taking advantage of the person's incapacity to defend himself/herself or to express his/her will shall be punished by imprisonment for 3 to 5 years. (2) The same actions: (...) b2) committed against a family member; (...) shall be punished by imprisonment for 5 to 12 years.</p>

Criminal Code Provisions	
	<p>(3) The actions set forth in par.(1) or (2): (...) a1) that were committed against a person who is under the care, custody, protection, education, or treatment of the perpetrator; (...) shall be punished by imprisonment for 10 to 20 years or by life imprisonment.</p> <p>■ Article 201 - Incest</p> <p>(1) Sexual intercourse between direct relatives up to the third degree inclusively, as well as between relatives on a collateral line (brothers, sisters) shall be punished by imprisonment for up to 5 years.</p> <p>Persons mentioned in par. (1) shall not be subject to criminal liability if, at the time of committal, if they have not reached the age of 18 and the age difference between them does not exceed 2 years.</p> <p>■ Article 77</p> <p>(1) When determining punishment, the following shall be considered as aggravating circumstances: n) the commission of a crime by abusing one's trust.</p>
Montenegro	<p>■ Article 206</p> <p>Sexual intercourse by Abuse of a Position</p> <p>The basic form of this criminal offence consists in instigating to sexual intercourse or an equal act a person who is in a subordinate or dependent position compared to the perpetrator, while the instigation may not involve coercion. A severe form of the criminal offence prescribed in paragraph 2 exists if a teacher, instructor, guardian, adoptive parent, parent, stepfather, stepmother or some other person performs sexual intercourse or an equal act with a juvenile entrusted to him/her for teaching, education, care and attendance by abusing his/her position or authorization. Paragraph 3 prescribes another severe form of this offence, which exists if this criminal offence is committed against a child, with the intent of the perpetrator encompassing the qualifying circumstance, i.e. that the victim is a person who has not attained 14 years of age. The most severe form of the offence is set out in paragraph 5, and it exists in the case that the commission of the offence referred to in paragraph 3 resulted in the death of a child.</p>
Netherlands	<p>■ Article 249</p> <p>1. The person who sexually abuses his own child, step child or foster child, his pupil, a minor entrusted to his care, instruction or supervision, or a minor who is his servant or subordinate [...].</p> <p>2. The following persons will be liable to the same punishment:</p> <ul style="list-style-type: none"> ▶ A public servant who sexually abuses a person subject to his authority or entrusted or recommended to his care; ▶ The director, doctor, teacher, official, supervisor or service staff member of a prison, state institution for the care and protection of children, orphanage, hospital, or charitable institution, who sexually abuses a person admitted to such institution; ▶ The person who, when working in health care or social care, sexually abuses a person who has entrusted himself, as a patient or client, to the assistance or care of such care worker.

Criminal Code Provisions	
Portugal	<p>■ Article 171 – Sexual abuse of children</p> <p>1 – Whoever engages into a relevant sexual act with or on a minor under 14 years of age, or procures him to engage into such act with another person, is punished with imprisonment from one to eight years.</p> <p>2 – If the relevant sexual act consists of vaginal coitus, coitus per anum, oral coitus or vaginal or per anum penetration by parts of the body or objects, the offender is punished with imprisonment from three to ten years.</p> <p>3 – Whoever:</p> <p>a) Importunes a minor under 14 years of age, by engaging into the act provided for in article 170; or</p> <p>b) Acts over a minor under 14 years of age, by means of a pornographic conversation, writing, show or object; is punished with imprisonment for no more than three years;</p> <p>c) Entices a minor under 14 years of age to witness sexual abuse or sexual activities (Law 103/2015, 24 August) is punished with imprisonment up to 3 years.</p> <p>4 – Whoever engages into the acts described in the preceding paragraph with profitable intent is punished with imprisonment from six months to five years.</p> <p>5 – The attempt is punishable (Law 103/2015, 24 August).</p> <p>■ Article 172 - Sexual abuse of dependent minors</p> <p>1 – Whoever engages into or causes the engagement into the act provided for in paragraphs 1 or 2 of the preceding article, in relation to a minor between 14 and 18 years of age who has been entrusted to him for education or assistance, is punished with imprisonment from one to eight years.</p> <p>2 – Whoever engages into the act provided for in subparagraphs a) and b) of paragraph 3 of the preceding article, in relation to a minor referred to in the preceding paragraph and in the conditions mentioned therein, is punished with imprisonment for no more than one year.</p> <p>3 – Whoever engages into the acts provided for in the preceding paragraph with profitable intent is punished with imprisonment, up to 5 years (Law 103/2015, 24 August).</p> <p>4. The attempt is punishable (Law 103/2015, 24 August).</p> <p>■ Article 173 – Sexual activities with adolescents</p> <p>1 – Whoever, being of age, engages into a relevant sexual act with a minor between 14 and 16 years of age, or leads him to engage therein with another person, abusing from the minor's inexperience, is punished with imprisonment up to two years (Law 103/2015, 24 August).</p> <p>2 – If the relevant sexual act consists of vaginal coitus, oral coitus, coitus per anum or vaginal or per anum penetration by parts of the body or objects, the offender is punished with imprisonment up to 3 years (Law 103/2015, 24 August).</p> <p>3 – The attempt is punishable (Law 103/2015, 24 August).</p> <p>■ Article 177 - Aggravation</p> <p>1 – The sentences provided for in articles 163 to 165 and 167 to 176 are aggravated by one third, in their minimum and maximum limits, if the victim:</p> <p>a) Is the offender's ascendant, descendant, adoptive parent, adopted child, relative or in-law up to the second degree; or</p> <p>b) Has a family or co-habitation relationship, tutorship or curatorship towards the offender or is in hierarchical, economic or work dependence of him and the crime is committed by taking advantage of such relationship (Law 103/2015, 24 August).</p>

Criminal Code Provisions	
	<p>2 – The aggravations laid down in the preceding paragraph are not applicable in the cases provided for subparagraph c) of paragraph 2 of article 169 and subparagraph c) of paragraph 2 of article 175 (Law 83/2015).</p> <p>3 – The sentences provided for in articles 163 to 167 and 171 to 174 are aggravated by one third, in their minimum and maximum limits, if the offender has a sexually transmissible disease.</p> <p>4 – The sentences provided for in articles 163 to 168 and 171 to 175 and in paragraphs 1 and 2 of Article 176 and in paragraph 176-A are aggravated by one third, in their minimum and maximum limits, if the crime is committed jointly by two people or more (Law 103/2015, 24 August).</p> <p>5 – The sentences provided for in articles 163 to 168 and 171 to 174 are aggravated by one half, in their minimum and maximum limits, if from the behaviours described therein results pregnancy, grievous bodily injury, transmission of a pathogenic agent which endangers the victim's life or causes his suicide or death.</p> <p>6 – The sentences provided for in articles 163 to 165, 168, 174, 175 and paragraph 1 of article 176 are aggravated by one third, in their minimum and maximum limits, if the victim is less than 16 years of age (Law 103/2015, 24 August).</p> <p>7 – The sentences provided for in articles 163 to 165, 168, 174, 175 and paragraph 1 of article 176 are aggravated by one half, in their minimum and maximum limits, if the victim is less than 14 years of age (Law 103/2015, 24 August).</p> <p>8 – If more than one of the circumstances referred to in the preceding paragraphs occur in the same conduct, only the one with the strongest aggravation effect is considered for purposes of determination of the applicable sentence, the remaining ones being considered for purposes of the extent of the sentence.</p>
Romania	<p>■ Article 220</p> <p>(3) The offence provisioned for in paragraph (1), committed by an adult with a minor aged between 13 and 18, when the adult abused their authority or influence over the victim</p> <p>(4) higher penalties if</p> <p>a) the minor is a direct line relative or a sibling;</p> <p>b) the minor is under the perpetrator's care, protection, education, custody or treatment.</p>
San Marino	<p>■ Article 173 - Sexual abuse of minors or persons unable to consent or resist</p> <p>Anyone committing the offences set out in the two previous articles without violence, threat or deception against children under the age of fourteen years or persons who are unable to resist owing to specific physical or mental conditions shall be subject to the punishments established in said articles. The offender shall not plead ignorance of the minor age of the victim in excuse of his conduct.</p> <p>■ Article 171 - Violation of sexual freedom</p> <p>Anyone who, using violence, threat, hypnosis or other appropriate means, compels or misleads a person to lewd acts; is punished by third-degree imprisonment. If the offence is committed by an ascendant, an adopting parent, a guardian, an educator, a teacher, a health worker or by a person entrusted with the custody of a child for supervision, education, training or care purposes, fourth degree disqualification from parental authority, guardianship, profession or art shall be jointly applied.</p>
Serbia	<p>■ Article 181 - Sexual Intercourse through Abuse of Position</p> <p>(1) Whoever by abuse of position induces to sexual intercourse or an equal act a person who is in a subordinate or dependent position, [...]</p>

Criminal Code Provisions	
	<p>(2) Teacher, tutor, guardian, adoptive parent, stepfather or other person who through abuse of his position or authority has sexual intercourse or commits an act of equal magnitude with a juvenile entrusted to him for learning, tutoring, guardianship or care [...]</p> <p>(3) Higher penalty if the offence specified in paragraph 2 of this Article is committed against a child [...];</p> <p>■ Article 197 - Incest</p> <p>An adult who engages in sexual intercourse or an act of equal magnitude with an underage relative by blood, or an underage sibling.</p>
Spain	<p>■ Article 182</p> <p>Whoever, by deceit or abuse of a recognised position of trust, authority or influence on the victim, engages in acts of sexual nature with a person over the age of sixteen and under the age of eighteen, shall be punished with a sentence of imprisonment from one to three years.</p> <p>■ Article 183</p> <p>(...) The conducts foreseen in the preceding three numbers shall be punished with the relevant sentence of imprisonment in its upper half when any of the following circumstances concur:</p> <p>(...) d) When, in order to execute the offence, the offender has availed himself of a superiority or relationship, due to being the ascendant, descendent of brother, biological, adopted or in-law of the victim.</p> <p>(...) In all the cases foreseen in this Article, when the offender has availed itself of his condition as an authority, agent or public offender thereof, the punishment of absolute barring from six to twelve years shall also be applied.</p> <p>■ Article 192</p> <p>(...) The ascendants, tutors, carers, minders, teachers or any other person in charge de facto or de jure of the minor or incapacitated person, who acted as principals or accomplices of commit the felonies included in this Title (Felonies against sexual freedom and indemnity), shall be punished with the relevant punishment, in its upper half.</p> <p>This rule shall not be applied when the circumstance it contains is specifically included in the definition of the crime concerned.</p> <p>The Judge or Court of Law may also hand down a reasoned punishment of special barring from the exercise of parental rights, guardianship, care, safekeeping, public employment and office or practice of the profession or trade for the term of six months to six years, or permanent deprivation of parental rights. Those convicted of the offences of sexual abuse and assault on children under the age of sixteen years or prostitution, sexual exploitation and corruption of minors shall be punished with special barring from any paid or unpaid profession or trade involving direct contact with minors (...) (the term depends on whether or not they have been previously imposed a punishment of imprisonment).</p>
“The former Yugoslav Republic of Macedonia”	<p>■ Article 189 - Statutory Rape by abuse of position</p> <p>(1) A person who with abusing their position will indicate statutory rape or other sexual acts who against him is in relation of subordinate or dependent or with the same mistreats him, intimidating or treating him in a manner that degrades human dignity and the human person, shall be punished with imprisonment of at least five years.</p> <p>(2) If the crime under paragraph (1) of this article shall perform blood relatives in a straight line or a brother or sister, teacher, educator, adoptive parent, guardian, stepfather, stepmother, doctor or other person by abusing of position or by performing family violence commits statutory rape or other sexual acts with a child under 14 years who has been entrusted to him for learning, education, custody or care, shall be punished with imprisonment of at least ten years.</p>

Criminal Code Provisions	
Turkey	<p>■ Article 103 - Sexual Abuse</p> <p>Any attempt at physical contact with the child with a sexual aim [...]. Under this article, all kinds of sexual attempt against children who are under the age of fifteen or against those attained the age of fifteen but lack of ability to understand the legal consequences of such act, as well as sexual abuse of other children by ... or any other reason having an influence on the will of the child.</p> <p>■ Article 103 (3)</p> <p>In case of performance of sexual abuse by antecedents, second or third degree blood relations, step father, guardian, educator, trainer, nurse and other persons rendering health services and responsible from protection and observation of the child, or by undue influence based on public office.</p>
Ukraine	<p>■ Article 156</p> <p>Commission of activities aimed at corrupting an individual under the age of 16: higher penalty if such activities are committed [...] by the father, mother or an individual performing their functions [...].</p>

Table B - Issues concerning the criminal offence of sexual abuse in general (Article 18§1(a) and (b), 1st and 3rd indent)

	Under the legal age for sexual activities (letter a)	Where use is made of coercion, force or threats (letter b, 1st indent)	Where abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
Albania	<p>■ Article 100 "Sexual or homosexual relations/intercourse with minors/children"</p> <p>Having sexual or homosexual relations with children that are less than 14 years old, or with a female child, who is not sexually matured, is punished by imprisonment from seven to fifteen years.</p> <p>■ Article 107/a „Sexual Violence"</p> <p>Exercise of sexual violence, by performing actions of a sexual nature in the body of another person with objects.</p> <p>When this offense is committed against a minor who has not attained the age of fourteen years or a minor who has not reached sexual maturity, regardless of whether is conducted violently or not it shall be sentenced by imprisonment of not less than twenty years.</p> <p>■ Article 108 "Serious immoral acts"</p> <p>Serious immoral acts conducted with minors under the age of fourteen are punishable by up to five years of imprisonment.</p>	<p>■ Article 101 "Sexual or homosexual intercourse by violence with a minor who is fourteen-eighteen years old"</p> <p>Having sexual or homosexual relations by violence with children that are fourteen to eighteen years old, who is sexually matured is punished by imprisonment from five to fifteen years.</p> <p>■ Article 104 "Sexual or homosexual relations under gun threat"</p> <p>Having sexual or homosexual relations, by threatening the damaged person through the use of a gun, is sentenced with imprisonment from five to ten years.</p> <p>■ Article 107/a "Sexual Violence"</p> <p>Exercise of sexual violence, by performing actions of a sexual nature in the body of another person with objects, constitutes a criminal offense and is sentenced with imprisonment from three to seven years.</p>	<p>■ Article 103 "Sexual or homosexual relations with people unable to defend themselves"</p> <p>Having sexual or homosexual relations, taking advantage of the physical or mental disability or state of unconsciousness, shall be punished by imprisonment from five to ten years.</p>
Austria	<p>■ Section 206 CC - Severe sexual abuse of minors</p> <p>Sexual intercourse or sexual acts equal to sexual intercourse with a minor (= person under the age of 14 years).</p> <p>■ Section 207 - Sexual abuse of minors</p> <p>Other sexual acts than the ones covered by Section 206 with a minor.</p>	<p>■ Section 201 - Rape</p> <p>Sexual intercourse or sexual acts equal to sexual intercourse performed by using force, deprivation of liberty or dangerous threat.</p> <p>■ Section 202 - Sexual coercion</p> <p>Coercing a person by using force or dangerous threat to sexual acts.</p>	<p>■ Section 205 - Sexual abuse of a defenceless or psychologically impaired person</p> <p>■ Section 207b - Sexual abuse of juveniles</p> <p>Sexual activities</p> <ol style="list-style-type: none"> 1. with juveniles under the age of 16 years who are not sufficiently mature to understand the meaning of a sexual act or to act according to this understanding 2. juveniles under the age of 18 years abusing a position of vulnerability of the juvenile.

	<u>Under the legal age</u> for sexual activities (letter a)	Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable</u> situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
Belgium	<p>■ Article 372</p> <p>Any indecent assault committed without violence or threats against the person or with the assistance of the person of a child of either sex aged under sixteen years.</p> <p>■ Article 375</p> <p>Any act of sexual penetration, of whatever nature and by whatever means, committed on the person of a child who has not reached the age of fourteen years shall be deemed to constitute rape by means of violence.</p>	<p>■ Article 373</p> <p>Indecent assault committed with violence or threats against persons of either sex shall be punished by six months' to five years' imprisonment.</p> <p>If the assault was committed against the person of a minor aged sixteen years or over, [...].</p> <p>■ Article 375</p> <p>Any act of sexual penetration, of whatever nature and by whatever means, committed on a person who does not consent to it shall constitute the crime of rape.</p> <p>In particular, there is no consent where the act is forced by means of violence, coercion or ruse [...].</p> <p>Rape</p>	<p>■ Article 375</p> <p>Any act of sexual penetration committed on a person who does not consent to it shall constitute the crime of rape. In particular, there is no consent where the act was [...] made possible by an infirmity or physical or mental disability of the victim.</p> <p>■ Article 376</p> <p>If the rape or indecent assault was committed against a person whose situation of vulnerability due to age, pregnancy, sickness, infirmity or a physical or mental disability was apparent or known to the perpetrator or under the threat of a weapon or a similar object [...].</p>
Bosnia and Herzegovina	Sexual intercourse with a child (up to 14 years)	Rape	Sexual intercourse with a helpless person. Sexual intercourse with a powerless person.
Bulgaria	<p>■ Article 149</p> <p>(1) A person who performs an act for the purpose of arousing or satisfying sexual desire, without copulation, with a person under 14 years of age, shall be punished for lewdness with imprisonment of one to six years. (...)</p> <p>■ Article 151</p> <p>(1) A person who has sexual intercourse with a person who has not completed the age of 14 years, insofar as the act does not constitute a crime under Article 152, shall be punished with imprisonment of two to six years.</p>	<p>■ Article 150</p> <p>1) A person who performs a particular activity with the purpose to stimulate or satisfy a sexual desire without sexual intercourse with respect to a person who has completed the age of 14 years by using force or intimidation, by using his/her helpless condition or through driving him/her to such a condition or by using his/her state of dependency or supervision, shall be punished with imprisonment of two up to eight years.</p> <p>■ Article 152 (1) Who copulates with a female person:</p> <ol style="list-style-type: none"> 1. unable to defend herself and without her consent; 2. by compelling her to it by force or threat; 3. by bringing her to a helpless state, shall be punished for rape by imprisonment of two to eight years. 	<p>■ Article 150</p> <p>(1) A person who performs a particular activity with the purpose to stimulate or satisfy a sexual desire without sexual intercourse with respect to a person who has completed the age of 14 years by using force or intimidation, by using his/her helpless condition or through driving him/her to such a condition or by using his/her state of dependency or supervision, shall be punished with imprisonment of two up to eight years.</p> <p>(...)</p> <p>(3) Where the act under para. 1 is committed against a person who does not understand the meaning of the act, or the act constitutes a particularly serious case the punishment shall be imprisonment from three to ten years.</p>

	<p><u>Under the legal age</u> for sexual activities (letter a)</p>	<p>Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)</p>	<p>Where abuse is made of a <u>particularly vulnerable situation</u> of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
	<p>■ Article 155a</p> <p>(2) The penalty under para. 1 shall be imposed on those who, through technology, or in any other way make contact with a person under 14 years of age to commit fornication, copulation, c sexual intercourse, to reate pornographic material or to participate in pornographic performance.</p> <p>■ Article 155b</p> <p>(1) Anyone, who persuades a person under the age of 14 years, to participate or watch real, virtual or simulated sexual intercourses between individuals of the same or different sex, lascivious depiction of sexual organs, sodomy, information and communication masturbation, sexual sadism or masochism, shall be punished with imprisonment for a term of up to five years.</p> <p>■ Article 159</p> <p>(6) A person who possesses or provides for himself or for another person through an information and communication technology or in another manner a pornographic material in whose creation a person who has not turned 18 years of age has been used or a person who looks like such a person, shall be punished with imprisonment of up to one year and a fine of up to BGN 2,000.</p> <p>(7) The punishment under para. 6 shall be imposed on those who, through information and communication technology consciously access the pornographic material, for the creation of which a person under 18 years of age, or a person who looks like that has been used.</p>	<p>Article 155</p> <p>(4) Who persuades or compels another person to use narcotic substances or their analogues for the purpose of prostituting, copulation, fornication or carrying out sexual intercourse or act of sexual satisfaction with a person of the same sex, shall be punished by imprisonment of five to fifteen years and by a fine of ten thousand to fifty thousand levs.</p> <p>■ Article 155c</p> <p>Anyone who by using force or threat, or by using a position of vulnerability or supervision persuades a juvenile to participate in actual, virtual or simulated fornication, copulation, intercourse, including sodomy, masturbation, sexual sadism or masochism, and lustful depiction of sexual organs shall be punishable with imprisonment of up to five years.</p> <p>■ Article 158a</p> <p>(2) Whoever forces a person under 18 years of age, or a group of such persons to participate in a pornographic performance, shall be punished with imprisonment of one to six years.</p>	<p>■ Article 151</p> <p>(4) A person who has sexual intercourse with a person who has completed the age of 14 years, who does not understand the essence and meaning of the act, shall be punished with imprisonment of up to five years.</p> <p>■ Article 155</p> <p>(5) If the act under para 1-4 has been committed:</p> <p>2. against a person less than 18 years of age or insane.</p> <p>■ Article 155b</p> <p>(2) Where the act under para. 1 is committed:</p> <p>1. by using force or threat;</p> <p>2. by using position of dependency or supervision.</p> <p>■ Article 155c</p> <p>Anyone who by using force or threat, or by using a position of vulnerability or supervision persuades a juvenile to participate in actual, virtual or simulated fornication, copulation, intercourse, including sodomy, masturbation, sexual sadism or masochism, and lustful depiction of sexual organs shall be punishable with imprisonment of up to five years.</p>

