

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

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

The notion of the circle of trust

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

The previous and current monitoring rounds on the circle of trust

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

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

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

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

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

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

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

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

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

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

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

9. In addition, Parties are kindly requested to:

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

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

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

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

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

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

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

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

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

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

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

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

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Albania

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

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

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

- Yes
 No

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

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

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

[7] *Ibid.*, Recommendation 2

- Yes
 No

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

The Answer: Article 105 of the Criminal Code “Sexual or homosexual intercourse while dereliction of duty”.

The punishment for engaging in sexual or homosexual relations while abusing a dependency or duty is up to three years in prison.

Article 106

Sexual or homosexual activity with consanguine persons and persons in the position of trust

(Amended by Law No. 8733, dated 24.01.2001, article 22)

Engagement in the act of sexual or homosexual intercourse between parents and children, brother and sister, between brothers, sisters, between consanguine relatives in an ascending line or with persons in the position of trust or adoption, is sentenced by imprisonment up to seven years

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

c. [list specific categories of adults in contact with children automatically qualifying as holding this position?](#)^[8]

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

- Yes
 No

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

d. [define the notion of “circle of trust”?](#)^[9]

[9] *Ibid*

- Yes
 No

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

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

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

[10] *Ibid.*, Recommendation 6

- Yes
 No

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

Article 100 Criminal Code
Sexual or homosexual relations with minors
(Amended by law no 8733, dated 24.1.2001,
Having sexual or homosexual relations with minor children, or with a female
minor, who is not sexually matured, shall be punished from seven to fifteen years
imprisonment.

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

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

[1] *Ibid.*, Recommendation 5

- Yes
 No

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

Article 101 Criminal Code
Violent sexual or homosexual intercourse with a minor who is fourteen to
eighteen years old
(Amended by law no 8733, dated 24/01/2001, Article 16)
Having sexual or homosexual relations by violence with children that are
fourteen to eighteen years old, who is sexually matured, shall be punished from five to
fifteen years imprisonment.
When the sexual or homosexual intercourse by violence was done in
complicity, more than once, or when the child victim had serious health consequences;
this shall be punished from ten to twenty years imprisonment.
When that offence brought as a consequence the minor's death or suicide, this is
sentenced to not less than twenty years imprisonment

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

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

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

[12] *Ibid.*, Recommendation 1

- Yes
 No

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

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

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

[13] *Ibid.*, Recommendation 7

- Yes
 No

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

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

[14] *Ibid.*, Recommendation 8

- Yes
 No

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

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

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

a. [criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions](#)?^[15]

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

[15] Ibid., Recommendation 9

- Yes
 No

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

Article 108 of Criminal Code

Immoral acts

(Amended by law no.8733, dated 24.01.2001, article 24;

Amended by law no. 23/2012, dated 01.03.2012, article 11;

Paragraphs added by law no. 144, dated 02.05.2013, article 23)

Commitment of immoral acts with minors under the age of fourteen are punishable by imprisonment of from three to seven years.

The same offence, when committed against a minor who has not reached the age of fourteen, with whom the offender has family relations, shall be punishable by five to ten years of imprisonment."

Intentional involvement as a witness, in actions of a sexual nature, of a minor who has not reached the age of fourteen, or a minor who is not sexually mature yet, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

The proposal made by an adult person, by any means or form, to meet with a minor who has not reached the age of fourteen or a minor who is not sexually mature yet, with the aim of committing any of the criminal offences foreseen in this Section or in Section VIII, Chapter II of this Code, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

Article 108/a Criminal Code

Sexual harassment

(Article 108/a is added by law no. 144, dated 02.05.2013, article 24)

Commitment of actions of a sexual nature which infringe the dignity of a person, by any means or form, by creating a threatening, hostile, degrading, humiliating or offensive environment, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

When this offence is committed in complicity, against several persons, more than once, or against children, it shall be punishable by three to seven years of imprisonment."

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

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

[16] *Ibid.*, Recommendation 11

- Yes
 No

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

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

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

[17] *Ibid.*, Recommendation 12

- Yes
 No

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

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

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

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

[18] *Ibid.*, Recommendation 57

- Yes
 No

If appropriate, please provide more information (5.a No)

Law No.18/2017 "On the Rights of the Child"
REPORTING CASES OF CHILD IN NEED OF PROTECTION

Article 67

Duty to report

1. Any natural or legal person, who possesses information or the child him/herself, must notify the central institutions and local structures of child protection or the State Police, of any suspected or eventual case of abuse, neglect or exploitation of the child.
2. Any employee of public and private institutions who comes into contact with children because of the profession and suspects of a child being abused, neglected, maltreated or found at risk thereof, must notify immediately the State Police authorities or the child protection structures at local level.
3. Teachers and providers of school psychosocial service have the duty to report any suspected or eventual case of child abuse, neglect or exploitation to the local education units or child protection structures. The local education unit shall, in any case, upon being informed of a child in need of protection, report to the child protection structures.
4. Employees of public or private health or child care institutions have the duty to report immediately any suspected or eventual case of child abuse, maltreatment, abandonment, neglect or violence to the director of the institution, State Police authorities, child protection structures.