	<u>Under the legal age</u> for sexual activities (letter a)	Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable situation</u> of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
Croatia	<p>■ Article 158</p> <p>(1) Sexual intercourse or a sexual act equated with sexual intercourse with a child under the age of fifteen [...];</p> <p>(2) Lewd acts with a child under the age of fifteen.</p>	<p>■ Article 152</p> <p>Sexual intercourse or a sexual act equated with sexual intercourse without this person's consent [...].</p> <p>(3) Consent referred to in paragraph 1 of this Article shall exist if the person decided of his/her own free will to engage in sexual intercourse or perform a sexual act equated with sexual intercourse and was capable of making and expressing such a decision. It shall be deemed that no such consent exists in particular if the sexual intercourse or the sexual act equated with sexual intercourse was performed by the use of threats or fraud, [...] or if it is performed against a person unlawfully deprived of liberty.</p> <p>■ Article 153 §1</p> <p>Whoever commits the offence referred to in Article 152, paragraph 1, of this Act by the use of force or threats of an imminent attack on the life or limb of the raped or other person → higher penalty.</p> <p>■ Article 154 §§1 and 2</p> <p>higher penalties if crime is committed against a victim especially vulnerable due to his/her age.</p> <p>■ Article 158 §5</p> <p>Sexual intercourse/equivalent sexual acts with a child under the age of 15 by means of the use of force or threats, of deception, of fraud, of abuse of authority or of a situation of hardship or dependence of the child on him/her → higher penalty</p>	<p>■ Article 152</p> <p>Sexual intercourse or a sexual act equated with sexual intercourse without this person's consent [...].</p> <p>(3) Consent referred to in paragraph 1 of this Article shall exist if the person decided of his/her own free will to engage in sexual intercourse or perform a sexual act equated with sexual intercourse and was capable of making and expressing such a decision. It shall be deemed that no such consent exists in particular if the sexual intercourse or the sexual act equated with sexual intercourse was performed [...] by abusing one's position towards a person who is in a situation of dependence with respect to the perpetrator, by exploiting a person's condition due to which the person was unable to express his/her refusal [...].</p>
Denmark	<p>■ Section 216 (2)</p> <p>Penalty for rape or sexual intercourse with a child under 12 years of age;</p>	<p>■ Section 216 (1)</p> <p>Who</p> <p>(i) uses violence or threats of violence to have sexual intercourse.</p>	<p>■ Section 218</p> <p>Exploiting the mental disorder or mental retardation of another person to engage in sexual intercourse with such person.</p>

	<p><u>Under the legal age</u> for sexual activities (letter a)</p>	<p>Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)</p>	<p>Where abuse is made of a <u>particularly vulnerable</u> situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
	<p>■ Section 222</p> <p>(1) sexual intercourse with a child under 15 years of age;</p> <p>(2) higher penalty when coercion or threats were used</p> <p>■ Section 225: same as other sexual activities</p>	<p>(ii) engages in sexual intercourse by duress as defined in Sec 260 or with a person who is in a state or situation in which he is incapable of resisting the act.</p> <p>■ Section 225</p> <p>Same as other sexual activities</p>	<p>■ Section 220</p> <p>Grossly exploiting another person's dependency of him for employment, financial, treatment or care reasons to engage in sexual intercourse with such person;</p> <p>■ Section 223 (2)</p> <p>Seducing a person under 18 years of age into sexual intercourse by grossly exploiting his superior age and experience;</p> <p>■ Section 225</p> <p>Same as other sexual activities</p>
<p>Finland</p>	<p>■ Section 6</p> <p>(1) Who by touching or otherwise performs a sexual act on a child younger than sixteen years of age, said act being conducive to impairing his or her development, or induces him or her to perform such an act [...].</p> <p>(2) Also a person who has sexual intercourse with a child younger than sixteen years of age, if the offence when assessed as a whole is not aggravated in the manner referred to in section 7, subsection 1, shall be sentenced for sexual abuse of a child. In addition, a person who acts in the manner referred to in subsection 1 or above in the present subsection with a child who has reached the age of sixteen but is younger than eighteen years of age, if the offender is the parent of the child or is in a position comparable to that of a parent and lives in the same household with the child, shall be sentenced for sexual abuse of a child.</p>	<p>■ Section 1</p> <p>(1) A person who forces another into sexual intercourse by the use or threat of violence directed against the person shall be sentenced for rape to imprisonment for at least one year and at most six years.</p> <p>(2) Also a person who, by taking advantage of the fact that another person, due to unconsciousness, illness, disability, state of fear or other state of helplessness, is unable to defend himself or herself or to formulate him or her, shall be sentenced for rape.</p> <p>(3) If the rape, taking into consideration the pettiness of the threat or the other circumstances connected with the offence, is less serious when considered as a whole than the acts referred to in subsections 1 or 2, the offender shall be sentenced to imprisonment for at least four months and at most four years. A person who forces another into sexual intercourse through other than the threat referred to in subparagraph 1 shall be sentenced in a similar manner. What is provided above in this subparagraph does not apply if violence has been used in the rape.</p>	<p>■ Section 1(2)</p> <p>Also a person who, by taking advantage of the fact that another person, due to unconsciousness, illness, disability, state of fear or other state of helplessness, is unable to defend himself or herself or to formulate or express his or her will, has sexual intercourse with him or her, shall be sentenced for rape.</p> <p>■ Section 4 (2)</p> <p>Who, by taking advantage of the fact that another person, due to unconsciousness, illness, disability, state of fear or other state of helplessness, is unable to defend himself or herself or to formulate or express his or her will, causes him or her to engage in or submit to the sexual act referred to in subsection 1, essentially violating his or her right of sexual self-determination;</p> <p>■ Section 5 (1)</p> <p>Who abuses his or her position and entices one of the following into sexual intercourse, into another sexual act essentially violating his or her right of sexual self-determination, or into submission to such an act,</p>

	<p>Under the legal age for sexual activities (letter a)</p>	<p>Where use is made of coercion, force or threats (letter b, 1st indent)</p> <p>■ Section 4 (1)</p> <p>Who by violence or threat coerces another into a sexual act other than that referred to in section 1 or into submission to such an act, thus essentially violating his or her right of sexual self-determination</p>	<p>Where abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
			<p>(1) [...]</p> <p>(2) a person younger than eighteen years of age, whose capacity of independent sexual self-determination, owing to his or her immaturity and the age difference of the persons involved, is essentially inferior to that of the offender, where the offender blatantly takes advantage of this immaturity;</p> <p>(3) a patient in a hospital or other institution, whose capacity to defend himself or herself is essentially impaired owing to illness, handicap or other infirmity, or</p> <p>(4) a person who is especially dependent on the offender, where the offender blatantly takes advantage of this dependence.</p>
<p>France</p>	<p>■ Article 227-25 of the Penal Code</p> <p>A sexual offence committed without violence, coercion, threats or surprise by an adult on the person of a minor under 15 years of age shall be punished by five years' imprisonment and a fine of 75 000 euros.</p> <p>■ Article 227-26</p> <p>The offence set out under Article 227-25 shall be punished by ten years' imprisonment and a fine of 150 000 euros:</p> <p>1) where it was committed by an ascendant or by any other person having legal or de facto authority over the victim;</p> <p>2) where it was committed by a person abusing the authority conferred by his position.</p>	<p>■ Article 222-22</p> <p>Sexual aggression is any sexual assault committed by violence, coercion, threats or surprise.</p> <p>■ Article 222-22-2</p> <p>Coercing a person by violence, threats or surprise to undergo a sexual assault by a third party shall also constitute sexual aggression.</p> <p>■ Article 222-23</p> <p>Any act of sexual penetration, whatever its nature, committed against another person by violence, coercion; threats or surprise shall be considered rape.</p> <p>Rape shall be punished by fifteen years' imprisonment.</p> <p>■ Article 222-27</p> <p>Sexual aggressions other than rape shall be punished by five years' imprisonment and a fine of 75 000 euros.</p>	<p>■ Article 223-15-2</p> <p>Fraudulently abusing the ignorance or state of weakness of a minor, or of a person whose particular vulnerability due to age, sickness, infirmity, a physical or psychological disability or pregnancy is apparent or known to the offender, or abusing a person in a state of physical or psychological dependency resulting from serious or repeated pressure or from techniques used to affect his judgement, in order to induce the minor or other person to act or abstain from acting in any way seriously harmful to him shall be punished by three years' imprisonment and a fine of 375 000 euros.</p> <p>Where the offence is committed by the legal or de facto head of a group that carries out activities the aim or effect of which is to create, maintain or exploit the psychological or physical dependency of those who participate in them, the penalty shall be increased to five years' imprisonment and to a fine of 750 000 euros.</p>

	<p>Under the legal age for sexual activities (letter a)</p>	<p>Where use is made of coercion, force or threats (letter b, 1st indent)</p>	<p>Where abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
		<p>■ Article 222-29-1 Sexual aggressions other than rape shall be punished by ten years' imprisonment and a fine of 150 000 euros where they are committed against a minor under fifteen years of age.</p>	<p>■ Article 222-29 Sexual aggressions other than rape shall be punished by seven years' imprisonment and a fine of 100 000 euros where they are committed against a person whose particular vulnerability due to age, sickness, infirmity, a physical or psychological disability or pregnancy is apparent or known to the perpetrator.</p>
<p>Greece</p>	<p>No specific information provided</p>	<p>No specific information provided</p>	<p>No specific information provided</p>
<p>Iceland</p>	<p>■ Article 202 Any person who has sexual intercourse or other sexual relations with a child under the age of [15 years], shall be imprisoned for [a minimum of 1 year and a maximum of 16 years]. Punishment may be reduced or waived if the perpetrator and the victim are of similar age or level of maturity. Sexual harassment of a type other than that specified in the first paragraph of this article shall be punishable by imprisonment of up to [6 years]. Any person who, by deception, gifts or in any other way entices a [child] [under the age of 18 years] to engage in sexual intercourse or other sexual relations shall be imprisoned for up to 4 years. Any person who, by communications over the Internet, other information technology or telecommunications equipment or in another manner arranges a meeting with a child under the age of 15 for the purpose of having sexual intercourse or other sexual relations with the child or to harass the child sexually in another manner shall be imprisoned for up to 2 years.</p>	<p>■ Article 194 Any person who has sexual intercourse or other sexual relations with a person by means of using violence, threats or other unlawful coercion shall be guilty of rape and shall be imprisoned for a minimum of 1 year and a maximum of 16 years. 'Violence' here refers to the deprivation of independence by means of confinement, drugs or other comparable means. [...] ■ Article 195 When punishment for violations of Article 194 is determined, it shall be considered as increasing the severity of the punishment: a. if the victim is a child under the age of 18, b. if the violence employed by the perpetrator is of serious proportions, c. if the offence is perpetrated in such a way as to cause particular pain or injury.</p>	<p>■ Article 194 [...] Exploiting a person's psychiatric disorder or other mental handicap, or the fact that, for other reasons, he or she is not in a condition to be able to resist the action or to understand its significance, in order to have sexual intercourse or other sexual relations with him or her, shall also be considered as rape, and shall result in the same punishment as specified in the first paragraph of this Article.</p>

	<p><u>Under the legal age</u> for sexual activities (letter a)</p>	<p>Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)</p>	<p>Where abuse is made of a <u>particularly vulnerable situation</u> of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
<p>Italy</p>	<p>If the connection between the perpetrator and the child is as described in the first paragraph of Article 200 or the first paragraph of Article 201, this shall be accounted as an aggravating factor in determining punishment, providing that the second sentence of paragraph 1 of this Article does not apply.</p> <p>■ Article 609quater</p> <p>the penalty set forth in Article 609 bis, except for the cases envisaged by the said article, shall be imposed on whomever perpetrates sexual acts with a person who, at the time of the acts:</p> <ol style="list-style-type: none"> 1) is under fourteen; 2) is under sixteen, when the offender is the ascendant, parent, including a foster parent, or his/her live-in partner, the guardian, or other person entrusted with the child's care, education, instruction, supervision or custody or with whom the child lives. 	<p>■ Article 609bis</p> <p>Any person who, by violence or threat, or by abuse of authority, forces a person to perform or suffer sexual acts [...]</p> <p>■ Article 609ter</p> <p>Higher penalties in case the victim was under 10/14 years</p>	<p>■ Article 609bis (2) no 1</p> <p>The same penalty shall be imposed on any person who induces a person to perform or suffer sexual acts:</p> <ol style="list-style-type: none"> 1. abusing the victim's condition of mental or physical deficiency at the time of the act.
<p>Lithuania</p>	<p>■ Article 151 (1)</p> <p>"Satisfaction of sexual desires by violating a minor's freedom of sexual self-determination and/or inviolability"</p> <p>An adult person who has sexual intercourse or otherwise satisfied his sexual desires with a person younger than sixteen years, in the absence of characteristics of a rape, sexual assault or sexual abuse [...].</p>	<p>■ Article 149 (1) - Rape</p> <p>A person who has sexual intercourse with a person against his will by using physical violence or threatening the immediate use thereof or by otherwise depriving of a possibility of resistance [...];</p> <p>■ Article 150 (1) - Sexual assault</p> <p>A person who, against a person's will, satisfies his sexual desires through anal, oral or interformal intercourse by using physical violence or by threatening the immediate use thereof.</p> <p>Higher penalty if the victim is a child.</p>	<p>■ Article 149 (1)</p> <p>A person who has sexual intercourse with a person against his will by [...] taking advantage of the helpless state of the victim.</p> <p>■ Article 150 (1)</p> <p>A person who, against a person's will, satisfies his sexual desires through anal, oral or interformal intercourse by [...] taking advantage of the helpless state of the victim [...].</p>
<p>Luxembourg</p>	<p>■ Article 372 (3)</p> <p>Indecent assault committed against the person or with the assistance of the person of a child of either sex aged under sixteen years.</p>	<p>■ Article 372 (2)</p> <p>Indecent assault committed with violence or threats against persons of either sex.</p>	<p>■ Article 375 (2)</p> <p>Any act of sexual penetration, of whatever nature and by whatever means, committed on the person of a child aged under sixteen years shall be deemed to constitute rape committed by abusing a person unable to give free consent.</p>

	<u>Under the legal age</u> for sexual activities (letter a)	Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable</u> situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
	<p>■ Article 375 (2)</p> <p>Any act of sexual penetration, of whatever nature and by whatever means, committed on the person of a child aged under sixteen years shall be deemed to constitute rape committed by abusing a person unable to give free consent.</p>	<p>■ Article 375 (1)</p> <p>Any act of sexual penetration, of whatever nature and by whatever means, committed on a person who does not consent to it, in particular by means of serious threats or violence, by ruse or deceit, or by abusing a person unable to give free consent or to resist, shall constitute rape and shall be punished by five to ten years' imprisonment.</p>	
Malta	No specific information provided	No specific information provided	No specific information provided
Republic of Moldova	<p>■ Article 174 (Sexual intercourse with a person under the age of 16):</p> <p>Sexual intercourse other than rape, as well as any other acts of vaginal or anal penetration, committed with a person certainly known to be under the age of 16.</p> <p>■ Article 175 - Perverted actions</p> <p>The commission of perverted actions against a person certainly known to be under the age of 16, consisting of the exhibition of indecent touching, obscene or cynical discussions held intercourse with the victim on the determination of the victim to participate or to assist in pornographic performances, making the victim pornographic material and other actions with sexual character.</p>	<p>■ Article 171 line 2 letter b) Rape, i.e. sexual intercourse committed by the physical or mental coercion of the person;</p> <p>■ Article 172 line 2 letter b)</p> <p>Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person.</p> <p>■ Article 172 line 3 letter a)</p> <p>Homosexuality or satisfying sexual needs in perverted forms committed through the physical or mental coercion of the person committed to a juvenile under the age of 14.</p>	<p>■ Article 171 line 2 letter b)</p> <p>Rape, i.e. sexual intercourse committed [...] by taking advantage of the victim's incapacity to defend himself/herself or to express himself/herself.</p> <p>■ Article 172 line 2 letter b)</p> <p>Homosexuality or satisfying sexual needs in perverted forms committed [...] by taking advantage of the person's incapacity to defend himself/herself or to express himself/herself.</p> <p>■ Article 172 line 3 letter a)</p> <p>Homosexuality or satisfying sexual needs in perverted forms committed [...] by taking advantage of the person's incapacity to defend himself/herself committed to a juvenile under the age of 14.</p> <p>■ Article 77 - Aggravating Circumstances</p> <p>Abusing by taking advantage of a particularly vulnerable situation of the child, especially mental or physical disability or a situation of dependence.</p>

	<u>Under the legal age</u> for sexual activities (letter a)	Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable</u> situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
Montenegro	<p>■ Article 206 - Sexual intercourse with a child</p> <p>This criminal offence has a basic and two severe forms. Paragraph 1 criminalizes sexual intercourse or an equal act with a child. The Montenegrin criminal law defines a child as a person under the age of 14. Persons aged 14 to 18 are considered junior and senior juveniles. Severe forms of the criminal offence are prescribed taking into account the severe consequences, while paragraph 4 provides the basis for exclusion of the existence of a criminal offence if there is no significant difference in the mental and physical maturity of the perpetrator and the child.</p> <p>Regulating the criminal offence of sexual abuse, Article 18, paragraph 2 of the Council of Europe Convention provides that each Party shall decide the age below which it is prohibited to engage in sexual activities with a child. No reasonable person could argue the necessity to sanction sexual acts against persons who have not reached the required level of mental and physical development for engaging into sexual relations.</p>	<p>■ Article 204 - Rape</p> <p>The basic form of this criminal offence consists in the compulsion to sexual intercourse or an equal act by force or threat of a direct attack on life or limb of that or some other person. The essence of this criminal offence fully corresponds to the solutions adopted in the European criminal law, according to which the perpetrator and the victim may be persons of both sexes, while the act of execution includes sexual intercourse and a similar act, or unnatural fornication. The criminal offence has two severe forms that differ according to the prescribed sanctions. A severe form of paragraph 3 includes the aggravating circumstances such as the occurrence of serious bodily injury to a passive subject, or if the offence was committed by more than one person or if it was committed in a particularly cruel or humiliating manner or if the offence was committed against a juvenile or has resulted in a pregnancy. Paragraph 4 provides the most severe form of the offence that exists in the event of death or if the offence was committed against a child.</p>	<p>■ Article 205 - Sexual intercourse with a helpless person</p> <p>This criminal offence includes the sexual intercourse or an equal act with another person, taking advantage of a person's mental illness, arrested mental development or other mental alienation, helplessness or some other state of that person due to which s/he is not capable of resistance. The criminal offence has two severe forms that include the occurrence of serious bodily injury to a passive subject, if the offence is committed by more than one person, or if it is committed in an especially cruel and humiliating manner, or if it is committed against a juvenile or has resulted in pregnancy. The most severe form of the criminal offence exists in the case of death of a passive subject, or if the offence was committed against a child.</p>
Netherlands	<p>■ Article 244</p> <p>The person who commits acts, with a person below the age of twelve, that consist, or consist in part, of the sexual penetration of the body [...];</p> <p>■ Article 245</p> <p>The person who commits indecent acts, with a person who has reached the age of twelve but not yet the age of sixteen, outside of a marriage, which consist, or consist in part, of the sexual penetration of the body [...];</p> <p>■ Article 247</p> <p>The person [...] who commits indecent acts with a person below the age of sixteen, outside of a marriage, or induces the latter person to commit or tolerate such acts outside of a marriage with a third party [...]</p>	<p>■ Article 242</p> <p>The person who, by an act of violence or another hostile act or by a threat of violence or other hostile act, forces someone to undergo acts that consist, or consist in part, of the sexual penetration of the body [...];</p> <p>■ Article 246</p> <p>The person who, by an act of violence or another hostile act or by a threat of violence or other hostile act, forces someone to commit or to tolerate indecent acts</p>	<p>■ Article 243</p> <p>The person who commits acts that consist, or consist in part, of the sexual penetration of the body, with a person who he knows to be in a state of unconsciousness, reduced consciousness or a condition of being physically helpless or unable to resist or to be suffering from such limited development or pathological disorder of his mental faculties that he is not, or insufficiently, able to determine or express his will in that respect or to resist such acts [...]</p>

	Where abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)	Where use is made of coercion, force or threats (letter b, 1st indent)	Under the legal age for sexual activities (letter a)	
<p>Portugal</p> <p>■ Article 171 - Sexual abuse of children</p> <p>1 – Whoever engages into a relevant sexual act with or on a minor under 14 years of age, or procures him to engage into such act with another person, is punished with imprisonment from one to eight years.</p> <p>2 – If the relevant sexual act consists of vaginal coitus, coitus per anum, oral coitus or vaginal or per anum penetration by parts of the body or objects, the offender is punished with imprisonment from three to ten years.</p> <p>3 – Whoever:</p> <p>a) Importunes a minor under 14 years of age, by engaging into the act provided for in article 170; or</p> <p>b) Acts over a minor under 14 years of age, by means of a pornographic conversation, writing, show or object is punished with imprisonment for no more than three years.</p> <p>c) Entices a minor under 14 years of age to witness sexual abuse or sexual activities (Law 103/2015, 24 August)</p> <p>is punished with imprisonment up to 3 years.</p> <p>4 – Whoever engages into the acts described in the preceding paragraph with profitable intent is punished with imprisonment from six months to five years.</p> <p>5 – The attempt is punishable (Law 103/2015, 24 August).</p>	<p>■ Article 163 - Sexual coercion</p> <p>1 – Whoever, by means of violence, serious threat or after having rendered, for such purposes, another person unconscious or unable to resist, constrains such person to submit to, or to engage into, with himself or with a third party, a relevant sexual intercourse is punished with imprisonment from one to eight years.</p> <p>2 – Whoever, by any means other than those provided for in the preceding paragraph constrains another person to submit to, or to engage into a relevant sexual act with himself or with a third party, is punished with imprisonment up to 5 years. (Law 83/2015, 5 August)</p> <p>■ Article 164 - Rape</p> <p>1 – Whoever, by means of violence, serious threat or after having rendered, for such purposes, another person unconscious or unable to resist, constrains such person:</p> <p>a) to submit to, or to engage into, vaginal coitus, coitus per anum or oral coitus with himself or with a third party; or</p> <p>b) to submit to vaginal or anal penetration by parts of the body or objects;</p> <p>is punished with imprisonment from three to ten years.</p> <p>2 – Whoever, by means not included in the preceding paragraph, constrains another person:</p> <p>a) to engage into or to practice, with himself or others, intercourse, anal or oral coitus; or</p> <p>b) to undergo vaginal or anal introduction of objects or body parts;</p> <p>is punished with imprisonment of 1 to 6 years (Law 83/2015, 5 August).</p>	<p>■ Article 172 - Sexual abuse of dependent minors</p> <p>1 – Whoever engages into or causes the engagement into the act provided for in paragraphs 1 or 2 of the preceding article, in relation to a minor between 14 and 18 years of age who has been entrusted to him for education or assistance, is punished with imprisonment from one to eight years.</p> <p>2 – Whoever engages into the act provided for in subparagraphs a) and b) of paragraph 3 of the preceding article, in relation to a minor referred to in the preceding paragraph and in the conditions mentioned therein, is punished with imprisonment for no more than one year.</p> <p>3 – Whoever engages into the acts provided for in the preceding paragraph with profitable intent is punished with imprisonment, up to 5 years (Law 103/2015, 24 August).</p> <p>4 – The attempt is punishable (Law 103/2015, 24 August).</p> <p>■ Article 165 - Sexual abuse of a person unable to resist</p> <p>1 – Whoever engages into a relevant sexual act with an unconscious person or a person unable to resist due to any other reason, taking advantage of that person's state of inability, is punished with imprisonment from six months to eight years.</p> <p>2 – If the relevant sexual act consists of vaginal coitus, coitus per anum, oral coitus or vaginal or per anum penetration by parts of the body or objects, the offender is punished with imprisonment from two to ten years.</p>		

	<p><u>Under the legal age</u> for sexual activities (letter a)</p>	<p>Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)</p>	<p>Where abuse is made of a <u>particularly vulnerable situation</u> of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)</p>
	<p>■ Article 173 - Sexual activities with adolescents</p> <p>1 – Whoever, being of age, engages into a relevant sexual act with a minor between 14 and 16 years of age, or leads him to engage therein with another person, abusing from the minor's inexperience, is punished with imprisonment up to two years (Law 103/2015, 24 August)</p> <p>2 – If the relevant sexual act consists of vaginal coitus, oral coitus, coitus per anum or vaginal or per anum penetration by parts of the body or objects, the offender is punished with imprisonment up to 3 years (Law 103/2015, 24 August)</p> <p>3 – The attempt is punishable. (Law 103/2015, 24 August).</p>		
<p>Romania</p>	<p>■ Article 220</p> <p>Sexual act with a minor:</p> <p>(1) Sexual intercourse, oral or anal sexual act, as well as any other vaginal or anal penetration acts committed with a minor aged between 13 and 15 shall be punished with 1 to 5 years imprisonment.</p> <p>(2) Higher penalty if victim was under 13 years.</p> <p>Higher penalties for the offence provisioned for in paragraphs (1) - (3) when:</p> <p>a) the minor is a direct line relative, or a sibling;</p> <p>b) the minor is under the perpetrator's care, protection, education, custody or treatment.</p> <p>■ Article 221</p> <p>Sexual corruption of a minor:</p> <p>(1) Committing a sexual nature act, other than as provisioned for in Article 220, against a minor who has not turned 13, as well as determining the minor to do or have done on them such an act.</p>	<p>■ Article 218</p> <p>Rape:</p> <p>(1) The sexual intercourse, oral or anal sexual act with a person, committed by means of coercion, rendering the victim in the impossibility to defend themselves or to express their will and taking advantage of that condition;</p> <p>(2) [...] any other acts of vaginal or anal penetration committed under the conditions of paragraph (1);</p> <p>Higher penalty if perpetrator is a relative.</p> <p>■ Article 219</p> <p>Sexual assault:</p> <p>The sexual nature act, other than as provisioned for in Article 218, with a person, committed by means of coercion, rendering the victim in the impossibility to defend themselves or to express their will and taking advantage of that condition [...]</p>	<p>---</p>

	Under the legal age for sexual activities (letter a)	Where use is made of coercion, force or threats (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable</u> situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
San Marino	<p>■ Article 173 - Sexual abuse of minors or persons unable to consent or resist</p> <p>Anyone committing the offences set out in the two previous articles without violence, threat or deception against children under the age of fourteen years or persons who are unable to resist owing to specific physical or mental conditions shall be subject to the punishments established in said articles. The offender shall not plead ignorance of the minor age of the victim in excuse of his conduct.</p>	<p>■ Article 171 - Violation of sexual freedom</p> <p>Anyone who, using violence, threat, hypnosis or other appropriate means, compels or misleads a person to lewd acts, is punished by third-degree imprisonment. If the offence is committed by an ascendant, an adopting parent, a guardian, an educator, a teacher, a health worker or by a person entrusted with the custody of a child for supervision, education, training or care purposes, fourth degree disqualification from parental authority, guardianship, profession or art shall be jointly applied.</p> <p>■ Article 172 - Aggravating circumstance</p> <p>Anyone committing sexual copulation under the circumstances provided for in the previous article is punished by a term of imprisonment increased by one degree.</p>	<p>■ Article 173 - Sexual abuse of minors or persons unable to consent or resist</p> <p>Anyone committing the offences set out in the two previous articles without violence, threat or deception against children under the age of fourteen years or persons who are unable to resist owing to specific physical or mental conditions shall be subject to the punishments established in said articles.</p>
Serbia	<p>■ Article 180 - Sexual intercourse with a child</p> <p>(1) Whoever has sexual intercourse or commits an equal act against a child [...].</p>	<p>■ Article 178 - Rape</p> <p>(1) Whoever by using of force or a threat of direct attack against at person's body or the body of another forces that person to copulation or an equivalent act [...];</p> <p>(2) If the offence referred to in paragraph 1 of this Article is committed under threat of disclosure of information against such person or another that would discredit such person's reputation or honour, or by threat of other grave evil [...].</p>	<p>■ Article 179 - Sexual Intercourse with a Helpless Person</p> <p>(1) Whoever has sexual intercourse with another or commits an equal act by taking advantage of such person's mental illness, mental retardation or other mental disorder, disability or some other state of that person due to which the person is incapable of resistance [...].</p>
Spain	<p>■ Article 183</p> <p>Whoever engages in acts of sexual nature with a child under the age of sixteen years shall be convicted of sexual abuse of the child, with a sentence of imprisonment from two to six years.</p>	<p>■ Article 183</p> <p>When the acts are committed by means of violence or intimidation, the offender shall be convicted of the offence of sexual assault of the child, with the punishment of five to ten years imprisonment. The same punishments shall be imposed when the offender compels a child under the age of sixteen years to engage in acts of sexual nature with a third party or on himself using violence or intimidation.</p>	<p>■ Article 183</p> <p>(...) The conducts foreseen in the preceding three numbers shall be punished with the relevant sentence of imprisonment in its upper half when any of the following circumstances concur:</p> <p>(...) a) When the scarce intellectual or physical development of the victim, or a mental disorder has caused a situation of total defencelessness and, under all cases, when under four years old.</p>

	Under the legal age for sexual activities (letter a)	Where use is made of coercion, force or threats (letter b, 1st indent)	Where abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
<p>“The former Yugoslav Republic of Macedonia”</p>	<p>■ Article 188 - Sexual assault of a child under 14</p> <p>(1) A person who commits statutory rape or other sexual act on a minor under 14 years, shall be punished with imprisonment of at least twelve years.</p>	<p>■ Article 188 - Sexual assault of a child under 14</p> <p>(1) A person who commits statutory rape or other sexual act on a minor under 14 years, shall be punished with imprisonment of at least twelve years.</p> <p>■ Article 189 - Statutory rape by abuse of exhibition</p> <p>(1) A person who with abusing their position will indicate statutory rape or other sexual acts who against him is in relation of subordinate or dependent or with the same mistreats him, intimidating or treating him in a manner that degrades human dignity and the human person, shall be punished with imprisonment of at least five years.</p> <p>(2) If the crime under paragraph (1) of this article shall perform blood relatives in a straight line or a brother or sister, teacher, educator, adoptive parent, stepfather, stepmother, doctor or other person by abusing of position or by performing family violence commits statutory rape or other sexual acts with a child under 14 years who has been entrusted to him for learning, education, custody or care, shall be punished with imprisonment of at least ten years.”</p>	<p>■ Article 189 - Statutory rape by abuse of exhibition</p> <p>(1) A person who with abusing their position will indicate statutory rape or other sexual acts who against him is in relation of subordinate or dependent or with the same mistreats him, intimidating or treating him in a manner that degrades human dignity and the human person, shall be punished with imprisonment of at least five years.</p> <p>(2) If the crime under paragraph (1) of this article shall perform blood relatives in a straight line or a brother or sister, teacher, educator, adoptive parent, guardian, stepfather, stepmother, doctor or other person by abusing of position or by performing family violence commits statutory rape or other sexual acts with a child under 14 years who has been entrusted to him for learning, education, custody or care, shall be punished with imprisonment of at least ten years.”</p>
<p>Turkey</p>	<p>■ Article 103</p> <p>Sexual Abuse</p> <p>Any attempt at physical contact with the child with a sexual aim [...]. Under this article, all kinds of sexual attempt against children who are under the age of fifteen or against those attained the age of fifteen but lack of ability to understand the legal consequences of such act, as well as sexual abuse of other children by force, threat or fraud, or any other reason having an influence on the will of the child.</p>	<p>■ Article 103</p> <p>Sexual Abuse</p> <p>sexual abuse of children by force, threat or fraud, or any other reason having an influence on the will of the child.</p> <p>■ Article 109</p> <p>Unlawfully restricting the freedom of a person by preventing him from travelling or living in a place [...]. The fact that the victim is a child or that the offence was committed with a sexual aim are among the aggravated circumstances of such offence.</p>	<p>■ Article 103</p> <p>Sexual Abuse</p> <p>Any attempt at physical contact with the child with a sexual aim, shall be sentenced with imprisonment. Under this article, all kinds of sexual attempt against children . who [...] attained the age of fifteen but lack of ability to understand the legal consequences of such act [...].</p>

	<u>Under the legal age</u> for sexual activities (letter a)	Where use is made of <u>coercion, force or threats</u> (letter b, 1st indent)	Where abuse is made of a <u>particularly vulnerable situation</u> of the child, notably because of a mental or physical disability or a situation of dependence (letter b, 3rd indent)
	<p>■ Article 104</p> <p>Any person who is in sexual intercourse with a child who completed the age of fifteen without using force, threat and fraud, is sentenced to [...] upon filing of a complaint.</p> <p>■ Article 105</p> <p>Sexual molestation without physical contact.</p>		
Ukraine	<p>■ Article 155</p> <p>Sexual intercourse with an individual who has not reached puberty.</p> <p>■ Article 156</p> <p>Corruption of minors;</p> <p>Commission of activities aimed at corrupting an individual under the age of 16 [...];</p> <p>Higher penalty if victim is a minor (= under 14 years).</p> <p>■ Articles 156, 125, 126, 121, 122 or 129</p> <p>Corruption preceded or taking place alongside beating, physical damage or death threats.</p>	<p>■ Articles 152 and 153</p> <p>Rape and forceful satisfaction of sexual passion by unnatural means committed against an individual under the age of majority or a minor.</p>	---

Table C - Data collection (DC) on child sexual abuse (CSA) within the circle of trust (CT) (Article 10§2(b))

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
Albania	Data collected by law enforcement sector : General Directorate of Police; <i>aggregate data</i> on: type of criminal act committed against children (domestic violence/ sexual exploitation/ abuse/ trafficking)/ age of victim/ gender of victim/ whether the offender is also a child				
Austria	Data collected by: Law enforcement sector : Austrian Federal Office of Criminal Investigation ("Police Crime Statistics") <i>aggregate data</i> regarding both victims and offenders: age/ gender/ relationship between victim and perpetrator Justice sector : Courts and public prosecution offices ("Austrian Court Automation") <i>case-based data</i> regarding both victim and offender; variables registered for victim: name/ nationality/ gender/ date of birth NGOs : Child Protection Centers <i>aggregate data</i>			Federal Ministry responsible for Family and Youth does not collect data	Welfare sector : Youth welfare authorities <i>aggregate data</i> regarding children that receive welfare services (interventions): age/ gender/ legal circumstance/ not the concrete reason of intervention
Belgium	<ul style="list-style-type: none"> ▶ Juridical (parquets) and law enforcement (police) ▶ Data concerning child abuse and neglect coming from convictions (how many persons (sex and age) were convicted for these kinds of crimes) are available ▶ Also (child protection agencies): <p><i>In the Flemish Community</i>: Kind en Gezin (Flemish agency for the rights of the children)</p> <p><i>In the Wallonia-Brussels Federation</i>: 1. <i>L'Office de la naissance et de l'enfance</i> (O.N.E. a public organization of the French community in Belgium for the childhood), 2. 14 SOS Enfants groups (psychosocial type of information), 3. Services for Youth in need</p> <ul style="list-style-type: none"> ▶ <i>Aggregate data</i> ▶ <i>Case-based data</i>: Access: Juridical sector (Secretary of the "parquet"); Variables: Type of maltreatment, Relation victim-offender as well: 		No special mechanisms of the federal services for CSA data collection. Such data derive from the SOS Enfants and the Services for Youth in need.		

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	<p>In the Flemish Community: Presumption of a concrete situation of maltreatment or neglect, Risk of maltreatment or neglect, General concern for the well-being of the child</p> <p>In the Wallonia- Brussels Federation: type of service given by the SOS Enfants team, duration of clinical evaluation, characteristics of the education of the child, the average number of the services involved in a child maltreatment case, profile characteristics of the offender</p>				
Bosnia and Herzegovina	Data collected by: Ministry of Human Rights and Refugees , which gathers the information from the social welfare, health, education, law enforcement and justice sectors including NGOs implementing the Strategy for Combating Violence against Children; <i>Aggregated data</i> concerning the victim: age/ type and form of violence				Ministry of Security is gathering data from the police, prosecutor's offices, social care centres, NGOs and other relevant agencies with regard to the issue of human trafficking
Bulgaria	Data collected by Social Welfare sector: State Agency for Child Protection; they gather <i>aggregated and case-based data</i> that all child protection departments at municipal level keep: filling a specially developed information card concerning the <u>victim</u> and the <u>offender</u> ; variables: type of violence/ place/ age of victim/ family status of victim/ profile of the reporter/ profile of the offender/ measures taken				
Croatia	Data concerning <u>all criminal acts</u> (here including sexual abuse and exploitation of children) collected by: Ministry of Interior <i>Aggregated data</i> relationship between <u>victim</u> and <u>offender</u> is registered by choosing among 95 different options; data collected by the police	<p>State Attorney's Office of the Republic of Croatia, which gathers the data from all District Attorney's Offices and then enters them into the Case Tracking System</p>	Since data shows the relationship between the victim and the offender, this allows for a search for CSA cases within the CT		Social welfare centres keep records of the application of the provisions of the Family Act that come within their area of competence. The said centres forward data to the Ministry of Social Policy and Youth which then processes the said data and drafts annual reports that are available to the public on the Ministry's website. The section Protection of the Rights of the Child and Child Welfare provides, among others, the following information (some of which refer to child abuse and, in particular, child sexual abuse):

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
		<p><u>Aggregated data</u> concerning each criminal act provided by law; variables: number of committed criminal offences, number of injured persons, number of offenders, Relationship between victim and offender is also registered</p> <p>Criminal records of perpetrators</p> <p>Ministry of Justice gathers data on convictions</p>			<ul style="list-style-type: none"> ▶ the number of reported cases of child abuse by type of violence and abuser; ▶ the number of reported cases of child abuse by source of filed report.
Denmark	Data collected by: National Board of Social Services , which gathers the data from all Child Advocacy Centers concerning all children that receive help in the Centers (the Child Advocacy Centers collect obligatory data on the personal identification number of the child victim, how the case came to the authorities attention, the character of the offence, the offender's relationship with the child victim and the Child Advocacy Centers assistance to the child victim and family. Furthermore, other none obligatory data may be collected by the Child Advocacy Centers in specific cases).		The Prosecution Service collects data on criminal cases concerning sexual abuse of children and data on the perpetrator.		
Finland	Police and judicial statistics: criminal records (Legal Register Centre)				
France	Data collected by: Social Welfare sector				
		<p>National Observatory on the Rights of the Child (O.N.E.D.) collects data from all regional authorities and services on child abuse and neglect cases, <u>case-based data</u></p> <p>Judicial sector</p> <p>All terminal judicial decisions related to child abuse offences including child sexual abuse cases are recorded to the CASSIOPE electronic database, <u>case based data</u></p>			

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
Greece	Each agency keeps its own records (e.g. Police, District Attorney, Hospitals, NGOs, local welfare services)				<p>The Institute of Child Health, a public organization, collected data on abuse and neglect of children for 2010-2012</p> <p>The Institute of Child Health is currently developing a pilot national database for professionals (sectors of education, health, social welfare, law enforcement and justice) to register incidents of abuse or neglect of children</p>
Iceland	Data collected by: Social Welfare sector : the Government Agency for Child Protection , an autonomous agency under the authority of Ministry of Welfare, <i>case-based data</i> ; variables: cases reported to the local child protection services, number of court testimonies by children, number of police investigations referred to the State Prosecution, indictments – sentencing		In regards to the CT, analysis of statistical data from investigative interviews in Barnahus for the past three years		<p>Given that there is mandatory reporting of all cases of suspected sexual abuse and exploitation to the local child protection services, the data collected annually by GACP are comprehensive and include all cases that are dealt with by other agencies such as the police, the prosecution and the health services</p>
Italy	A national database on sexual abuse and sexual exploitation of children is set up as provided in law n.38/2006, by the Observatory for the fight against pedophilia and child pornography , established at the Presidency of the Council of Ministers - Department for Equal Opportunities . The database contains data provided by the Ministry of the Interior , the Department for Juvenile Justice of the Ministry of Justice and by Istat .				<p>Information System on the care and protection of children and their families collects <i>case-based data</i> on children followed by local social services, variables: profile of the child (age, gender, etc) / profile of the parents (age, educational level, etc) / family conditions / evaluation of the case and action taken</p>

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	<p>Data are collected by</p> <p>Ministry of Interior (police crime reports to the Judicial authorities)</p> <p>Social Services who treat victims of sexual abuse</p> <p>Institute for Political, Social and Economic Studies (Eurispes)</p> <p>Coordinated Italian Services against child abuse (CISMAI)</p> <p>Project S.In.Ba.: variables: profile of child, profile of parents, profile of family, actions taken</p>				<p>Ministry of Justice, Department of Juvenile Justice carried out a study on child victims and child offenders of sexual offences for the years 2011-2012, <i>aggregated data</i>; variables: nationality, gender, age group, relationship, actions taken</p> <p>National Centre for Documentation and Analysis of Children and Adolescence in Florence: feasibility study; an analytical approach mainly focused on child victims of sexual violence</p>
Lithuania	<p>Data collected by</p> <p>Social Welfare sector (Ministry of Social Security and Labor): Information System of Social Support to Family (SPIS)</p> <p><i>aggregative data</i> on victims (gender is indicated), distinction whether the perpetrator was in the circle of trust or not Ministry of Interior, Information Technology and Communications Department</p> <p>Offenders (suspects) and victims are registered into the <u>Departmental Register of Criminal Acts</u>: name/ nationality/ gender/ date of birth/ age/ education/ employment/ description of criminal act.</p>	<p>Ministry of Interior, Information Technology and Communication Department;</p> <p>Offenders (suspects, accused and convicts) are registered into the <u>Register of Suspects, Accused and Convicts</u>: name/ nationality/ gender/ date of birth/ data of criminal case/ decisions of prosecution service and court/ sanctions/ data concerning execution of sanctions.</p>			

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
Luxembourg	No data collection neither by the Public Prosecution nor by the Ministry of Justice				
Malta	Data collected by: Social Welfare sector: Agenzija Appogg (National Agency for Children, Families and the Community), which is part of the Foundation for Social Welfare Services, <i>case based data</i> come from the inputs of <u>Child Protection Service</u> into the Access Database. <i>aggregative data:</i> the Foundation for Social Welfare Service's Research Office processes these data and publishes annual and biannual reports	Justice sector: registration of (sexual and other) offenders who commit serious crimes against minors		No focal point has been identified with regards to statistical data on victims and offenders within the CT.	
Republic of Moldova	Justice / law enforcement sectors: Interdepartmental Order to record data on children victims of crimes related to child abuse and neglect and especially of child sexual abuse including the relation between child and offender case-based data	Justice / law enforcement sectors: Data collected on a number of crimes against children offenders including personal data on offending persons and their relation to children - victims	Police, customs and general prosecution services are obliged to send pictures and video recordings of child pornography, their metadata, information regarding identified persons, and other information to a centralised informational system ("The Child Protection») set up within the Centre for combating cyber crimes (Ministry of Internal Affairs)		Data collected by Social Welfare sector: <u>Social Assistance Automated Information System</u> = tool for social workers; domestic violence & human trafficking <i>Case-based data</i> include all the beneficiaries of social services (e.g. victims of domestic violence or trafficking, persons affected by HIV, persons with disabilities)
Montenegro	Each institution/agency keeps its own records <u>Database on Child Protection</u> (national and local):				Though cases are reported to regional units of Police, Public Prosecutor's offices and social welfare centers, few cases are addressed before courts