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

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

[19] *Ibid*

- Yes
 No

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

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

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

[20] *Ibid.*, Recommendation 56

- Yes
 No

If appropriate, please provide more information (5.c No)

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

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

a. [provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?](#)^[21]Please provide details.

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

- Yes
 No

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

LAW
No. 37/2017
CODE OF CRIMINAL JUSTICE FOR CHILDREN

CHAPTER VII
DIVERSION FROM CRIMINAL PROSECUTION AND PUNISHMENT
THROUGH ALTERNATIVE MEASURES
Article 55
Criteria and conditions for application of diversion from criminal prosecution

1. The competent body in any case shall assess the taking of the measure of diversion against the child in conflict with the law.
2. The competent body, when taking the decision to apply diversion from criminal prosecution shall assess the best interest of the child, the severity of the committed criminal offence and respective punishment foreseen, the age of the child, level of guilt, suffered damage, intimidating effect of criminal prosecution, behaviour of the child after committing the criminal offence and the individual assessment report prepared according to article 47 of this Code.
3. In particular, diversion by the competent body shall be applied if:
 - a) there is sufficient evidence for a reasonable doubt that the child has committed a criminal offence punished by a maximum of 5 years of imprisonment or fine;
 - b) the child confesses and explains the criminal offence in the presence of the lawyer;

- c) the child is not criminally reported over commission of a criminal offence or the child is not a recidivist;
- ç) the child and, where appropriate, child's legal/procedural representative give written consent to the application of diversion;
- d) the child failed to participate earlier in a programme of application of the measure of diversion from criminal prosecution and/or mediation;
- dh) punishment of the child for those offences does not serve to improving their behaviour;

e) considering the best interest of the child, it is considered whether or not there is any public interest in instituting criminal proceedings or resuming the already instituted criminal proceedings.

4. The competent body, after taking the decision to apply diversion, may request information from the parents, legal guardians, institutions that are familiar with the activity of the child, including where appropriate, even the Unit for Protection of the rights of the child, as well as the opinion of the expert, according to the needs of the child and the process.

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

b. [differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children?](#)^[22] Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes
- No

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Article 7

Age of the child

1. A child, for purposes of criminal responsibility for crimes, is the person who has reached the age of 14 years, but who has not reached the age of 18 years, at the time of commission of the crime.
2. A child, for purposes of criminal responsibility for misdemeanours, is the person who has reached the age of 16 years, but who has not reached the age of 18 years, at the time of commission of the misdemeanour.
3. If it is impossible to determine exactly the age of the person, but there are reasons to believe that he/she is a child, he/she shall be considered a child, in the sense of this Code, until age is determined.
4. The provisions of paragraph 2 of this article shall apply even to the child victim or/and witness of the criminal offence.

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

CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

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

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

- Yes
 No

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

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

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

[24] *Ibid*

- Yes
 No

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

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

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

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

- Yes
- No

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

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

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

[26] *Ibid.*, Recommendation 27

- Yes
- No

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

Law 18/2017 "On the Rights and Protection of the Child"

SPECIAL PROTECTION FOR CERTAIN CATEGORIES
OF CHILDREN

Article 62

Protection of the child victim of abuse, neglect,
maltreatment and violation

1. The child protection structures are responsible for verification and handling, by providing the necessary protection, of any identified or reported case of child victim of abuse, neglect, maltreatment and violation. These structures, in cooperation with other local responsible

structures and authorities must ensure enforcement of the protection measures, interventions and necessary specialized services to meet all the needs of child victims of abuse, neglect, maltreatment and violence.

2. The child protection structures, based on the best interest of the child, shall have the right of access to the residence place of the parent or natural person and to the residence place of the legal person, who are legally responsible for the child in order to verify the situation of the child identified or reported as victim of abuse, neglect, maltreatment and violence. The child protection structures, where necessary,

based on the circumstances and the facts, shall seek support by the state police authorities.