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	<u>Case-based data</u> Health care institution keep records in paper form				Problems in the procedure of reporting, identification of child victims, inter-agency cooperation, investigation and prosecution of cases
Netherlands			The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the Children's Ombudsman, the Healthcare Inspectorate, the Minister of Security and Justice, the periodical reports on the implementation of the UN Convention on the Rights of the Child and the hotline for online child pornography (" <u>meldpunt kinderporno</u> grafie op internet"), provide statistical data on sexual abuse of children in the circle of trust.		
Portugal	Data collected by: Justice / law enforcement sectors: Criminal Police (Polícia Judiciária) holds a database (SIC) with all reported crimes; processes <u>case-based data</u> and gives also <u>aggregate data</u> (statistics) regarding each crime. Ministry of Health: in the process of developing electronically registered information				

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	<p>Justice / law enforcement sectors:</p> <p>with regards to <u>sexual offences committed against children</u>: sexual abuse of children, sexual abuse of dependent minor, sexual activities with adolescents, child pornography, recruitment of minors for prostitution/ type of relationship between the perpetrator and the victim</p>				
Romania	<p>Data by:</p> <p>Social Welfare sector</p> <p>Ministry of Labor, Family, Social Welfare and Elders, Directorate for the Protection of Children collects data at national level <u>aggregated data</u> on sexual abuse and exploitation</p> <p>The 47 Directorates General for Social Work and Child Protection, (DGSWCP) collect <u>case based data</u> on local level.; these data are collected on the basis of the mandatory reporting on cases of child abuse by any person or institution</p>				<p>National Agency against Trafficking in Persons (ANITP) keeps the <u>Integrated System for Monitoring and Assessing Victims Database</u>: data on trafficked children for the purpose of exploitation in any possible way</p>
San Marino	<p>Justice Sector:</p> <p>Due to the singularity of Magistrate's Court there both <u>case based and aggregative data</u> each year in regards to crimes against minors including information on age/type of abuse/ sex/ intervention applied. Such data are submitted to the Parliament and then to civil society annually in the form of an Annual Report</p>				

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	<p>Social Welfare/Health Sector: Authority for Equal Opportunities, Health Authority and Protection of Minors' and adolescents'. Service also cooperate in recording <i>case based and aggregative data</i> of child maltreatment including child sexual abuse data bearing also properties as indicated above in the case of Justice statistical data.</p>				
Serbia	<p>Data collected by: Social Welfare sector Ministry of Labor, Employment & Social Policy; Centers for Social Work maintain records of registered victims (domestic violence, sexual abuse) and offenders, without a specific mandate to evaluate sexual abuse <i>case-based data</i></p> <p>Health sector Institute of Public Health has created a database to collect <i>case-based data</i> of possible CAN cases including child victims and their alleged perpetrator; it is anticipated to operate soon; data by healthcare institutions</p>			<p>In Centers for Social Work, as well as within social welfare system generally, there are no coordinators or focal points in place to statistically observe and evaluate sexual abuse of children.</p>	<p>Ministry of Interior, the Institute for Public Health collects data on human trafficking</p> <p>Republic Institute for Statistics: collects data provided by others</p>
	<p>Health sector Ministry of Health; <u>Medical record</u>; <i>case based data</i> only for victims variables: Name and surname, name and surname of one parent-guardian, gender, date and year of birth, marital status, city, municipality and country of residence and birth and citizen's individual identification number</p>	<p>Justice sector <u>Republican Public Prosecutor's Office</u> keep records on perpetrators of crimes and their case's course</p>			

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
	Ministry of Health; <u>Registry Book</u> ; keeping track of health conditions and diseases, including cases of suspected cases of child abuse and neglect				
Spain	Data collected by: Health/Welfare sector Ministry of Health, Social Services and Equality in cooperation with the Autonomous Regions keeps a national on-line database with <i>case based data</i> of reports of child abuse cases (<u>Unified Register of Child Abuse (RUMI)</u>). All protection services have access to it; variables registered: age/ sex/ type of abuse/ severity of abuse/ origin of report/ nationality of victim Ministry of Health, Social Services and Equality; <i>aggregated data</i> , data by: protection services; variables: age, sex, type of abuse, origin of notification, nationality of the victim, degree of abuse		Health/Welfare sector: <u>Ministry of Health, Social Services and Equality</u> collects data on child sexual abuse based on cases recorded by Autonomous Regions. Social services, schools, health services and the police report these cases through notification sheets to primary care social centres and public entities responsible for the protection of minors in each Region. <i>case based data</i> (notification records) Law Enforcement sector <u>Ministry of Home Affairs</u> ; "Plans of Action against the Sexual Exploitation of Children and Adolescents"; <i>aggregated data</i> <u>Ministry of Home Affairs</u> keeps records for crimes committed (including sexual abuse and exploitation against minors)		

Country	Mechanisms for general DC on child abuse and neglect		DC especially for CSA or particularly on CSA in the CT	Appointment of focal points with a particular mandate for CSA DC	Other relevant information or remark
	Victim	Offender			
"The former Yugoslav Republic of Macedonia"	Social Welfare Sector: Within the auspices of Ministry of Labor and Social Police in the Resource Center for children at social risk operating within the Public Institution – Institute for Social Activities, data are collected and records are kept for all children at risk that the Centers for Social Work are working with.				
Turkey					Within the years 2014-2018 a database will be created in order to keep track of cases of child abuse and exploitation (follow-up and monitoring mechanism)
Ukraine	Justice / law enforcement sectors: Data collected on a number of crimes provided for by CCU concerning sexual violence <i>case-based data</i>				

NOTES:

In the Table above characteristics checked and presented include: 1. Sector of data collection (juridical, law enforcement, social welfare, health, education, other) 2. The nature of data collection mechanism, viz. whether referring to aggregative data or case-based data. In the second instance of case-based data collection mechanisms the features cross-checked include: 1. Access of professionals 2. Variables registered (i.e. Child, Offender, Family-caregivers, Siblings-roommates, Reporter, Duration and multiplicity, History of child/family, Claims of the child, Consequences, Other indicators, etc).

Wherever it is mentioned "relationship" it implies "relationship between the victim and the offender". Wherever in the second column the sub-categories of victim and offender are merged, the data collection mechanisms whether refers to both or to registering of the offence or in any case it is not particularly referring to victims or offenders. Wherever there is blank space there is no particular reference found in the replies of the parties.

Table D - Best interest of the child in investigations and criminal proceedings concerning sexual abuse of children in the circle of trust (Article 30§1)

	<p>■ Article 30, para. 1 Legislative or other measures taken to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim of sexual abuse in the circle of trust</p>
<p>Albania</p>	<ul style="list-style-type: none"> ▶ The Criminal Code is based on [...] the protection of the best interest of the child (Article 1/c of the Criminal Code).
<p>Austria</p>	<ul style="list-style-type: none"> ▶ The criminal police, the public prosecutor's office or the court have to take into account the victim's rights and interests (Section 10 §2 of the CCP); ▶ it is compulsory for the interrogations of a child (witness) who has not completed the age of 14 to have a person of trust (confidant); ▶ larger prosecution authorities are required to establish departments of specially trained prosecutors competent for violence against children committed by persons of a socially close position and other forms of domestic violence.
<p>Belgium</p>	<ul style="list-style-type: none"> ▶ Victims of offences and their close family must be treated in a proper and conscientious manner, particularly by supplying them with the necessary information and, if appropriate putting them in contact with the specialised services and notably with the justice counsellors. Victims receive inter alia useful information on conditions of joinder to criminal proceedings as damages claimant and for the injured person's declaration; ▶ the police put persons asking for aid or assistance in contact with the specialised services (Article 46 of the Code of Criminal Procedure); ▶ for each police precinct, a "youth and family" service (composed of at least one person) specialised in questions regarding juveniles; ▶ special attention to reception, practical assistance, information, drafting of a report and referral of victims, emphasising in each instance the specific approaches at each of these stages which are required for child victims generally and victims of sexual violence; ▶ victims' assistance services which are offered at all levels (police authorities, judicial authorities and the help sector) to victims generally and in particular to victims of sexual exploitation and sexual abuse; ▶ taking statements via audio-visual media.
<p>Bosnia and Herzegovina</p>	<ul style="list-style-type: none"> ▶ When the injured party in the criminal proceedings is a child or a juvenile, while a judge of the juvenile division, that is, the Panel whose president is a judge of the juvenile division or a judge with special knowledge (Article 184 §1 of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings of the RS); ▶ child or a juvenile to whose detriment the criminal offence was committed shall be treated with particular care in view of his/her age, personality, education and the circumstances (Criminal Procedure Code of the Federation of Bosnia and Herzegovina, Article 100(4)); ▶ a child or a juvenile shall as a rule be examined in the presence of a pedagogue, psychologist or another professional; ▶ examination may be conducted two times maximum; ▶ audio or audio-visual recording of examination of juveniles under the age of 16 (Criminal Procedure Code of the FBiH, Article 100(5)); Criminal Procedure Code of the RS, Article 279); ▶ prosecutor or authorised official person not being in the same room with the witness (the questions shall be asked through the court); ▶ a child or a junior juvenile may be examined in his/her flat or another place where (s)he spends his/her time, or in a social care centre; ▶ when parents demand to attend examination of an injured party, particular care shall be required and the opinion by a psychologist, pedagogue or another professional, or other evidence indicating such necessity should be obtained; ▶ a person injured by a criminal offence cannot be asked about his/her sex life prior to the criminal offence subject to the proceedings.

Bulgaria	<ul style="list-style-type: none"> ▶ The safeguards for best interest of the child victim and enjoyment of his/her rights in the investigation stage and during the judicial proceeding are enshrined in the special Child Protection Act; ▶ the main safeguards for the best interest of the child are envisaged in Article 15 of the CPA, where is regulated the child involvement in proceedings; ▶ the hearings conditions, the participation of a representative from the SAD and presentation of the social report, the right of the child of legal aid and complaints in all proceedings which affects his/her rights or interests. (see Child Protection Act).
Croatia	<ul style="list-style-type: none"> ▶ The Law on Juvenile Courts extends the protection of the children victims to the age of 16, when children victims are questioned for the criminal offences referred in article 113 of the said Act; ▶ the questioning takes place in a room where the child is located without either the judge or the parties being present and is conducted via audio-visual link; ▶ the questioning takes place with the assistance of a social educator, a social worker or a psychologist, if not contrary to the interests of the child, then in the presence of a parent or a guardian or in the presence of a person whom the child trusts; ▶ the videotaped questioning will always be transcribed; ▶ only exceptionally and provided this is done in the same manner as the first time may the child be re-questioned; ▶ when questioning a child, special care must be taken in order to avoid the questioning having a harmful effect on the child's mental condition; ▶ criminal proceedings in which the victim is a child take place without the presence of the public (Article 44 of the CPA).
Denmark	<ul style="list-style-type: none"> ▶ The police informs the child victim of its rights and the services at its disposal; ▶ the child victim will receive the name and telephone number of a contact person from the police service whom the child can call and talk to about the case; ▶ the child victim will receive information about important steps in the investigation; ▶ interviews with a child victim or witness up to and including the age of 12 may be videotaped, and the videotaped interviews may be used as evidence during court proceedings; ▶ when the recording of a videotaped interview with a victim of rape or sexual abuse within the family is played in court, the victim may request that the court proceedings be held in camera; ▶ the court may decide that the accused has to leave the courtroom while the victim testifies.
Finland	<p>The general rules on investigations and criminal proceedings apply to all cases regardless of the relationship between the child and the alleged offender.</p> <p>No further information.</p>
France	<p>France had already adopted the necessary legislative measures or regulatory measures for criminal investigations and proceedings to be held in accordance with the child's best interests and rights cf. replies to question 21 GOQ.</p>
Greece	<ul style="list-style-type: none"> ▶ No particular legal or formal provisions for specific measures taken in order to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim in cases where the alleged perpetrator is a member of the victim's family or has otherwise been in a recognised position of trust or authority towards him/her; ▶ under prosecuting procedures often the best interests of the child represent a primary theme of consideration in cases of child sexual victimization within the circle of trust. However, given that most often professionals involved are untrained in matters of sexual abuse or children's rights, occasionally there might be incidents in which operational procedures (for prosecution, etc.) might be prioritized instead.

Iceland	<ul style="list-style-type: none"> ▶ According to Article 40 in The Law on Criminal Procedure the police is obligated to inform the victim on its legal rights when needed. The police is also obligated to inform the victim if the investigation is closed. The victim has the right to justification on that matter. Furthermore, the police is obligated to inform the victim that the decision is open to appeal to the State Prosecutor. The police is also obligated to inform the victim or its legal counsel when an indictment is issued, if the victim has no knowledge in that regard; ▶ the child victim is most often heard in a court testimony either in the <i>Barnahus</i> or special facility in the courthouse in Reykjavik. There are no restrictions on the child victims to supply evidence; ▶ in the <i>Barnahus</i> suspected offenders are not allowed on the premises except in the very exceptional cases when decided by the court judge, in which case special arrangements are made to prevent contact are made; ▶ all court hearings in cases of sexual abuse and sexual exploitation of children are closed hearings; ▶ other information that should be kept in confidence should also be removed from judgements before they are published.
Italy	<p>Investigations in the Italian legal systems are ruled by a principle of strict legality; consequently, even in cases where the alleged offender is a member of the victim's family or is in another close personal relationship, investigations will always only aim at ascertaining criminal liability, protecting the victim at the same time through the measures described above.</p>
Lithuania	<ul style="list-style-type: none"> ▶ Cases of crimes and misdemeanours against freedom of sexual self-determination and inviolability may be heard in camera; ▶ a juvenile witness or a victim under eighteen years of age is, as a rule, examined during a pre-trial investigation not more than once; ▶ video and audio recording may be made during their examination; ▶ a juvenile witness or a victim under eighteen years of age is summoned to a sentencing hearing only in exceptional cases; ▶ for the protection of a juvenile witness or a victim under eighteen years of age a pre-trial judge by a ruling may prohibit the suspect and other participants of the proceedings; ▶ with the exception of a representative from a state child rights protection institution or a psychologist, to be present in the premises where examination is carried out; ▶ upon the request of the participants of the proceedings or upon the initiative of a pre-trial investigation officer, prosecutor or pre-trial judge, a representative from a state child rights protection institution or a psychologist must be summoned to the examination of a juvenile witness or a victim under eighteen years of age, who help to question a minor with regard to his social and psychological maturity (Article 186 of the CPC).
Luxembourg	<ul style="list-style-type: none"> ▶ The Code of Criminal Investigation does not prescribe any different procedure for these cases, so that the usual rules apply; ▶ nevertheless, the youth welfare arm of the prosecution department, specifically in charge of centralising all such case files, is responsible for ensuring compliance with the child's best interests; ▶ if the prosecution department considers that the child continues to be in danger or needs specific attention, it refers the case to the juvenile judge whom it requests to take the necessary protective measures.
Malta	<ul style="list-style-type: none"> ▶ Hearing of vulnerable witnesses by means of a contemporaneous video conference - this is used to allow children to testify in the quiet of the magistrate's/judge's chambers without being present in front of the perpetrator; ▶ Child Protection Services strives to ensure that the rights of the child are upheld at all moments, acting as champions and advocates for the needs and wellbeing of children in such situations.
Republic of Moldova	<p>Respect for the rights, freedoms and human dignity - for when a minor victim or witness will act to meet its interests at any stage of the criminal process (Art. 10 §6 Code of Criminal Procedure).</p>

Montenegro	<ul style="list-style-type: none"> ▶ Urgency of procedures, taking into account the interests and welfare of the victim (within the framework of Gender Equality Programme IPA 2010); ▶ victims have the right to free legal aid.
Netherlands	<p>Referred to question 9 of thematic questionnaire :</p> <ul style="list-style-type: none"> ▶ Several special protection measures for victims, such as: the Temporary Domestic Exclusion Order Act and the Temporary Domestic Exclusion Order Decree, and easily accessible youth care (Youth Care Act). Moreover, the Child Care and Protection Board can request the court to impose a child protection measure, such as: a family supervision order, discharge of parental authority or relief from parental authority.
Portugal	<p>Provisions aim at the protection of childhood, specially through the explicit inscription of the principle of the protection of the best interests of the child (Article 4 of the Law on the Protection of Children and Youngsters at Risk): the intervention should primarily serve the interests and rights of the children and young persons in particular on the continuity of the relationships of affection and quality and meaningful relationships without prejudice to the consideration that is due to other legitimate interests within the plurality of the interests in the present case.</p>
Romania	<ul style="list-style-type: none"> ▶ Judicial bodies have the obligation to inform the victims of crimes about: services and organizations which provide psychological counselling or any other forms of assistance to victims, depending on their needs, the law enforcement agency where they can file a complaint, the right to legal assistance and the institution where they can exercise this right, conditions and the procedure for granting free legal assistance, procedural rights of the injured person and of the civil party, conditions and the procedure to benefit from the provisions of art. 13 of the Code of criminal procedure, as well as the provisions of Law No. 682/2002 concerning witness protection, as subsequently amended and supplemented, conditions and the procedure for granting financial compensation by the state, the right to be informed, in case the defendant will be deprived of liberty or convicted to imprisonment, about his release in any way, according with the Code of criminal procedure; ▶ if the public trial could affect the moral, dignity or private life of a person or the interests of children, the court can, upon request of the prosecutor, parties or ex officio, declare the hearing not-public for its entire duration or just for a certain part of the trial.
San Marino	No reference to the best interest of the child
Serbia	<ul style="list-style-type: none"> ▶ State authorities that conduct/are involved in the procedure that is conducted for committed criminal offences against juveniles must have special knowledge in the field of the right of the child and criminal law protection of juveniles; ▶ questioning of a child or juvenile shall be conducted with the assistance of psychologist, pedagogue or other qualified person; ▶ questioning may be conducted at most twice, and exceptionally more if necessary to achieve the purpose of criminal proceeding; ▶ questioning of the juvenile with the aid of technical devices for transmitting of image and sound; ▶ juveniles may be questioned as witness victims in their apartment or other premises and/or authorised institution; ▶ proceeding in a manner that completely prevents the defendant from seeing the juvenile.
Spain	<p>Article 2 of the Organic Act 1/1996 on the Legal Protection of Minors, amended by Organic Act 8/2015, provides that all public and private measures concerning minors have to assess and consider primarily their best interest. As regards measures adopted by public and private authorities, courts and legislative bodies, the best interest of the child will prevail over any other legitimate interest. Furthermore, the measures carried out in the best interest of the child will ensure her/his right to be informed and heard and to participate in the proceedings as well. Qualified professionals or experts will also take part and a multidisciplinary group will report the measures concerning the child that are particularly relevant.</p> <p>On another point, article 23 of the Statute of Crime Victim Act states that minors' protection measures adopted throughout criminal proceedings will take into account their personal circumstances, immediate needs, age, genre, disability and maturity, and will fully respect their physical, mental and moral integrity.</p>

“The former Yugoslav Republic of Macedonia”	No reply to this specific question
Turkey	These measures may be that the child is taken from the mother and the father, a guardian is appointed, the child is taken under protection or given to foster care while being monitored by the state. An attorney is appointed to represent the child without seeking his/her request. In this way, the system ensures that the child's rights and best interests are guaranteed.
Ukraine	<ul style="list-style-type: none"> ▶ Interview of a child or an individual under the age of majority may not last more than one hour without breaks, and, overall not more than two hours per day; ▶ photographing, audio or/and video recording may be made during interviewing; ▶ a minor or an underage individual is interviewed in the presence of the legal representative, a pedagogue, or psychologist and a medical practitioner, if necessary; ▶ so-called “green room” method.

Table E - Possibility of removing the victim from his or her family environment and role of the best interest of the child principle in determining the conditions and duration of removal (Article 14§3)

<p>Albania</p>	<p>Based on Law No. 9669, dated 18.12.2006 "On Measures Against Domestic Violence" in cases of sexual abuse against a person (child) in family relationships, is required from the court an „Emergency Protection Order“. After evaluating the case, one of the measures that can be undertaken by court, is the immediate establishment of victim / s (minor) in temporary shelters, by considering in any case the best interests of the child (Article 10).</p> <p>Police together with Child Protection Units or State Social Services can intervene in cases of imminent danger to remove the child and take under protection (DCM 265, 2012, Instruction 10, 2015).</p>
<p>Austria</p>	<p>The Civil Code (Section 21) allows youth welfare authorities to remove a child from the family (persons responsible for their care) when it is in imminent danger. The youth welfare authorities have to apply by court for approval of this decision within eight days.</p> <p>The youth welfare law determines the conditions and duration of such removal as always the least severe measure possible has to be chosen (principle of subsidiarity in Section 1 par. 5 of the Federal Child and Youth Services Act).</p>
<p>Belgium</p>	<p>Paragraph 1:</p> <p>In the Flemish community: Decree of 12 July 2013 on comprehensive assistance to young persons</p> <p>■ Article 48 §1. The juvenile court and the juvenile judge may, after an application as provided in Article 47 (1), take the following measures:</p> <ol style="list-style-type: none"> 1° issue an educational directive to the minor's parents or where relevant to those in charge of his/her upbringing; 2° place the minor under the surveillance of the welfare department for one year at the most; 3° order contextual guidance for one year at the most; 4° require the minor to undergo an educational scheme for six months at the most or assign the minor to a scheme, possibly in conjunction with his/her parents or, where relevant, those in charge of his/her upbringing; 5° require the minor to make visits to a mobile facility for one year at the most; 6° allow a minor who has reached seventeen years of age and has an adequate income to live independently for one year at the most; 7° allow a minor who has reached seventeen years of age to live in a room under constant surveillance for one year at the most; 8° place the minor under the guidance of a reception and orientation centre for thirty days at the most; 9° place the minor under the guidance of an observation centre for sixty days at the most; 10° entrust the minor to a fostering candidate or a foster home as set out in article 14 (1) or (3) of the decree of 29 June 2012 organising family placement for three years at the most, whether or not in accordance with article 5 of the aforementioned decree; 11° exceptionally and for one year at the most, entrust the minor to an appropriate open establishment; 12° exceptionally and for three months at the most, entrust a minor who has reached fourteen years of age to an appropriate closed establishment if it is proven that the minor has evaded the measures referred to in paras. 10 and 11 on two or more occasions and that this measure is necessary to preserve the minor's personal integrity;

	<p>13° entrust the minor for one year at the most to a psychiatric clinic if it proves necessary after a psychiatric assessment.</p> <p>In the French community: Decree of 4 March 1991 on assistance to young persons</p> <p>■ Article 9: The measures and decisions taken by the adviser or the director of the assistance to young persons tend by priority to enhancing the vitality of the young person in his/her family living environment. However, if the young person's interest requires his/her withdrawal from care, the help provided should at all events ensure living and developmental conditions suited to his/her needs and age. The counsellor, director and juvenile court ensure, unless impossible or against the young person's interests, that he/she is not separated from siblings.</p> <p>■ Article 38 of the same decree provides that the juvenile court may, after establishing the need for use of compulsion, decide in exceptional situations that the child will be temporarily accommodated outside the family setting for treatment, upbringing, education or vocational training or to enable the child, if aged over sixteen, to take up independent or supervised residence.</p> <p>■ Article 39 provides that in case of urgent need the juvenile court may, without the consent of the persons concerned, order the placement of a child whose physical or mental integrity is in direct and immediate serious peril.</p> <p>The Brussels order provides in articles 8 and 9 that, after finding that the health or safety of a young person is in immediate serious jeopardy and that voluntary assistance has been refused or has failed, or in situations of danger necessitating urgent placement, the juvenile court may take a measure of placement as provided in Article 10:</p> <ul style="list-style-type: none"> ▶ place the young person in a reception centre in case of urgency; ▶ place the young person in an observation and/or guidance centre; ▶ place the young person in a family or with a trustworthy person; ▶ decide in exceptional circumstances that the young person will be temporarily accommodated in a suitable open establishment for treatment, upbringing, education or vocational training. <p>2nd paragraph: Q15c of the GQ</p> <p>Deprivation of parental authority</p> <p>If only one parent has incurred deprivation, the juvenile court designates to replace him or her, the non-deprived parent where the minor's interests do not preclude it. Reference should also be made to Article 29 of the law of 8 April 1965 concerning guardianship in respect of family benefits, also a measure to protect minors which may rather be considered 'a measure of guided assistance' of an educational kind, in particular to show the beneficiary how the benefits should be used in the child's interest.</p> <p>The court appoints a guardian who has the duty of drawing, in place of the beneficiary, the amount of benefits and of devoting the benefits to the sole needs of the minor.</p>
<p>Bosnia and Herzegovina</p>	<p>When it comes to the types of assistance, "Medica" from Zenica provides short-term and long-term accommodation in the Safe House and other services to the victims of sexual exploitation and children who are victims of sexual abuse.</p> <p>Individual plan of work for each client is developed in cooperation with the client and other professionals and on the basis of individual needs.</p> <p>"Medica" Zenica also has services intended for children only, such as the Children's Day Care Centre "Medica" Zenica, where children staying in the Safe House spend their free time.</p>

<p>Bulgaria</p>	<p>■ Article 25 of CPA "Grounds for placement out of the family" stipulates among others that a child could be placed out of his/her family if he/she is a victim of violence in the family and there is a serious threat of harm of his/her physical, mental, moral, intellectual or social development.</p> <p>■ Article 37 of the Child Protection Act provides legal possibility to provide police protection to a child by the specialized bodies of the Ministry of Interior, and article 38 specifies the prerequisites for taking any emergency measures. The cases of sexual offences against a child are encompassed in article 38, item 1 - when a child is a subject of crime or there is imminent danger for his/her life or health, as well as when a child is in danger of getting involved in crime.</p> <p>The Implementing Regulation on the Child Protection Act provides one more opportunity for a separation of a child from his/her circle of trust (family environment where parents and those who care for the child involved in sexual abuse). In these cases, the "Social Assistance" Directorate may take measures for emergency placement outside of the family when there is a danger for life and health of the child. The placement is carried out immediately after receiving the signal by an order of the Director of the "Social Assistance" Directorate (SAD).</p> <p>In the context of criminal proceedings can also be applied a protection under the Criminal Procedure Code (CPC) - Art. 67 "Prohibition to approach the victim."</p> <p>Protection from Domestic Violence Act</p> <p>■ Article 5</p> <p>(1) The protection measures against domestic are:</p> <ol style="list-style-type: none"> 1. placing the respondent under an obligation to refrain from applying domestic violence; 2. removing the respondent from the common dwelling-house for a period specified by the court; 3. prohibiting the respondent from getting in the vicinity of the victim, the home, the place of work, and the places where the victim has his or her social contacts or recreation, on such terms and conditions and for such a period as is specified by the court; 4. temporarily relocating the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at stake, on such terms and conditions and for such a period as is specified by the court, provided that this is not inconsistent with the best interests of the child; 5. placing the respondent under an obligation to attend specialised programmes; 6. advising the victims to attend recovery programmes. <p>(2) The measures under para 1, points 2, 3, and 4 shall be imposed for a period from three months to eighteen months.</p> <p>1st Indent</p> <p>The steps stipulated in the regulations for implementing the measure "placement outside the home" safeguards the compliance with this principle. The first step is maintaining a comprehensive social inspection, which is the basis for the risk assessment for the child and his/her needs, and subsequently preparation of an action plan for the case; the action plan is reviewed at every six months. Legal safeguard of the principle is the established judicial review of the decisions of the bodies for child protection for the undertaken measure. Another safeguard for the best interest of the child is the prosecutor's involvement in the judicial proceedings for placement of a child outside the family.</p>
<p>Croatia</p>	<p>The Family Act lays down measures for the protection of the rights and well-being of the child. They include removing the child from the family, i.e., depriving the parents of their right to live with the child and raise him/her. In such a case, some other person, institution, or legal person providing social welfare services is entrusted with the care and upbringing of the child. The length of time for which this measure is ordered must not exceed one year and since the measure taken is an urgent one, and the child's removal from his/her family, where he/she is at risk, is immediate, we may say that the removal is done in the child's best interests. Since the procedures in question involve the participation of social welfare centres, these centres are the first stop at which the victims' families may receive assistance in the form of advice as well as other types of assistance.</p> <p>Paragraph 3 of Article 14 of the Convention requires from member states to intervene in terms of removing the victim from his/her environment where it is suspected that the parents or persons taking care of the child are involved in his/her sexual exploitation.</p>

	<p>■ Article 134 of the Family Act aimed at protecting the rights and well-being of the child. Under the said Article, the social welfare centre is required, immediately upon having been informed, to look into the matter, take measures to protect the child's rights, and institute non-contentious civil proceedings in which the court will deprive the parent(s) abusing or grossly violating parental responsibility of their right to parental care.</p> <p>Q15b of GQ: This duty of the court also exists in cases (among others) where it has been established that the parent is sexually exploiting the child or inducing him/her to socially unacceptable behaviour. Furthermore, under Article 154 of the Family Act the court may in non-contentious judicial proceedings prohibit a parent, grand-mother or grand-father, sister or brother, or half-sister or half-brother who does not live with the child to approach the child without authorisation in certain places or within a certain distance. This decision must be taken immediately or no later than 15 days from the day the request is submitted.</p> <p>From Q21e of the GQ: Precautionary measures that may be ordered in a concrete case for the purpose of protecting the victim in accordance with the Convention include, for instance: prohibition to approach a certain person, prohibition to establish or maintain contact with a certain person, prohibition to stalk or harass the victim or another person, and removal from the home. The assessment of the need to prolong a precautionary measure is made every three months. Thus statutory regulations serve to ensure in the above described manner the safety of both the victim, his/her family and the other witnesses in the proceedings.</p> <p>Moreover, the child victim is questioned in the manner provided by statute 123, whereby the revictimisation of the child victim is prevented. The revictimisation is also prevented by providing for victim data confidentiality and the exclusion of the public. The excluding of the public from the trial also indirectly serves to protect against further victimisation other persons appearing as witnesses.</p>
<p>Denmark</p>	<p>From Q15b: An order to leave one's home may not be issued, and such order may not be extended, if this would be a disproportionate measure in the circumstances.</p> <p>Pursuant to the Act on Social Services children can be placed outside the home if their parents or persons caring for the child are involved in sexual exploitation or sexual abuse.</p> <p>In September 2012, the Health and Medicines Authority published a report on the topic of sexual exploitation and abuse of children. The report presented a series of recommendations with regard to the establishment of Child Advocacy Centres (børnehuse), which are facilities for children who have been exposed to sexual offences where experts can provide help and assistance.</p>
<p>Finland</p>	<p>Question 15b of the General Questionnaire:</p> <p>Act on Restraining Orders (898/1998) allows for the alleged perpetrator to be removed from the family home (Section 2 S2).</p> <p>A person on whom an inside-the family restraining order has been imposed must leave the residence where he or she and the person protected permanently live together, and he or she may not return there (Section 3 S2).</p> <p>A person on whom an inside-the family restraining order has been imposed must leave the residence where he or she and the person protected permanently live together, and he or she may not return there (Section 3 S2).</p>
<p>France</p>	<p>If the parents or persons with a minor in their care are implicated in the acts of sexual abuse sustained by the minor, he/she is deemed to be in a situation of danger, and articles 375 et seq. of the Civil Code (in particular article 375-4) enable the juvenile judge and, in urgent cases, the state prosecutor, to grant custody of the minor either to the other parent, or to a family member, a trustworthy third party or the child welfare service.</p> <p>■ Article 375-1 of the Civil Code provides that the juvenile judge "should always rule strictly in accordance with the child's interest".</p>
<p>Greece</p>	<p>Under Law 3500/2006 there is the possibility of removing the perpetrator for as long as it is needed from the family's house; of setting restraint orders such as not approaching the house, the school, the houses of close relatives, the child's school or residential care setting (art. 15 and 18).</p> <p>Though in practice the victim is sometimes the one being removed in virtue of the perpetrator ownership of the place of residence and other mostly economic constraints, it is noteworthy that this measure is closer to the child's best interests; however a possible removal of the child might be considered by him/her as "punishment" for having disclosed his/her abuse. Moreover, removing the child from its residence inflicts additional implications such as changing school, neighborhood etc which can be experienced as secondary victimization by the child.</p>

<p>Iceland</p>	<p>From Q15b & Q15c: The removal of the perpetrator is generally the preferred course of action if the safety of the child is ensured and the child victim is supported by other family members, esp. the non-offending parent.</p> <p>■ Article 24 – 29 of the Act on Child Protection specify the measures and procedures on interventions when a child is at risk, including the possibility of removing the child victim from his or her family environment in situations where the child is considered at risk of sexual abuse by a family member. The local child protection service can take emergency decisions on the placement of the child outside the home but it has to present the case to the District Court within 2 months of such ruling if longer duration of the placement is considered necessary. The court judge decides the duration of placement, which can either be up to a year or permanently in cases when it is regarded to be in the best interest of the child that parental rights are removed.</p>
<p>Italy</p>	<p>As to amendments to the Civil Code implemented by Law no. 149/2001, the regulation above envisaged a significant form of protection of the minor from harmful behaviours of the parent, establishing that the Juvenile Court, when adopting a decision of disqualification of the parental authority (art. 330 of the Italian Civil Code) or another appropriate decision (art. 333 of the Italian Civil Code), in the event there is "serious harm to the child", can let not only the minor leave the family home, as was the original provision of the regulation, but also the violent parent or partner in cohabitation.</p> <p>In articles 330-333 of the Italian Civil Code the separation from the family home is a decision that is strictly ancillary to that regarding the disqualification or limitation of parental authority and, therefore, it always requires the taking of a main decision which affects it. Jurisprudence, however, appears to establish that art. 330 of the Italian Civil Code can be applied not only to abuse or maltreatment directly committed on the minor, but also to indirect ones; perpetrated against close relatives dear to him, such as seeing repeated physical aggressions to the mother by the father.</p> <p>342-bis of the Italian Civil Code: Apart from the order to stop the harmful behaviour and to leave the family house, the content of the civil and criminal decision may include the order not to come near to places where the victim usually goes (workplace, domicile of the original family, of other relatives or of other people) or near places of education of the children of the couple, unless the removed relative is obliged to go to the same places because of his work. The judge can also order that an allowance is periodically paid when the people living under the same roof remain without appropriate means because of the decision of separation. The civil protective measure can include the ancillary decision regarding the action of local social services or of a family mediation centre, as well as of the association whose statutory purpose is the support and hospitality of women and minors or other subjects who are victims of abuse and have been maltreated.</p> <p>In criminal terms, the protection of the minor according to law no. 154/2001 gives the opportunity to remove from the family home a family person who is violent against a minor if the judge, upon request from the public prosecutor, adopts the relevant precautionary measure, as is envisaged by art. 282-bis of the Code of Civil Procedure.</p> <p>The reasons for the application of the criminal decision are present in serious evidence of guilt as per art. 273 of the Code of Criminal Procedure (so called <i>fumus commissi delicti</i>), in the existence of at least one of the precautionary needs indicated in art. 274 Code of Criminal Procedure (so called <i>pericula libertatis</i>) and in the existence of specific limitations of the sanction as per art. 280 clause 1 Code of Criminal Procedure (a violent relative can be separated only in the presence of crimes committed or attempted punished with a life sentence or imprisonment of generally more than three years) i.e. in the presence of some compulsory hypothesis of crime, such as infringement of the obligations of family support (art. 570 Criminal Code), abuse of means of punishment (art. 571 Criminal Code), child prostitution and child pornography (art. 600-bis clause 2 and 600-ter clause 4 Criminal Code), possession of pornographic material (art. 600-quater Criminal Code), sexual abuse (art. 609-bis clause 3 Criminal Code), sexual acts with a minor (art. 609-quater clause 3 Criminal Code), corruption of a minor (art. 609-quinquies Criminal Code), gang rape (art. 609-bis clause 3, as is mentioned by art. 609-octies Criminal Code).</p> <p>Article 282-bis of the Code of Criminal Procedure - Removal from the family home.</p>
<p>Lithuania</p>	<p>■ Article 1321 of the Criminal Procedure Code of the Republic of Lithuania (hereinafter referred to as the CPC) stipulates a supervision measure – an obligation to live separately from the victim, i.e. the suspect may be obliged to live separately from the victim or there are reasonable grounds for considering that if the suspect lives together with the victim... When imposing an obligation to live separately from the victim, the suspect may also be obliged not to communicate or seek contact with the victim and persons living together and not to visit specified places visited by the victim or persons living together. A victim stays in the housing which was the permanent place of residence for the suspect and the victim.</p>

	<p>■ Article 56(3) of the effective Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child establishes that when parents (father, mother) or another lawful representative of a child abuses the parental authority by committing acts of violence or otherwise causing danger to the child and therefore there is a real threat to the child's health or life, the state institution for the protection of the rights of the child or a state institution for the protection of the rights of the child together with the police shall immediately take the child away from the parents or any lawful representatives of the child and transfer him for guardianship (custody) in accordance with the procedure laid down by the Civil Code.</p> <p>Taking the child away from his parents or other lawful representatives is also regulated by the Regulations of Temporary Child Guardianship (Custody).</p> <p>Paragraphs 7-7.6 of the above Regulations.</p>
Luxembourg	<p>Yes, there is the possibility of removing the child from the family setting where the parents or the persons having custody are implicated in the acts of sexual abuse suffered by him/her. In such a case, the arrangements and the duration are determined in accordance with the child's best interest.</p>
Malta	<p>National law provides for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse through the issue of an interim care order in virtue of article 5 of the Children and Young Persons (Care Orders) Act of a care order in virtue of article 4 of the said Act. An interim care order is valid for twenty one days and may not be followed by a care order which is for an indefinite duration. The conditions and duration of the care order are determined by a Children and Young Persons Advisory Board who, upon the information provided by assigned social workers make recommendations to the competent Minister entrusted with the care of such minors, depending on the best interest of the child.</p> <p>Child Protection Social Workers also recommend therapy for children who are victims of sexual abuse when the court deems so as appropriate following the child's testimony in court.</p>
Republic of Moldova	<p>Under Law no. 45 of 1 March 2007 on prevention and combating domestic violence in cases of violence and / or abuse the following protective measures shall apply. The court shall, within 24 hours of receiving the request, issue an order of protection, which can assist the victim, applying to the aggressor the following measures:</p> <ul style="list-style-type: none"> a) an order to temporarily leave the joint dwelling or stay away from the victim's home without deciding on the ownership of the goods; b) an order to stay away from the victim; c) the obligation not to contact with the victim, children or other dependents to the victim; d) prohibition of visiting the place of work and living of the victim; e) an order, until the case is resolved, to contribute to the maintenance of children which he/she has in common with the victim; f) an order to pay costs and damages caused by acts of violence, including medical expenses and the replacement or repair of destroyed or damaged property; g) limiting unilateral disposal of common goods; h) order to participate in a special program of treatment or counselling if such action is determined by the court to be necessary to reduce or eliminate violence; i) establishment of a temporary visitation of children; j) prohibition to keep and wear arms.

Montenegro	<p>In the case of knowledge / suspicion of the committed domestic violence in which the child is a victim (direct or indirect), the professional worker of the social welfare centre urgently / immediately reports the case to the police; urgently determines the plan of assistance and measures for the protection of child victim of domestic violence – while being guided by the principle of the best interests of the child in each specific case; appoints a guardian for the child if the parents are not able to perform this role, or if there is a conflict of interest between parents and child (special guardian); makes a decision on the removal of the child from the family only in exceptional cases, i.e. when it is impossible to find another safe place for the child victims of domestic violence; considers appropriate accommodation in a foster home if this is established as necessary and the only good solution for the child victim; continuously monitors the case and at least once a month visits the family in which the child victim of violence is staying; establishes and continuously maintains contact with experts in the health and educational institutions (preschool, primary and secondary schools) in the event that a child is a victim of domestic violence (either directly or indirectly); initiates civil proceedings before a competent court.</p>
Netherlands	<p>As explained in the answer to question 15B of the GOQ, there are several special protection measures for victims, such as: the Temporary Domestic Exclusion Order Act and the Temporary Domestic Exclusion Order Decree, and easily accessible youth care (Youth Care Act). Moreover, the Child Care and Protection Board can request the court to impose a child protection measure, such as: a family supervision order, discharge of parental authority or relief from parental authority.</p>
Portugal	<p>Yes. The Portuguese legal system of protection of children and youngsters at risk (Law nr. 147/99, of 1st September), allows for the possibility of removing a child from his/her family environment when the carers are involved in acts of abuse or other type of ill treatment.</p> <p>In the case of sexual abuse in the circle of trust, removal of the child from the family environment is one of the possible measures of promotion and protection available to child care experts.</p> <p>This removal may take place through various options: by placing the child with another family member (Article 35 (1) b)), confiding him/her to a suitable person (Article 35 (1) c)), support for the autonomy of life (Article 35 (1) d)), host into a family (Article 35 (1) e)), host into an institution (Article 35 (1) f)), trust the child to a selected person for adoption, or to an institution with a view to future adoption (Article 35 (1) g)).</p> <p>In addition, removal may also take place according to the urgent procedure set forth in Articles 91 and 92 of the said Law nr. 147/99, which allows for the removal of the child in a maximum delay of 48 hours in the case where an actual or imminent danger to the life of the child exists and the holders of the parental powers or de facto guardians oppose to the removal. In these cases, the police authorities immediately report the fact to the Public Prosecutor and withdraw the child from the situation of danger, ensuring emergency protection in a temporary shelter or other suitable premises.</p> <p>The urgent procedure of the Law for the protection and promotion of children and youth at risk provides for the removal of children in a situation of real or imminent danger to their life or of serious compromise of physical or psychological integrity of the child or young person, ensuring emergency protection in foster homes, at the premises of the entities referred to in Article 7 or in another suitable location until the beginning of an emergency judicial procedure. The court has to issue a provisional decision within forty-eight hours, confirming the arrangements made for the immediate protection of the child or young person, applying any of the measures provided for in Article 35 of the law or determining what it deems suitable on the fate of the child or young person.</p> <p>Under Article 37 as a precautionary measure, the court may apply the measures provided for in subparagraphs a) to f) of paragraph 1 of Article 35, pursuant to paragraph 1 of Article 92, or while the diagnosis of the situation of children and the definition of its subsequent referral takes place.</p> <p>The commissions may apply the measures provided for in the preceding paragraph while the diagnosis of the situation of children and the definition of their subsequent referral takes place, subject to the need of concluding an agreement for the promotion and protection under the general rules.</p> <p>The measures implemented under the previous points have a maximum duration of six months and should be reviewed within three months.</p> <p>In addition, the Law on Domestic Violence (Law nr. 113/2009, of 17 September) has introduced the possibility of withdrawal of the perpetrator from the family house ensuring that this prohibition is enforced by means of electronic surveillance techniques, thus preserving the environment of the household, the daily routines of the victims and minimizing further victimisation.</p> <p>The conditions and duration of the removal are always determined according to the best interests of the child.</p>