3. The parent, the person legally responsible of the child, either natural or legal person, is bound to cooperate with the child protection

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structures and provide them with the necessary information to address the situation or the case. If the above-mentioned persons refuse to cooperate or refrain the protection structures from making the necessary

verifications, then verification shall be done by force with support of the State Police bodies. Failure to cooperate or refraining the child protection structures from making the verification shall constitute an administrative offence and it shall be punished by fine, unless it constitutes a criminal offence.

4. If the child protection structures, after the assessment conclude that there are substantial reasons which show that a situation of high/ imminent risk to the child is present, they have the right to take the emergency protection measure of placing the child in alternative care.

5. If following child case assessment it is concluded that abuse, neglect, maltreatment or violence is committed by persons legally responsible for caring for the child, including employees of public or private care institutions, guardians, foster families, relatives with whom the child is placed due to a protection measure, then the protection structures shall take immediate measures to separate the child from these persons and they notify immediately the police and prosecutor's office.

6. In domestic violence cases, in addition to the request for confirmation of the emergency protection measure or protection measure, set

out in article 59 of this law, the child protection worker who serves even as the case manager may initiate with the competent court the process for issuing the emergency protection order or protection order.

In such case, both requests shall be tried by the same judge.

7. In any case, following the above-mentioned assessment, the child protection worker shall draft an Individual Protection Plan of the Child, containing the respective protection measure, the necessary interventions and services needed by the child, in order to treat the child

from both the medical and psycho-emotional aspect as well as rehabilitate and reintegrate the child.

Likewise, when it is possible for the

child to stay with the family or it is presumed that the child will return to the family, despite the protection measure taken to place the child in alternative care, the child protection worker shall draft and take measures to implement a parenting skill plan.

8. Data concerning assessment, treatment and rehabilitation of the child victim of abuse, neglect, maltreatment, violence, are kept confidential, unless they are used before the justice authorities.

9. In any case, the child shall be accompanied by the child protection worker or a psychologist assigned by the latter, according to the Individual Protection Plan, in any proceedings before the police, prosecution or court authorities.

10. The child protection worker shall take measures to monitor implementation of the Individual Protection Plan.

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

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

[27] *Ibid.*, Recommendation 25

- Yes
 No

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

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

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

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

[28] *Ibid.*, Recommendation 32

- Yes
 No

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

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

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

- a. automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending?^[29] Please provide details.

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

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (9.a Yes)

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

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

[30] *Ibid*

- Yes
 No

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

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

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

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

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

Decision of Council of Ministers No. 578, datë 3.10.2018

When the report of abuse or suspected abuse is referred to Child Protection Worker

Article 6

IDENTIFICATION

1. Identification of a child in need of protection is done by any natural or legal person, any employee of public and private institutions, which is in contact with the child, teachers, service providers school psycho-social staff, State Police structures, Directorate for Asylum and Anti-Trafficking, Center National Reception for Asylum Seekers, employees of health or care institutions the child, public or private, as well as the children themselves.

2. Child Protection Worker have the duty to perform proactive identification of children in need protection, through the planning of work in the field, the verification of the notification received by each natural person or legal, every employee of public and private institutions, who comes into contact with the child, as well as verification of information about cases that come to our attention through written, electronic media or social media

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

ASSISTANCE TO THIRD PARTIES Question 11.

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

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

Law 18/2017 "On the Rights and Protection of the Child"

Article 54

Individual protection plan

1. The Child Protection Worker, in cooperation with the Needs Assessment and Referral Units and the inter-sectorial technical group, operating at municipality level or attached to the municipality administrative unit, must prepare an Individual Protection Plan, containing even the proposal on the protection measure, where needed.
2. In addition to the protection measures, the Individual Protection Plan shall contain other needed interventions ensuring respect for and facilitating child's access to his/her rights and also social services or other necessary services, based on the needs identified during case assessment.
3. The Individual Protection Plan shall, where appropriate, contain even measures for investigation and immediate intervention if the child is at risk of abuse, violence, neglect and exploitation and measures for medical aid, psychological, legal, social or other necessary rehabilitating or reintegrating service, according to the needs identified during case assessment, and also activities for education, learning and entertainment of children, measures for parental recovery, support programmes and assistance to the parent, legal guardian and members of the extended family.
4. All the interventions and services foreseen in the Individual Protection Plan shall be provided free of charge.

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

ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

Law 18/2017 "On the rights and protection of the Child"

The Child Protection Worker has the duty to collaborate and exchange information on the management of the case of a child in need of protection with any responsible health, education, police prosecution and judicial structure, at local and national level, as well as with the civil society, thereby maintaining confidentiality of personal data of the child;

Data concerning assessment, treatment and rehabilitation of the child victim of abuse, neglect, maltreatment, violence, are kept confidential, unless they are used before the justice authorities.