<p>Romania</p>	<p>In order to protect the child who is abused or neglected or the child who, regardless of the reason, for his/her best interests, cannot be left in the care of his/her parents, Law no. 272/2004 provides for the measure of placement or the measure of emergency placement.</p> <p>■ Article 54</p> <p>(1) The general department for social security and child protection must draft the individualized protection plan immediately after receiving the request to enforce a special protection measure or immediately after the director of the general department for social security and child protection has decided on the emergency placement of the child.</p> <p>(2) In the case of the child for whom a legal guardian has been appointed, the provisions of paragraph (1) are not applicable.</p> <p>(3) Upon establishing the objectives of the individualized protection plan, special priority is given to the re-integration of the child in the family or, if this is not possible, the placement of the child in the extended family. The plan's objectives are established by obligatorily consulting the parents and the members of the extended family who have been identified.</p> <p>(4) The individualized protection plan may stipulate the placement of the child in a residential type of service, only if no legal guardianship could be established or no placement with the extended family, with a maternal assistant or with another person or family could be achieved, in accordance with the present law.</p> <p>■ Article 55</p> <p>The special child protection measures are:</p> <ol style="list-style-type: none"> placement; emergency placement; specialised supervision. <p>■ Article 56</p> <p>The beneficiaries of the special child protection measures established by the present law are:</p> <ol style="list-style-type: none"> the child whose parents are deceased, unknown, deprived of the exercise of parental rights or have been enforced the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law and for whom no legal guardianship could be established; the child who, in view of protecting the his or her best interests, cannot be left in the care of the parents; for reasons for which the parents cannot be held accountable; the abused or neglected child; the foundling or the child who has been abandoned by the mother in a hospital ward; the child who has committed an act stipulated by the criminal law and who is not criminally liable. <p>Section 2 – Placement</p> <p>■ Article 58</p> <p>(1) The placement of the child represents a temporary special child protection measure, which, in accordance with the present law and by case, may be decided, as follows:</p> <ol style="list-style-type: none"> with a person or family; with a maternal assistant;
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	<p>c) in a residential service, stipulated under Article 110, paragraph (2) and licensed in accordance with the law.</p> <p>(2) The person or family who is legally responsible for the placed child must have residence in Romania and must be evaluated by the general department for social security and child protection with regard to the moral warrantees and the material conditions that have to be fulfilled, in order to receive a child in placement.</p> <p>■ Article 59</p> <p>Throughout the entire duration of the placement measure, the domicile of the child is the same with that of the person, family, maternal assistant or the residential service who is legally responsible for the child.</p> <p>■ Article 60</p> <p>(1) The placement of the child who has not reached the age of 2 years old may only be decided with the extended or substitute family and it is forbidden to place him or her in a residential service.</p> <p>(2) As an exception to the provisions stipulated under paragraph (1), the placement in a residential service of the child who has not reached the age of 2 years old may only occur in the case in which the child has severe disability and is dependent on specialized residential care services.</p> <p>(3) The following issues will be targeted upon establishing the placement measure:</p> <ol style="list-style-type: none"> giving priority to the placement of the child in the extended or the substitute family; placing the siblings together; facilitating the parents' opportunity to exercise the right to visit the child and to maintain personal relations with the child. <p>Section 3 - Emergency placement</p> <p>■ Article 64</p> <p>(1) The emergency placement of the child is a temporary special child protection measure, which is undertaken in the situation of the abused or neglected child, as well as in the situation of the foundling or of the child abandoned in healthcare institutions.</p>
<p>San Marino</p>	<p>■ Article 86 bis (Limitation of parental rights) of Law no. 49, 26 April 1986, "Family law reform" as modified by Law no. 68, 28 April, 2008 "Regulations on inter-country adoption and protection of minors"</p> <p>"1. When the parent's conduct is detrimental to the minor but not so serious as to determine the lapse of parental rights, the judge shall adopt any decision as he may deem appropriate for the interests of the minor, reducing parental rights in particular by prescribing, <i>inter alia</i>, to accept the supervision and support of the Minor's Service.</p> <p>2. If the parent does not respect such prescriptions, the judge shall order indirect coercion envisaging a more strict limitation of parental rights or, in most serious cases, the removal of the minor child. If the minor is to be removed from the family, the judge shall decide for proper accommodation to be arranged by the Minor's Service, upon which he can entrust the actual execution of the removal, also conferring the Service the right to request the assistance from the Gendarmerie.</p> <p>3. The Minor's Service or any other entity who has been conferred the power to protect the minor's interests, shall periodically report to the judge, who may in any moment change or withdraw his decision, which shall otherwise lapse when the protected person comes of age."</p> <p>Law no. 97 of 20 June 2008 provides for removing the victim from the alleged perpetrator. In particular Art. 22 (Special precautionary measures in criminal proceedings) states:</p>

	<p>“When judging an offence against personal safety, personal freedom or family maltreatment by a co-habiting person, the Investigating Judge may, upon the victim’s request, order the suspect or the defendant to stay away from the family house and not to return or enter it without his authorisation, and, if necessary, establish visitation rules.</p> <p>In cases where the safety of the victim or of his/her close relatives is at stake and needs to be protected, the Investigating Judge may, upon the victim’s request, order the defendant or the suspect to stay away from places usually frequented by the victim, in particular the workplace, the domicile of the family of origin or of his/her close relatives, unless it is necessary for work-related reasons. In the latter case, the Judge shall establish the relevant rules and may impose limitations.</p> <p>Following the request, the Judge shall collect any relevant information and take measures through a motivated decree, after listening to the defendant and, if necessary, the requesting party, except in urgent cases. Upon the victim’s request and in compliance with cross-examination procedure, the Investigating Judge may also order that a cheque is regularly paid off to the co-habiting persons who have no adequate financial means as a result of the precautionary measure adopted. The Judge shall determine the amount to be paid based on the offender’s income, as well as the methods and terms of payment. The Judge may order, if necessary, that the cheque be directly paid to the beneficiary by the offender’s employer, who deducts it from his/her wages. The order of payment is an enforceable act.</p> <p>The provisions described in the second and fourth paragraphs may be also adopted after the measure referred to in the first paragraph, provided that this measure has not been repealed or become null. Though adopted at a later time, these measures shall become null if the measure mentioned in the first paragraph is repealed or becomes null. The measure set forth in the fourth paragraph shall become null if it is in favour of the spouse or the children, as well as in cases where the Civil Judge issues a measure in a legal separation case or another measure concerning the economic and property relationships between spouses or the financial support of children.</p> <p>The measure envisaged in the fourth paragraph may be amended should the situation of the person obliged to pay or of the beneficiary change, and it shall be repealed if co-habitation resumes.”</p>
<p>Serbia</p>	<p>Family Code of the Republic of Serbia: protection measure from domestic violence is envisaged on the basis of which the court shall issue an injunction ordering the offender (perpetrator of violence) to be evicted from the family apartment, or house, regardless of the ownership title over the immovable property, or real estate lease. Pronouncement of this measure is purposeful if the individual – member of family – has committed violence (sexual abuse), while it is believed that other members of the family may protect the child, i.e. may provide assistance and support to the child to overcome the consequences.</p> <p>A child, legal representative – other parent, public prosecutor or centre for social work – guardianship authority, may press charges seeking protection from violence/ domestic violence/abuse. Also, a child, other parent and centre for social work – guardianship authority, in order to protect the right of the child, may press charges seeking the violator to become deprived of parental responsibility. In both cases, the court proceedings are deemed highly urgent. If several members of family (by acting or omission) are involved in child abuse, centre for social work is bound to immediately (within 24 hours), separates the child from the family and place it under temporary guardianship protection.</p> <p>Placement of a child to a kinship or foster family, placement in a residential care facility and placement under immediate guardianship of the centre for social work – guardianship authority. All the measures under the family law are undertaken taking into account the best interest of the child.</p> <p>Measures of protection from domestic violence may be extended as long as there are reasons on account of which the measure has been ordered in the first place.</p>
<p>Spain</p>	<p>■ Article 192 of the Spanish Criminal Code:</p> <p>“The ascendants, tutors, carers, minders, teachers or any other person in charge de facto or de jure of the minor or incapacitated person, who acted as principals or accomplices of commit the felonies included in this Title, shall be punished with the relevant punishment, in its upper half.</p> <p>This rule shall not be applied when the circumstance it contains is specifically included in the definition of the crime concerned.</p> <p>The Judge or Court of Law may also hand down a reasoned punishment of special barring from the exercise of parental rights, guardianship, care, safekeeping, public employment and office or practice of the profession or trade, for the term of six months to six years, or permanent deprivation of parental rights”.</p>

	<p>■ Article 2 of the Organic Act 1/1996 on the Legal Protection of Minors, amended by Organic Act 8/2015, provides that all public and private actions concerning minors have to assess and consider primarily their best interest. As regards measures adopted by public and private authorities, courts and legislative bodies, the best interest of the child will prevail over any other legitimate interest.</p> <p>Moreover, article 23 of the Statute of Crime Victim Act states that minors' protection measures adopted throughout criminal proceedings will take into account their personal circumstances, immediate needs, age, genre, disability and maturity, and will fully respect their physical, mental and moral integrity.</p>
<p>"The former Yugoslav Republic of Macedonia"</p>	<p>Ministry of Labour and Social Policy</p> <p>Pursuant to the Family Law, the Center for Social Work, upon obtaining information that there is danger of abuse of parental rights and danger of severe neglect of parental duties, is obliged to undertake measures for protection of the person, rights and interests of the child immediately.</p> <p>The Center for Social Work shall remove the child-victim of sexual abuse from the home, and shall provide the child with adequate accommodation, healthcare, urgent psycho-social protection for the child and close relatives, and shall take other measures, whilst constantly bearing in mind the best interests of the child.</p> <p>The Law on Prevention, Combating and Protection against Domestic Violence is the first special systemic law in this field, which will enhance and establish a comprehensive and coordinated system for taking actions aimed at prevention, combating and protection against domestic violence. The adoption of this regulation raises the social response for non-tolerance of domestic violence by:</p> <ul style="list-style-type: none"> ▶ continuously undertaking measures by all relevant stakeholders at the national and local level in the field of prevention of domestic violence, raising awareness and sensitizing the general and expert public; ▶ raising the level of responsibility for immediate, mandatory and efficient actions by officials and institutions aimed at combating domestic violence; ▶ providing necessary, efficient and effective protection to the victims, in compliance with the needs and interests thereof. <p>The integrated national policies will be implemented with the adoption of the National Strategy for Prevention, Combating and Protection against Domestic Violence and the establishment of the National Body for Domestic Violence, with a mandate to monitor and analyse the situations of domestic violence in the country, to coordinate the activities of all competent institutions and to propose measures for improving the situation and for implementation of the envisaged activities.</p>
<p>Turkey</p>	<p>The possibility that the victim be removed from the family environment is envisaged in domestic law in the event that the persons, who are responsible for the care of the parent or the child, subject the child to abuse. In such a case, as indicated in the answer to Question 22d of the General Overview Questionnaire, the custody right of the mother and father shall be abolished.</p> <p>Throughout this process, the conditions for the removal of the child from his/her parents, as well as the duration, are decided upon according to the best interest of the child.</p> <p>On the other hand, taking into consideration the best interests of children, the Ministry of Family and Social Policies has developed a project entitled "Compassion Houses." This project ensures that children, who have been taken under the protection of the state because they were subject to sexual abuse or because they were orphans, have a family environment in homes designed for a regular family where they stay in groups of 4-6 children, accompanied by an expert.</p>
<p>Ukraine</p>	<p>In accordance with Article 170 of the Family Code of Ukraine regulates the removal of the child from the family environment if they are threatening his life, health and moral education. According to Items 8 and 31 of the Instruction on the proceedings of the Protection of Children's Rights by the guardianship, as approved by Cabinet Ministers of Ukraine 24.09.2008 № 866, if there is a direct threat to the life or health of the child, the guardianship authority, who became aware of it, takes the immediate removal of the child from the family.</p> <p>Transfer of information is conducted in accordance with the Instructions on processing claims and appeals as to cruel treatment of children or realistic risk of such treatment, as approved by the Order #5/34/24/11 of the State Committee of Ukraine on Family and Youth, Ministry of Internal Affairs of Ukraine, Ministry of Education and Science of Ukraine, Ministry of Health of Ukraine as of 16.01.2004.</p>

<p>The coordinating body tasked with protection of children from cruel treatment, including sexual exploitation and abuse, is the State Service for Children. The regulatory frameworks that ensure coordination include:</p> <ul style="list-style-type: none"> ▶ Instructions as to collaboration of departments (units) for family, youth and sports, services for children, social service centres for family, children and youth and relevant units of the Ministry of Internal Affairs to take measures to prevent domestic violence; ▶ Instructions as to departments of the State Service for Children on registering children currently facing harsh life circumstances; ▶ Instructions as to operating the Unified electronic database of children currently facing harsh life circumstances. 	
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Table F - Legislative or other measures to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (Article 14§4)

Albania	No reply to this specific question.
Austria	<p>1. The Austrian social system offers thorough medical and therapeutical care to child victims and their relatives via the health system and the health insurance respectively. If necessary, psychotherapy is also given to the victim's relatives (decision of a doctor).</p> <p>2. Close relatives of child victims of abuse are entitled to benefits of the Victims of Crime Act as well.</p>
Belgium	No reply to this specific question.
Bosnia and Herzegovina	During the stay of children clients in the Safe House, "Medica" Zenica, in cooperation with other institutions involved in caring for the clients, works with the parents and other family members, if there are no obstacles to it, such as that the parents and/or other family members participated in the child exploitation/abuse. Also, when it comes to clients who are of age, "Medica" Zenica also works with the family on developing mutual understanding and support between the family and the client, on reducing the stigma and rejection by the family, but also on fixing the symptoms that family members developed when learning about what the child had been through.
Bulgaria	No reply to this specific question.
Croatia	<p>Also, within the regular health-care system the child's parents (the so-called non-abusing parent) also take parts in the treatment, most frequently in the following two ways:</p> <ol style="list-style-type: none"> 1. through counselling with a professional, which focuses on the behaviour of the child and the behaviour towards the child at certain stages of the treatment; 2. through conversation and counselling that are intended for them so that they can express their feelings in relation to the sexual abuse of the child. The professional may assess that the parent is not coping well with the events and may suggest that the parent(s) undergo additional treatment with the therapist. <p>The involvement of parents in the treatment of a child also depends on the child's age: the younger the child, the greater the emphasis on working with the parent and strengthening his/her role as the primary assistance provider.</p> <p>Under the Sexual Violence Protocol, extra institutional assistance and support involves wider measures of assistance and support to victims of sexual violence. In addition to counselling and/or psychotherapy (individual or group), these measures include working with family members, preparations for court proceedings and monitoring of the victim during the proceedings, as well as efforts to further improve the treatment of victims.</p> <p>Support to Perpetrators - The (Domestic Violence) Act lays down the following protective measures: mandatory psychosocial treatment, prohibition to approach the victim of domestic violence, prohibition to harass or stalk the person exposed to violence, removal from the apartment, house or some other residential premise, mandatory treatment for addiction, and seizure of the item used or intended to be used in the commission of the offence.</p> <p>Since the procedures in question involve the participation of social welfare centres, these centres are the first stop at which the victims' families may receive assistance in the form of advice as well as other types of assistance.</p>
Denmark	The Childrens House may provide assistance such as psychological help to one or more of the child's caregivers.
Finland	No reply to this specific question.
France	No reply to this specific question.

Greece	There is a provision in Law 3727/2008 (ratification of the Lanzarote Convention) for persons close to the victim to be accorded psychological support (Chapter A, art. 2 §2).
Iceland	See answers to question 15c). It should be added that the local child protection services have extensive legal obligations to support parents. Hence in situations where emergency psychological care is needed the parents would be provided appropriate support free of charge. The <i>Barnahus</i> provides the medical and psychological support to the child victims in such situation. The local child protection and social services is responsible for supporting the non-offending parent and significant other for other appropriate support and services, including temporary housing, financial assistance, social counselling and psychological help.
Italy	From Q15 of the GQ: the creation of specialist teams of experts in maltreatment in the local services; the opening of specialist centres; the setting up of coordination groups for the diagnosis of situations of suspected sexual abuse. Depending on the cases, counselling may be given to the local social workers in charge of the case, or the case may be evaluated directly by the specialists, who may also deal with the minor and his/her family. A critical element is the clinical aspect of the long-term intervention, i.e. the psychological and therapeutic treatment of the ill-treated or abused child and of the ill-treating, abusing families and individuals. Indeed, the quality of services is not up to requirements because of the lack of specialized personnel; this is mainly due to the fact that most of the economic and professional resources are invested for the detection and evaluation of cases of abuse and not for their treatment. Other services which provide protection also to minors are the anti-violence centres for women victims of psychological, economic, physical and sexual maltreatment. The family shelters have experimented some specific psychological and educational measures to help children who witnessed violence and to provide support to parents. Furthermore, action is taken by regions, local authorities and the third sector in order to provide the necessary support for victims, their close relatives and for any person responsible for their care. This has been established by Italian Internal law, specifically with the article 609 decies of the Penal Code. ■ Article 342 bis : in the event the harmful behaviour is that of one parent, the rule keeps however the door open towards reconstructing the recovering family relationships: these measures do not envisage a final break of the relationship with one's parents or spouse, unlike the situation of adoption or divorce.
Lithuania	<ul style="list-style-type: none"> ▶ Attention should be given to the approved succession of the National 2011-2015 Programme on the Prevention of violence against children and support for children, following the Order No. A1-2 of 3 January 2011 of the Republic of Lithuania Minister of Social Security and Labour. On the basis of this Programme complex support (psychological, medical, social and legal) is provided since 2005 to victims of sexual exploitation and sexual abuse of children, as well as to their family members. ▶ Furthermore, pursuant to Order No. 110 of 9 March 199 of the Minister of Health "On the Basic Price of the Primary Outpatient Mental Health Care Services, Provisions Thereof and Payment Procedure and the Sample Statute of a Mental Health Care Centre and Activities of its Specialists" (a person shall have a possibility of addressing directly (without an appointment card) a mental health care centre and receive primary mental health care services provided by psychiatrist, psychologist, with persons afraid of committing criminal act against children's freedom of sexual self-determination and inviolability being no exception to that). ▶ In the system of Health Care a short-term specialised in-patient assistance to victims of violence against children is regulated in the Health Minister Order No. 730 of 14 December 2000 concerning the "Description of Principles in organising the provision of psychiatric and psychological services to children and adolescents, and the requirements for providing such services". ▶ Non-governmental organisations/sector provides complex assistance (psychological, social and legal) to victims of sexual exploitation and sexual abuse of children, as well as to their family members through the implementation of national and international projects.
Luxembourg	No specific legislative measures are prescribed, but there is the possibility of compelling the child's close family members to undergo therapy by way of a judgment ordering retention in the family circle subject to conditions (eg psychological monitoring) or incentive for family members to commence counselling as a condition for the child's possible return to the family circle (if placed elsewhere). On the other hand, there is no specific programme for emergency care.

Malta	There are no measures in place that allow a child access to psychological assistance prior to their testimony. A number of defence lawyers contest in court that giving therapy to a child before their testimony may result in influencing the child and so prosecuting police have always requested that therapy is afforded after the child has given testimony. The child is nevertheless supported by school professionals and CPS social workers.
Republic of Moldova	No reply to this specific question.
Montenegro	Child victims and their families are provided comprehensive protection and support through the multi-disciplinary approach under the Law on the Protection against Domestic Violence.
Netherlands	As explained in the answer to question 15A of the GOQ, persons who are close to the victim can get help from Victim Support the Netherlands (<i>Slachtofferhulp Nederland</i>) and from the Rape Centre (<i>Centrum Seksueel Geweld</i>).
Portugal	Psychological support to people who are close to the victim is provided by the Portuguese Association for Victim Support (APAV), a non-profit organization that has support from the State. APAV seeks to guarantee emotional and psychological support to victims of crime, their families and friends, providing them with free and confidential services. The APAV provides support through its National Network of staff and their telephone helpline – 707 2000 77. It has recently been established that especially vulnerable victims benefit from all the health services given by the national health service for free (Article 22 , law 130/2015, from the 4th of September 2015). According to Article 26 of the victims' status, victims are entitled to be assisted by health services integrated in the National Health Service located in the area where the host structure is incorporated, as an alternative to health services in his home.
Romania	No reply to this specific question.
San Marino	Law no. 97 of 20 June 2008 also provides for special assistance for victims of family and sexual violence. In particular Art. 4 (Assistance to the victims of violence) states: <p>"The State shall guarantee the following to the victims of domestic and sexual violence:</p> <ul style="list-style-type: none"> a) information on the measures envisaged by the law for the protection, safety and right to assistance and support for victims of violence; b) services employing specifically trained staff with social and assistance competence, which are conveniently located and easily accessible to the victims; c) services able to face emergency situations, also providing psychological support, and to guarantee medium-term assistance, also for the purpose of family reunification; d) planning of social interventions, protection measures, support for education; training and access to the labour market; e) in the most serious cases, where staying in the family is deemed to be dangerous, victims are admitted to a family-sized community for the time necessary to develop a social reintegration project; f) if necessary, programs for the protection and social reintegration of the victims of violence which also address housing needs and ensure that their residence permit is extended at least for the duration of criminal proceedings; should it expire before the judgement is rendered, as well as programs for professional reintegration, care and support of dependent children; g) specific training for the Judges entrusted with judicial proceedings described in this Law and for law enforcement agencies."

Serbia	No reply to this specific question.
Spain	Articles 10 and 28 of the Statute of Crime Victim Act provide that the victim's relatives may have access to public support services (i.e. psychological care) under regulatory requirements. This provision will apply in the event of offences that cause particularly serious harm.
"The former Yugoslav Republic of Macedonia"	When a child-victim of sexual abuse is removed from the home child, the Center for Social Work shall provide the child with adequate accommodation, healthcare, urgent psycho-social protection for the child and close relatives, and shall take other measures, whilst constantly bearing in mind the best interests of the child. The institutional response is strengthened by assigning specially trained professional workers to undertake measures for assistance and protection of victims and by establishing new responsibilities. The Centre for Social Work shall coordinate the multi-sectoral expert team, with the aim of preparing a safety plan for assistance to the victim, whenever they find that the life and health of the victim and members of the family thereof are endangered, as well as when a child is a victim of domestic violence.
Turkey	No reply to this specific question.
Ukraine	No reply to this specific question.

Table G - Measures in relation to perpetrators, such as withdrawal of parental rights or monitoring or supervision of convicted persons (Article 27§4)

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
Albania	Withdrawal of parental rights (Article 43/a of the Criminal Code)	No provisions for monitoring or supervision of convicted persons are currently in force.
Austria	Parental rights are withdrawn (Section 181 of the Civil Code)	Person subject to a suspended sentence or on conditional release can be given instructions (Sections 50 and 51 of the CC), (e.g. to announce every change of his/her whereabouts or of employment, to report regularly to the court or to another authority). If the court has ordered the sentenced person to attend rehabilitation/social programs, the supervision is done by the court (Section 52a of the CC).
Belgium	Complete or partial deprivation of parental authority in respect of all one's children (Article 32 of the law of 8 April 1965 on the protection of young people)	Further information in replies 3a, 10 and 21f of the General Overview Questionnaire, in particular: Exclusion of certain offences of a sexual nature from a sentence of electronic monitoring imposed as an autonomous penalty (see Law of 7 February 2014, <i>Moniteur Belge</i> of 28/02/2014). ■ Articles 35 and 36 of the Law of 20 July 1990: arrangements for monitoring of guidance or treatment may be imposed (not solely for offences of a sexual nature). ■ Article 20 of the Law of 5 August 1992 on the function of the police (general obligation for law enforcement services to monitor all persons granted early release, whether in the context of pre-trial detention, probation or release before completion of sentence. The position of the victim in relation to the enforcement of sentences has subsequently been governed mainly by the Law of 17 May 2006 on the external legal status of persons sentenced to deprivation of liberty and the rights accorded to victims in the context of the modalities for the enforcement of sentences. Under this law, victims of offences may ask to be informed and/or given a hearing, depending on their choice, on the conditions to be imposed, in their interests, on the following modalities for enforcement of sentences: ▶ prison leave ▶ interruption of sentence ▶ limited detention ▶ electronic monitoring ▶ conditional release ▶ release with a view to deportation or handing over ▶ final release
Bosnia and Herzegovina	Withdrawal of parental rights (Family Law of Republika Srpska, Article 106(1))	Information provided with regard to urgency measures, not once the case has been proceeded.

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
<p>Bulgaria</p>	<p>Deprivation of parental rights according to the Family Code</p> <p>Article 131 (1) In cases, where the behaviour of the parent is threatening the personality, health, education or the property of the child, the Regional court shall take the relevant measures in the child's interest, by restricting the parental rights – shall withdraw or put conditions for exercising some of them and may appoint another person to realize them. In case of necessity the place of the child's residence may be changed or he/she may be placed out of the family.</p> <p>■ Article 132</p> <p>(1) The parent may be deprived from parental rights:</p> <ol style="list-style-type: none"> 1. in especially heavy cases under Art. 131; 2. when without valid reasons permanently fails to take care of the child and does not support hi/her. <p>(2) In case of depriving one of the parents from parental rights, when there is no other parent, or exercising the parental rights by him/her is not in the child's interest, the court shall undertake protection measures and shall place him/her out of the family.</p>	<p>Based on the provisions of the Penal Code regulating sexual offenses against children, it can be concluded that this penalty is provided only in the provision of art. 155b.</p>
<p>Croatia</p>	<p>Deprivation of parental rights according to the Family Act.</p>	<p>Criminal Code, Article 76.</p> <p>Protective Supervision after Serving a Full Prison Sentence</p> <p>(1) If the perpetrator was imposed a sentence of imprisonment for a term of five or more years for an intentionally committed criminal offence or for a term of two or more years for an intentionally committed criminal offence with elements of violence of or for another criminal offence referred to in Title XVI or XVII of this Act and if the sentence has been served in full because provisional release was not approved the perpetrator shall immediately upon his/her release from prison be subjected to protective supervision in accordance with Article 64 of this Act and to special obligations referred to in Article 62s2, items 7 to 13, if the latter have been imposed on him together with protective supervision.</p> <p>(2) The period of probation shall last for one year unless the offense from paragraph 1 is committed against a child when the period of probation is three years. On a proposal from the probation service and before the period of probation expires, the court may extend the said period by one year if an absence of such supervision would pose the risk of any of the criminal offences specified in paragraph 1 of this Article being committed anew.</p> <p>(3) The court may desist from implementing protective supervision if it has reason to believe that its absence will not result in the person committing a new criminal offence.</p>

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
		<p>Note: Title XVI - Criminal Offences Against Sexual Freedom; Title XVII - Criminal Offences of Sexual Abuse and Sexual Exploitation of Children</p> <p>Supervision over parental care in cases where mistakes and omissions in the care provided to the child are frequent or various or when parents need to be provided with special assistance in raising the child.</p>
Denmark	Withdrawal of parental rights according to the family law.	Monitoring or supervision of convicted persons may be ordered in connection with a suspended sentence or a conditional release. Such measures, however, cease, at the latest, when the full term of imprisonment has been served. Orders not to contact another person or not to enter a specified area may, depending on the circumstances, be imposed for a period of time extending beyond serving the full term of imprisonment.
Finland	The child can be taken into care but it is not possible to permanently withdraw parental rights.	The monitoring or supervision of the offender is done by the general rule on supervision of convicted persons. If the child has been taken into care and the offender has been given a right to meet the child a supervised meeting can be organised where a social worker is present.
France	<p>■ Article 227-27-3 of the Penal Code makes a similar provision in the event of conviction on the charge of sexual assault committed by a person holding parental authority over the underage victim.</p> <p>Moreover, law no. 2014-873 of 4 August 2014 furthering real gender equality instituted articles 221-5-5 and 222-48-2 of the Penal Code, requiring the trial court to rule on complete or partial withdrawal of parental authority when convicting someone of a crime or offence of deliberately attempting a person's life, deliberate bodily harm, rape and sexual assault or harassment committed by the father or mother against their child or the other parent. The implementation of this new provision presupposes that the court is fully informed as to the family situation of the convicted person.</p>	<p>The legislation requires a ruling on parental authority: article 222-31-2 of the Penal Code notably provides: "Where the rape or sexual assault is perpetrated against a minor by a person holding parental authority over him or her, the trial court must rule on the complete or partial withdrawal of that authority in pursuance of articles 378 and 379-1 of the Civil Code.</p> <p>It may then rule on the withdrawal of that authority in so far as it concerns the victim's underage brothers and sisters.</p> <p>If the prosecution takes place before the assize court, it shall rule on this question without the jurors in attendance.</p>
Greece	Termination of his/her parental rights under civil procedure.	Monitoring or supervision of convicted parents in practice faces substantial difficulties in implementation, mainly due to lack of staff in social services. In years 2010-2012 under the framework of EU's DAPHNE program, the Institute of Child Health had implemented a particular project (DAP) in female prisons (Elionas and Korydallos) for maintaining under supervision and appropriate support relationship between imprisoned mothers with their children developing also training material for prisons' social services or other relevant services in order to replicate such actions in their daily practice.
Iceland	Custody deprivation in court, the non-offending parent can seek soul custody.	<ul style="list-style-type: none"> ▶ Possible to exclude a person from its home; ▶ possible to prohibit the accused person from being in a certain place or area, and from following, visiting or otherwise making contact with a child if it is considered necessary to ensure the safety of the child.

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
Italy	Loss of parental authority under Civil Code.	No information.
Lithuania	Loss of parental authority under Civil Code, Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child <ul style="list-style-type: none"> ▶ Article 56(3) of the effective Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child establishes that when parents (father, mother) or another lawful representative of a child abuses the parental authority by committing acts of violence or otherwise causing danger to the child and therefore there is a real threat to the child's health or life, the state institution for the protection of the rights of the child or a state institution for the protection of the rights of the child together with the police shall immediately take the child away from the parents or any lawful representatives of the child and transfer him for guardianship (custody) in accordance with the procedure laid down by the Civil Code. 	<ul style="list-style-type: none"> ▶ Article 1321 of the Criminal Procedure Code of the Republic of Lithuania (hereinafter referred to as the CPC) stipulates a supervision measure – an obligation to live separately from the victim, i.e. the suspect may be obliged to live separately from the victim or there are reasonable grounds for considering that if the suspect lives together with the victim... When imposing an obligation to live separately from the victim, the suspect may also be obliged not to communicate or seek contact with the victim and persons living together and not to visit specified places visited by the victim or persons living together. A victim stays in the housing which was the permanent place of residence for the suspect and the victim. ▶ Taking the child away from his parents or other lawful representatives is also regulated by the Regulations of Temporary Child Guardianship (Custody). Paragraphs 7–7.6 of the above Regulations. ▶ Participation in the programmes addressing violent behaviour; ▶ Prohibition to approach the victim; ▶ Prohibition to visit certain places; ▶ Prohibition to communicate with certain individuals or groups of individuals; ▶ Payment of a Contribution to the Fund of Crime Victims; <p>All these penal sanctions may be imposed upon a person who commits a criminal act by a court.</p>
Luxembourg	Deprivation of parental authority may be decided.	Monitoring and surveillance of the convicted perpetrator are possible through the application of the probationary suspended sentence procedure or in the framework of conditional release, otherwise it rests with the juvenile judge to ensure the safety of the child victim.
Malta	The Court may also order that the offender be temporarily or permanently prevented from exercising activities related to the supervision of children. This also applies in the case of convictions for offences of inducing or instigating with violence persons under age into prostitution, participating in sexual acts with a minor and other unlawful sexual activities and solicitation of persons under age	No sanctions for monitoring or supervision of convicted persons are currently in force.
Republic of Moldova	Deprivation of parental rights	No information.
Montenegro	Deprivation of parental rights	No information.
Netherlands	Relief from parental authority	There are several special protection measures for victims, such as: the Temporary Domestic Exclusion Order Act and the Temporary Domestic Exclusion Order Decree, and easily accessible youth care (Youth Care Act). Moreover, the Child Care and Protection Board can request the court to impose a child protection measure, such as: a family supervision order, discharge of parental authority or relief from parental authority.

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
Portugal	<p>New article 69C of the penal Code on prohibition of assuming minor's trust and inhibition of parental responsibilities (Law 103/2015, 24 August 2015)</p> <p>1 – It may be convicted of the prohibition of assuming the minor's trust, particularly adoption, guardianship, guardianship, foster care, civil sponsorship, delivery, custody or trust of minors, for a period set between two and 20 years, given the concrete seriousness of the fact and its connection with the function performed by the agent, whoever is punished for the crimes foreseen in Articles 163 to 176-A, when the victim is not a minor.</p> <p>2 – It shall be convicted of the prohibition of assuming the minor's trust, particularly adoption, guardianship, guardianship, foster care, civil sponsorship, delivery, custody or trust of minors, for a period set between five and 20 years, given the concrete seriousness of the fact and its connection with the function performed by the agent, whoever is punished for the crimes foreseen in Articles 163 to 176-A, when the victim is a minor.</p> <p>3 – It shall be convicted of the inhibition of performing parental responsibilities for a period set between five and 20 years, whoever is punished for the crimes foreseen in Articles 163 to 176-A, practiced against descendant of the agent, of the agent's spouse or of a person with whom the agent holds a relationship similar to that of spouses.</p> <p>4 – It applies the provisions of paragraphs 1 and 2 for the already established relationships.</p>	No information.
Romania	The prohibition on the exercise of parental rights, as a complimentary or accessory penalty.	No information
San Marino	The loss of parental rights (also known as "disqualification") is provided by the Criminal Code. It may have several degrees, depending on the duration of the punishment.	The Law provides that the suspect may be ordered to stay away from the home/not return without authorisation. This restriction may also apply to other places usually frequented by the victim.
Serbia	Termination of parental rights	Long term monitoring of the family
Spain	Withdrawal of parental rights (article 192 of the Criminal Code)	Probation after the sentence of imprisonment (article 192 of the Criminal Code)
"The former Yugoslav Republic of Macedonia"	No reply to this specific question	

	Withdrawal of parental rights	Monitoring or supervision of convicted persons
Turkey	Lifting the parental right	<p>■ Article 348 of the Turkish Civil Code (TCC) provides that in case the parents neglect their responsibilities arising out of their parental rights towards the child, as a result of which the child remains unprotected, the parental rights of the parents shall be lifted and a guardian shall be appointed for the child by the court. (there is detailed information into the answer of Question 22d of the General Overview Questionnaire.)</p>
Ukraine	No information	No information

Table H - Appointment of 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 abuse and exploitation (Article 31§4)

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
Albania	Guardian (may be temporary) is appointed from the Court. Guardian is chosen first within the biological family, kinship, persons acquainted with the child, foster family or residential institution. (Family Code)	The Guardian represents the child in all administrative or legal activities.	The Court may appoint a temporary guardian in cases where the child needs to be protected, while a more suitable guardian is identified. (Article 281 , Family Code “ Urgent measures”)
Austria	A special representative	No information	In case of a conflict of interest between the holder of the parental responsibility and the victim the court will cooperate with the youth welfare office and they will appoint a special representative (<i>Kollisionskurator</i>) if necessary (Section 271 of the Civil Code).
Belgium	Yes, see article 378, §2, 405 and 410, § 1, 7° of the Civil Code. (guardian, <i>ad hoc</i> guardian)	See Article 405 §1 The guardian may be joined as damages claimant or issue a direct summons without the permission of the district court	<ul style="list-style-type: none"> ▶ It should firstly be pointed out that the rule which prevents a minor from acting alone applies only to legal actions before a court (civil or criminal); ▶ There is no objection to a minor’s acting alone during the preparatory phase of the criminal proceedings.
Bosnia and Herzegovina	No information	No information	No information
Bulgaria	A special representative – attorney-at-law	The special representative shall participate in the penal procedure as a trustee.	A special representative – attorney-at-law shall be appointed to the injured, if he/she is incapacitated or of limited capability and his/her interests are in contradiction with the interests of his/her guardian or trustee
Croatia	<ul style="list-style-type: none"> ▶ Representative ▶ a representative from among attorneys-at-law ▶ special guardian 	Protection of the legal interests of the child victim.	<ul style="list-style-type: none"> ▶ The child victim of a criminal offence is entitled to a representative; ▶ In cases where the criminal offence in question carries the sentence of five years’ imprisonment or a more severe penalty as well as when the perpetrator of a criminal offence against sexual freedom and a criminal offence of child sexual abuse and exploitation is the child’s direct-line relative, a third-degree collateral relative, a relative by affinity up to and including the second degree of kinship, or the adoptive parent;

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
			<ul style="list-style-type: none"> ▶ Special guardian appointed by the social welfare body if the interests of the child are contrary of the parents.
Denmark	The court may appoint counsel	Council will assist the victim during the trial and with presenting any claim for compensation.	When the case concerns sexual abuse of a child there are no requirements.
Finland	Legal guardian	The role of the legal guardian is to see that the best interests of the child are taken into consideration during the proceedings.	Criminal Investigations Act the court has to assign a legal guardian to the child victim for the duration of the criminal proceedings if there is a reason to believe that the holder of the parental responsibility is not able to supervise the best interests of the child.
France	<i>Ad hoc</i> administrator	Where the protection of the minor's interests is not fully assured by his/her legal representatives or by one of them.	The <i>ad hoc</i> administrator ensures the protection of the minor's interests and if necessary exercises on his/her behalf the rights secured to the party claiming damages. Where a claim for damages is entered, the judge designates court-appointed counsel for the minor if he/she has not already briefed a lawyer.
Greece	Special representative	Solely to defend the child's interests in judicial proceedings.	Whenever there is a conflict of interest between the parents and the child, a special representative is assigned to the child (art. 1517 of the Civil Code).
Iceland	<ul style="list-style-type: none"> ▶ Legal counsel ▶ Guardian 	<ul style="list-style-type: none"> ▶ Legal counsel protects the interest of the child during the investigation and provides needed legal assistance. The legal counsel also assists the victim on making compensation claims if an indictment is issued. The legal counsel is required to keep confidential anything pertaining to the representation of the victim. Furthermore, the legal counsel is always allowed be present during a hearing of the victim ▶ the guardian makes decisions on behalf of the minor when he or she isn't considered to have the capacity to do so. 	The police is obligated to appoint the victim legal counsel if the victim is under the age of 18 at the beginning of the investigation (Article 41 in The Law on Criminal Procedure).

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
Italy	<ul style="list-style-type: none"> ▶ Guardian ▶ the guardian <i>ad litem</i> ▶ lawyer 	<ul style="list-style-type: none"> ▶ The guardian informs the child of the outcomes and the status of the proceedings that interest him/her, and represents the child in all civil acts (Art. 357 c.c.); ▶ the guardian <i>ad litem</i> is appointed to ensure the adequate representation of the child from the beginning of the preliminary investigation. This is particularly useful when the abusers are the parents. 	<ul style="list-style-type: none"> ▶ The guardian is appointed by the judge, or in some cases by the Juvenile Court, when the child's parents have died or for other reasons are not in a position to exercise parental authority (art. 343 c.c.); ▶ in addition, in criminal matters, in the event of a conflict of interest between the child under the age of 14 years, who is victim of a crime, and his/her legal representatives, it is possible to appoint a guardian <i>ad litem</i> who shall perform specific functions in order to court procedures. The appointment may also be promoted by organizations that have as their purpose the care, education, housing of minors; <p>Appointment of a lawyer for the child and for his/her parents in the procedures relating to the declaration of the state of adoptability.</p>
Lithuania	Legal representative	Representing the interests of a minor.	The pre-trial investigation officer, prosecutor, or the court shall ensure the participation in the proceedings of another legal representative, and through absence of such possibility – to appoint temporarily, until the issue of the new legal representative is addressed, as a representative any other person adequate of properly representing the interests of a minor (Article 53 §3 of the Criminal Procedure Code).
Luxembourg	<ul style="list-style-type: none"> ▶ Barrister or ▶ An <i>ad hoc</i> administrator. 	The <i>ad hoc</i> administrator ensures the protection of the minor's interests and if necessary exercises on his/her behalf the rights secured to the damages claimant.	The state prosecutor or the investigating judge, having before them acts deliberately committed against a minor, appoints an <i>ad hoc</i> administrator chosen from the list of barristers published by the councils of the bar association, where the protection of the minor's interests is not fully assured by at least one of his/her legal representatives.
Malta	<ul style="list-style-type: none"> ▶ Children's Advocate; ▶ Child Protection Service worker. 	The social worker's primary role implies support to the child before and after giving witness.	<ul style="list-style-type: none"> ▶ The law provides for a child advocate to be appointed to a child upon the request of the child, or the parents, but remains at the discretion of the judge/magistrate; ▶ an understanding exists with the judiciary and the police prosecuting the case to allow a social worker from Child Protection Service to accompany the child during his/her testimony.

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
Republic of Moldova	Representative/guardian/tutor	Powers over the person admitted to an institution of public welfare, education, treatment or a similar institution are exercised by those institutions, unless the person has a guardian/tutor or curato.	<ul style="list-style-type: none"> ▶ Guardianship/tutoring authority is required to appoint a representative to defend the rights and interests of the child. <p>When the child is taken from parents without loss of parental rights, parents lose the right to communicate with him/her, to personally attend his/her education and to represent his/her interests</p>
Montenegro	<ul style="list-style-type: none"> ▶ A temporary guardian for the child, who may be a person of exceptional trust, indicated by the child as such, or a person from the ranks of professionals who has special expertise in working with children. ▶ A legal counsel from among the lawyers who have, as a rule, gained special knowledge in the field of children's rights and procedures with juveniles in criminal proceedings. 	The guardianship authority has the right to become familiar with the course of the proceedings during the proceedings involving a juvenile, as well as to file motions during the proceedings and to point out the facts and evidence that are important for making the right decision.	<ul style="list-style-type: none"> ▶ In cases where the injured part (victim) is a child, and his / her legal Representative (parent, adoptive parent or guardian) is precluded from representing the child. ▶ By the judge or the presiding judge, following the motion of the public prosecutor, guardianship body or <i>ex officio</i>, in line with the equity requirements, if he / she finds that this is in the best interest of the protection of the juvenile's personality.
Netherlands	The special curator	The special curator will represent the child de jure and in practical situations.	<ul style="list-style-type: none"> ▶ A judge can install a special curator to deal with matters with respect to take care of nurturing and educating children; ▶ Child care and Probation Board asks to appoint a special curator.
Portugal	Prosecutor	The prosecutor has the power to represent the child. The Public Prosecution Service is also responsible for representing the minor in case of a civil claim.	<p>Victims under 16 can be constituted as party in the proceedings and, in this case, they may have a legal representative (article 68 § 1 d) of the victims' status).</p> <p>According to the Victim's Status, where the victim is a child and there is a conflict of interests between him/her and the holders of parental authority that prevents them from represent him/her or the child victim is not accompanied by his/her family or is separate from it, a representative should be appointed to the child victim under the law.</p>

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
Romania	Special guardianship	The special guardian has all rights and obligations provided for by the law for the legal representative which means that he can perform any procedural acts on behalf of the child he represents and can participate in the criminal trial instead of the child, except the cases in which the presence of the child is absolutely necessary, like for example the hearing of the child.	Guardian can be appointed by the court which has jurisdiction for the case from among the lawyers especially designated by the Bar for each court.
San Marino	<p>Children's representative in criminal proceedings:</p> <p>When the victim of an offence against personal freedom or of violence is a child and the offence is committed by the ascendant, the guardian, the adopter or other relatives or third parties having a close relationship with the child or his/her parents, a special curator is specifically appointed by the Guardianship Judge, upon immediate request by the Investigating Judge, to represent the child in Court with a view to protecting his/her rights. If the offence referred to in the first paragraph is not prosecutable <i>ex officio</i>, the complaint is filed by the special curator, and the time limit for the filing of the complaint runs from the date when the curator is appointed.</p> <p>Procedural acts detrimental to the child's interests in which the special curator has not taken part are considered null and void.</p> <p>With regard to the legal assistance of children represented by a curator, the provisions of article 17 apply.</p>		
Serbia	<ul style="list-style-type: none"> ▶ Collision guardian. ▶ Temporary representative (both within the family law). ▶ Legal representative. 	No information	A child who has reached the age of ten and who is able to reason has the right to request from the guardianship authority, personally or through another person or institution, to appoint a collision guardian or temporary representative for him/her.
Spain	A defender	A defender represents child in the court and out of court	Whenever the father's and mother's interest should be opposed to that of their non-emancipated children, the latter shall be appointed a defender.

	Who may be appointed?	What are her/his tasks?	Conditions for the appointment of a special representative
"The former Yugoslav Republic of Macedonia"	No reply to this specific question		
Turkey	An attorney	An attorney represents the child without seeking his/her request to ensure the child's rights.	Whenever the child is sexually abused or exploited by the persons within his/her circle of trust, protective measures are applied for the child. In this context, a guardian can be appointed. Otherwise, an attorney is also appointed for child when the investigation is opened against the perpetrators.
Ukraine	Legal representative	No information	By decision of investigator / public prosecutor / investigating judge / court shall be replaced with another one chosen from among individuals who can be appointed legal representatives.

Table I - Corporate liability (Article 26)

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
<p>Albania</p> <p>Yes Criminal liability (Article 45 of the Criminal Code): The legal persons, with the exception of the state, are criminally responsible for criminal acts performed by their bodies or representatives on their behalf or for their benefit. The local government entities are criminally responsible only for the actions performed during the exercise of their activity that may be exercised by the delegating public services. The criminal responsibility of the legal persons does not exclude that of the physical persons that have committed criminal acts or are collaborators for the committal of the same criminal acts. The criminal acts and the sanctioning measures taken against the legal entities, as well as the procedures for the approval and application of these measures are regulated by a special law.</p>	<p>No specificities related to the circle of trust</p>	<p>No specificities related to the circle of trust</p>
<p>Austria</p> <p>Yes Austrian Federal Statute on the Responsibility of Entities for Criminal Offences (<i>Verbandsverantwortlichkeitsgesetz</i> – VbVG): provides for a general criminal liability for legal persons and other bodies like partnerships for all criminal offences, intentional and negligent, in addition to and independent of the liability of natural persons involved. The criminal liability of a legal person requires that a criminal act has been committed for the benefit of the legal person or in violation of obligations of the legal person. The main penalty against a legal person is a fine (cf. GRETA).</p>	<p>Criminal offences committed in the circle of trust included in the general criminal liability for legal persons, therefore no further measures foreseen or considered necessary.</p>	<p>Criminal offences committed in the circle of trust included in the general criminal liability for legal persons, therefore no further measures foreseen or considered necessary.</p>
<p>Belgium</p> <p>Yes Criminal liability (Article 5 Criminal code) The punishments stipulated for legal entities are fines, confiscation, dissolution, a temporary or definitive ban on exercising an activity, temporary or definitive closure of one or more establishments, and publication or dissemination of the decision (cf GRETA). Public bodies such as the federal state, regions, communities, provinces... are not considered as legal persons which can be held liable for criminal acts.</p>	<p>No specificities related to the circle of trust</p>	<p>No specificities related to the circle of trust</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
<p>Bosnia and Herzegovina</p>	<p>Yes Criminal liability: Chapter XIV of the criminal code. Legal persons can be held criminally liable; penalties include fines, confiscation of property (for criminal offences punishable by a prison sentence of at least five years) and dissolution of the legal person (when its activities were entirely or partly used for the purpose of perpetrating criminal offences) (cf. GRETA).</p>	<p>No indication</p>
<p>Bulgaria</p>	<p>Yes No criminal responsibility for legal entities. There is an administrative responsibility of legal persons (see Article 83a of the Law on Administrative Violations and Sanctions. Pursuant to this article, a legal person which has enriched or may enrich itself from a crime committed by: 1. a person empowered to form the will of the legal person. 2. a person, who represents the legal person. 3. a person elected as a controlling or a supervising body of the legal person, or 4. a worker or employee to whom the legal person has assigned certain work, whereas the crime is committed at or in connection with this work, a property sanction in amount to 1 000 000 BGN, but not less than of the value of the benefit, when it is of property nature; a sanction of 1 000 000 BGN shall be imposed also where the benefit is not of property nature or its amount cannot be evaluated.</p>	<p>No specificities related to the circle of trust</p>
<p>Croatia</p>	<p>Yes Within the meaning of the law, the responsible person is any natural person in charge of the operations of the legal person or entrusted with carrying out the tasks falling within the legal person's sphere of activity. Criminal liability: Criminal Act + Act on Corporate Liability for Criminal Offences Corporate liability is based on the responsible person's established guilt. It exists where the responsible person has violated the legal person's duty or where the legal person acquired or was to obtain unlawful pecuniary benefit for itself or another person. According to the reply to question 17 of the GOQ, the Republic of Croatia has fulfilled the conditions for the punishment of legal persons where the latter committed a criminal offence established in the Convention. The sanctions that may be imposed on legal entities include closure of business, monetary fine, suspended sentence, ban on carrying out certain activities, ban on subventions, as well as ban on doing business with beneficiaries of the state budget (cf. GRETA).</p>	<p>No specificities related to the circle of trust</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
Denmark	<p>Yes</p> <p>Criminal liability as provided in Section 306 of the Criminal Code.</p> <p>Part 5, section 27(1) of the Criminal Code reads: "It is a condition precedent to the criminal liability of a legal person that an offence has been committed in the course of its activities and that the offence was caused by one or more natural persons connected to the legal person or by the legal person as such." (unofficial translation)</p>	No specificities related to the circle of trust
Finland	<p>Yes</p> <p>Criminal liability as provided in Chapter 9 of the Criminal Code.</p> <p>At the end of each Chapter of the Criminal Code there is a provision on corporate criminal liability. These provisions define which of the offences in that Chapter may give rise to a corporate fine. The liability of legal persons has been attached to those offences established in accordance with the Convention where it has been considered that it is possible that the crime has been committed in the framework of a legal person (See Criminal Code Chapter 17, Section 24; Chapter 20, Section 13; Chapter 25, Section 10).</p> <p>A corporation may be sentenced to a corporate fine if a person who is part of its statutory organ or other management or who exercises actual decision-making authority therein has been an accomplice in an offence or allowed the commission of the offence or if the care and diligence necessary for the prevention of the offence have not been observed in the operations of the corporation. A corporate fine may be imposed even if the offender cannot be identified or otherwise is not punished (Chapter 9, Section 2).</p> <p>In cases where criminal liability is not possible it is still possible to order a legal person to pay damages for the harm.</p>	No specificities related to the circle of trust
France	<p>Yes</p> <p>Criminal liability: Article 121-2 of the Criminal Code (for all legal persons except the State):</p> <p>Legal persons, with the exception of the State, are criminally liable for the offences committed on their account by their organs or representatives, according to the distinctions set out in articles 121-4 and 121-7.</p> <p>However, local public authorities and their associations incur criminal liability only for offences committed in the course of their activities which may be exercised through public service delegation conventions.</p> <p>The criminal liability of legal persons does not exclude that of any natural persons who are perpetrators or accomplices to the same act, subject to the provisions of the fourth paragraph of article 121-3.</p>	No specificities related to the circle of trust

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
Greece	<p>Yes</p> <p>Administrative responsibility: Article 4 of Law 3625/2007 (incorporating the Optional protocol for the Protection of the Rights of the Child) states that the legal person is punished if any crime related to sexual abuse or exploitation of children is conducted via or for the benefit of or on behalf of a legal person or association, by a natural person, who has the power to act for that legal person. The sanctions are administrative and are imposed independently of the civil or criminal liability of the natural persons. Sanctions vary according to the gravity of misconduct, the degree of culpability, the legal person's financial strength and recidivism. The legal person is held liable even in cases, where misconducts were able to take place because of lack of supervision or control over the natural person-perpetrator.</p>	No specificities related to the circle of trust
Iceland	<p>Yes</p> <p>Criminal liability: Article 19 of the General Penal Code</p> <p>Criminal liability applies to any entity who while not being a natural person is capable of enjoying rights and bearing duties under Icelandic Law, including public limited liability Companies, private limited liability Companies, Companies with mixed liability of owners, European Interest Groupings, partnership Companies, co-operative societies, public associations, independent foundations, administrative authorities, institutes and Municipalities. A legal person can only be made criminally liable if its spokesman, employee or other person acting on its behalf has committed a criminal and unlawful act in the course of its business. Administrative authorities can only be made criminally liable if a criminal and an unlawful act have been committed in the course of an operation deemed comparable to the operations of private entities.</p>	No specificities related to the circle of trust
Italy	<p>Yes</p> <p>Criminal liability</p> <p>Law 38/2006: punishment of legal persons in relation to offenses of sexual exploitation of minors</p> <p>Art. 25 quinquies of Legislative Decree (D.lgs.) 8 June 2001, n. 231 on liability ex crime of legal persons stipulates that a legal person may be held liable for offences about child prostitution and child pornography: pecuniary sanctions.</p>	No specificities related to the circle of trust
Lithuania	<p>Yes</p> <p>Criminal liability: article 20 of the Criminal Code (CC).</p> <p>A legal entity shall be held liable for criminal acts committed by a natural person only in the cases, when the natural person committed the criminal act for the benefit or in the interests of the legal entity, acting individually or on behalf of the legal entity, given the natural person in performing his duties in the legal entity was entitled to: 1) represent the legal entity, or 2) take decisions on behalf of the legal entity, or 3) control the activities of the legal entity. A legal entity may also be held liable for criminal acts in such cases, when criminal acts for the benefit of the legal entity were committed by an employee of the legal entity or an authorised representative thereof as a result of insufficient supervision or control.</p>	No specificities related to the circle of trust

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
	<p>This is defined for the rape of a juvenile or a minor (Article 149 §6 CC), sexual abuse (Article 150 §6 CC), coercion of a minor to sexual intercourse (Article 151 §4 CC), satisfying sexual desires by violating the freedom of sexual self-determination and/or inviolability of the minor (Article 1511 CC), purchase or sale of a child (Article 157 §3 CC), exploitation of a child for pornography (Article 162 CC), profiting from prostitution of another person (Article 307 §4 CC), the involvement in prostitution (Article 308 §3 CC), disposal of pornographic material (Article 309 §5 CC).</p>	
Luxembourg	<p>Yes Criminal liability: article 34 of the Criminal Code: where a crime is committed on behalf or for the benefit of a legal person by one of its statutory bodies or by one or more of its de jure or de facto managers, this legal person may be declared criminally liable and incur the penalties provided for in Articles 35 to 38 (fines, confiscation, exclusion from participation in public tenders, dissolution). These provisions apply to all legal persons with the exception of the state and municipalities.</p>	No specificities related to the circle of trust
Malta	No information	No information
Republic of Moldova	<p>Probably yes Criminal liability: Article 206 of the Criminal Code stipulates that for actions provided for in paragraph (1) or (2) a public person, an official, by an official foreign or international official, shall be punished with imprisonment from 15 to 20 years, with the deprivation of the right to occupy certain positions or to practice certain activities for a term of 3-5 years or life imprisonment and the legal entity shall be punished by a fine in size from 7000 to 9000 of conventional units with the deprivation of the right to carry out certain activities, or liquidation of the legal entity. Article 206 Moldovan Criminal Code seems to refer to child prostitution.</p>	No specificities related to the circle of trust
Montenegro	<p>Yes Criminal liability Law on Liability of Legal Entities for Criminal Offences. This Law sets several conditions which must be cumulatively met in order for the liability of legal entities to exist: 1. It is necessary that the criminal offence was committed by a natural person; 2. That person must have the position of the person responsible in the legal entity; 3. The person responsible acted on behalf of the legal entity; 4. The person responsible acted within his / her powers; and 5. The liability of legal entities exists only where there was certain intention of the person responsible, i.e. intention to provide some benefit for the legal entity. In addition to the above requirements, the liability of the legal entity also exists when the actions of the person responsible was contrary to the business policy or instructions of the legal entity. The Law provides for three types of sanctions against legal entities: 1) penalty; 2) a suspended sentence; and 3) security measures. The penalty can be a fine and termination of the legal entity status.</p>	<p>According to Article 9 of the Law on the Protection from Domestic Violence (2010) (which includes sexual abuse by members of the family) a state administration agency, other agency, a health, education or other institution have the duty to report to police the incidence of violence that they learn of in the discharge of affairs within their authority or in conduct of their activities. A fine ranging from 100 to 500 euro shall be imposed on the head of a state administration body, other body, a health care and social care institution teacher, pre-school teacher and other person for not reporting to the police an incidence of violence he learns (Article 39).</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
	<p>The legal entity that may be liable for a criminal offence is a business organisation, foreign company and part of a foreign company, public utility company, public institution, domestic and foreign non-governmental organisation, investment fund, other fund (with the exception of a fund exclusively performing public functions), sports organisation, political party, as well as another association or organisation that within its operations regularly or occasionally gains or obtains funds and manages them (cf. GRETA).</p>	
<p>Netherlands</p>	<p>Yes Criminal liability A legal person can be held liable for criminal offences (including those penalised by the Lanzarote Convention) on the basis of article 51 of the Dutch Criminal Code. A fine ranging from 100 to 500 euro shall be imposed on: 1) the head of a state administration body, other body, a health care and social care institution, teacher, pre-school teacher and other person for not reporting to the police an incidence of violence he learns (cf. GRETA).</p>	<p>No specificities related to the circle of trust</p>
<p>Portugal</p>	<p>Yes Criminal liability Legal persons and equivalent entities, with the exception of the state, of other public legal persons and of international organisations of public law, are held liable for the offences provided for in Articles 163 to 166 Criminal Code (sexual coercion, rape, sexual abuse of a person unable to resist, sexual abuse of interned person) when the victim is a child, and Articles 171 to 176 Criminal Code (sexual abuse of children, sexual abuse of dependant minors, sexual activities with adolescents, recourse to child prostitution, minors' pandering and pornography of minors), when the offence is committed: (i) on their behalf and in the collective interest by persons who have a leading position therein or, (ii) by whoever acting under the authority of the persons referred, by virtue of a breach of the supervision or control duties incumbent upon them. The responsibility of legal persons and equivalent entities does not exclude the individual responsibility of the respective agents nor is dependent on them being responsible. The main penalties applicable to legal entities are fines or closure (The following additional penalties may also be imposed on them: court order; prohibition of activity; prohibition of entering into certain kinds of contracts or of the conclusion of contracts with certain entities; loss of entitlement to subsidies or incentives; closure of the establishment; publication of the judgment) (cf. GRETA).</p>	<p>No specificities related to the circle of trust</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
<p>Romania</p>	<p>Yes Criminal liability Criminal Code, Articles 135 to 145: A legal entity can be subject to criminal liability (except the state and public authority). The responsibility of legal persons and equivalent entities does not exclude the individual responsibility of the respective agents. Conditions: 1) actions are committed for the achievement of their scope of activity or in the interest or the name of the legal entity; 2) the action must also be subject to the private area. Sentences: Fine + a complementary sentence (dissolution of the legal entity; suspension of the activity or of one of the activities conducted by the legal entity for 3 months to 3 years; closing certain operating units for 3 months to 3 years; prohibition of the participation to public procurement procedures for one to 3 years; placement under judicial supervision; display or publication of the sentencing judgment).</p>	<p>No specificities related to the circle of trust</p>
<p>San Marino</p>	<p>Yes Civil and Criminal liability Law no. 6, 21 January 21 2010 and expanded by Law no. 99, 29 July 2013: According to the law, legal persons are held liable for intentional offences committed on their behalf or in their interest by a person having the power to act on their behalf. They are also liable for offences committed while performing their activities, if such offences were due to an organization shortcoming attributable to the legal person, to a lack of supervision or control or on instructions of the legal person's top management. Legal persons are also held liable for criminal offences committed in the context of an activity subject to the direction or control of another legal person considering that liability under this Law also applies to the legal person exercising the direction or control. Such liability shall continue to apply in case of transformation and merger of the legal person.</p>	<p>No specificities related to the circle of trust</p>
<p>Serbia</p>	<p>Yes Criminal liability (2008 Law on Liability of Legal Entities for Criminal Offence, Official Gazette of RS, 97/08). The Law shall regulate conditions governing liability of legal entities for criminal offences, penal sanctions that may be imposed on legal entities as well as procedural rules when ruling on the liability of legal entities, on imposing penal sanctions, passing a decision on rehabilitation, termination of security measure or legal consequences of the conviction, and on enforcement of court decisions.</p>	<p>No specificities related to the circle of trust</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
	<p>Conditions are set up in the Law.</p> <p>Pursuant to Article 13 of the Law, the sanctions include a fine and termination of the status of the legal entity (cf. GRETA).</p> <p>Should a legal entity cease to exist before the completion of criminal proceedings, a fine, security measures and confiscation of the proceeds from crime may be imposed against the legal entity being a legal successor thereof, if the liability of the legal entity that ceased to exist had been established (see Article 8 of the Law).</p>	
<p>Spain</p>	<p>Yes</p> <p>Criminal liability</p> <p>■ Article 31 bis of the Criminal Code (on corporate liability)</p> <p>In the circumstances provided for in this Code, legal entities shall be criminally liable:</p> <p>a) For offences committed in their name or on their behalf, and for their direct or indirect benefit, by their legal representatives or any person, acting either individually or as a part of an organ of the legal person, who is authorised to take decisions in the name of the legal entity or exercise powers of organisation and control within it.</p> <p>b) For offences committed, in the course of their business and on their behalf and for their direct or indirect benefit, by those who, being subject to the authority of the individuals referred to in the preceding paragraph, may have committed the acts on account of a serious breach of the duty to monitor, supervise and control their activity, given the specific circumstances of the case.</p> <p>■ Article 33 S7, sub-sections b) to g) of the Criminal Code (penalties applicable to legal persons):</p> <p>b) Dissolution of the legal person. The dissolution shall cause definitive loss of its legal personality, as well as of its capacity to act in any way in legal transactions, or to carry out any kind of activity, even if lawful;</p> <p>c) Suspension of its activities for a term that may not exceed five years;</p> <p>d) Closure of its premises and establishments for a term that may not exceed five years;</p> <p>e) Prohibition to carry out the activities through which it has committed, favoured or concealed the felony in the future. Such prohibition may be temporary or definitive. If temporary, the term may not exceed fifteen years;</p> <p>f) Barring from obtaining public subsidies and aid, to enter into contracts with the public sector and to enjoy tax or Social Security benefits and incentives, for a term that may not exceed fifteen years;</p> <p>g) Judicial intervention to safeguard the rights of the workers or creditors for the time deemed necessary, which may not exceed five years.</p>	<p>No specificities related to the circle of trust</p>

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
<p>“The former Yugoslav Republic of Macedonia”</p>	<p>■ Article 116: (...) the criminal accountability of a legal person shall involve its civil liability ..., jointly and severally with the natural persons who are found guilty on the same acts.</p> <p>■ Article 189bis of the Criminal Code (on responsibility of legal persons for the offences of prostitution, sexual exploitation and corruption of minors)</p> <p>When, pursuant to the terms established in article 31 bis, a legal person is responsible for the offences included in this Chapter, it shall have the following penalties imposed thereon:</p> <ol style="list-style-type: none"> Fine from three to five times the profit obtained, if the offence committed by a natural person has a punishment of imprisonment foreseen exceeding five years; Fine of two to four times the profit obtained, if the offence committed by a natural person has a punishment of imprisonment foreseen exceeding two years not included in the preceding Section; Fine of two to three times the profit obtained, in the rest of the cases. <p>Pursuant to the rules established in Article 66 bis, the Judges and Courts of Law may also impose the penalties established in Sub-Sections b) to g) of Section 7 of Article 33.</p>	
<p>Yes</p> <p>Criminal liability</p> <p>The criminal liability of legal persons is regulated in Articles 28 a, b and c of the Criminal Code. It is based on the principle of presumed liability for legal entities, whose basis is the act or omission of proper supervision by the authorities of the management, the responsible or other person authorized to act on behalf of the legal person. The responsibility of the legal person does not exclude criminal responsibility of the individual as the perpetrator of the crime. (Article 28 §1 b) .The legal person respond for the crime committed under the following conditions: First, in the specific part for the committed crime to be prescribed the responsibility of the legal entity. Second, the crime to be done by a responsible person of the entity and third the offense is committed in the name, for the account or benefit of a legal person.</p> <p>The legal entity is also responsible for a crime committed by his employee or agent of the legal entity which has achieved significant benefits or other inflicted considerable damage under the conditions regulated with the article 28-a.</p> <p>In accordance with Articles 96-a and 96-b of the Criminal Code, the main penalty for criminal offences committed by legal entities is a fine.</p> <p>If the court considers that the legal entity has neglected its duty and there is a potential risk of repeating the illegal activity in the future, it can impose one or several of the following penalties:</p> <ol style="list-style-type: none"> prohibition on obtaining permits, licenses, concessions, authorisations or other rights determined by special law; 		

	May a legal person be held liable for an offence established in accordance with Article 26 (Yes/No) and under which conditions in law?	Other measures foreseen with respect to the theme of circle of trust?
	<ul style="list-style-type: none"> 2) prohibition on participation in public call procedures, granting public procurement contracts and contracts for public-private partnership; 3) prohibition on establishing new legal entities; 4) prohibition on benefiting from subsidies and loans; 5) prohibition on the use of means of financing of political parties from the State budget; 6) confiscation of permit, license, concession, authorisation or other right determined by special law; 7) temporary ban on performing a specific business; 8) permanent ban on doing a specific business, and 9) termination of the legal entity. 	
Turkey	<p>Yes</p> <p>Security measures</p> <p>No criminal sanctions due to the commission of an offence but security measures may be ordered for offenses listed in the Convention against legal entities (Article 20 of the Penal Code). These measures may be (under Article 60 of the Penal Code): the operating license of the entity may be cancelled and, depending on the circumstances provisions relating to partial or total confiscation may be applied on the entity's assets.</p>	No specificities related to the circle of trust
Ukraine	<p>No</p> <p>Criminal/ administrative law does not contain norms, which would enable holding a legal person liable for criminal or administrative offenses due to commission of actions, which should be punishable in Ukraine as a member-state of the Convention.</p>	No specificities related to the circle of trust

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