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

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

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

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

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

- Yes
 No

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

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

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

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

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

- Yes
 No

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

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

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

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

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

- Yes
 No

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

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

c. ensure that legal persons failing to protect children in their care from sexual abuse are held liable?^[39]

Please provide details.

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

- Yes
 No

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

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

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

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

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

According to Law 18/2017 "On the Rights and Protection of the Child"

"Procedural representative" is the person assigned by the proceeding authority from the list provided by the Child Protection Unit who shall represent the child procedurally in absence of their legal representative or, in case of conflict of interest between the legal representative and the child, and who shall have the representation rights on behalf of a child in conflict with the law or the child witness/victim with a view to protect the best interest of the child.

The child protection unit at the municipality develops and updates, annually, the list of the procedural representatives for children in conflict with the law, children victims and witnesses in criminal process and sends the list to the local structures of the State Police, Prosecution office and to the respective judicial district court and appeal court. The criteria and procedures of selection of procedural representatives are defined by joint instruction of the minister coordinating action for issues of rights and protection of the child and the Minister of Justice.

According to this Instruction (No. 365 date 13.09.2019)

The criteria that an individual must meet to be a procedural representative are:

- a) to be an Albanian citizen;
- b) to have a bachelor's degree and a scientific master's degree or a master's degree Professional in social sciences, law, psychology, according to the legislation in force for higher education, issued by the institution of higher education, inside or outside the country, recognized by the ministry

responsible for education;

c) to have at least 2 years of previous work experience in matters of personal protection child rights;

ç) to have training in the field of child rights protection;

d) have knowledge of the rules applicable to criminal justice for minors;

dh) not have been convicted by a final decision for criminal acts of domestic violence and criminal offenses against the person committed intentionally

The Mayor sets up the commission for the selection and evaluation of candidates who will exercise the role of procedural representatives

The State Agency for the Rights and Protection of the Child and the Unit for the Protection of children in the municipality conduct training for the persons who exercise the function of representative procedural.

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

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

[41] *Ibid.*, Recommendation 36

refer to point "a"

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

c. [are provided free of charge for the child victim?](#)^[42]

[42] *Ibid.*, Recommendation 37

this service is free of charge for the child

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

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

a. [Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?](#)^[43] Please provide details.

[43] *Ibid.*, Recommendation 34

Yes

No

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

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

b. **Is this person allowed to be present throughout the criminal proceedings?**^[44]Please provide details.

[44] *Ibid*

- Yes
 No

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

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

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

a. **protection measures are available to all children irrespective of their age?**^[45] Please provide details.

[45] *Ibid.*, Recommendation 38

LAW No. 37/2017
CODE OF CRIMINAL JUSTICE FOR CHILDREN
Article 37
Protective measures for the child victim or witness

1. At any stage of criminal proceedings, when the safety of the child victim or witness is at risk, where appropriate, the prosecutor, the judicial police or the Unit for Protection of the Rights of the child shall take protective measures including:

a) avoid direct contact between a child victim or witness and the accused person at any stage in the proceedings;

b) file a request for the issuing of the "restriction order" by the court. In this case the request shall be recorded in a special register and it shall be recorded on the day of its filing. In such case the provisions of the legislation in force on measures against violence in family relations;

c) file a request imposition of the security measure of "imprisonment" or "house arrest" against the accused under the condition of having no contact with the child;

- c) file a request for the protective measures to be taken in relation to the child victim or witness by the police or other structures and for the keeping of the secret of the location of the child;
 - d) make or request from the competent authorities other protective measures that are deemed appropriate.
2. Where the court finds the risk against the child victim or witness it may impose even ex officio protective measures foreseen in paragraph 1 letter "b", "c" and "ç" of this article.

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

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

[46] *Ibid.*, Recommendation 39

refer to point "a"

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

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

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

Law 18/2017 "In the Rights and Protection of the child" Article 29
Right to legal aid and psychological assistance during administrative or judicial proceedings

1. The child shall be guaranteed free legal aid and psychological assistance, in any administrative and judicial proceedings in accordance with the development and maturity of the child.
2. Legal aid and psychological assistance shall be provided to the child directly and without any barriers, in full respect of the principle of non-discrimination and the best interest of the child.
3. Legal aid and psychological assistance to the child includes all administrative and judicial actions, as well as any counselling provided by the representative, the lawyer chosen by the child, or assigned by the responsible authorities according to the legislation in force, throughout the administrative or judicial proceedings.
4. Psychological assistance includes all actions and counselling by the psychologist assigned by the responsible authorities according to the legislation in force.
5. The child, directly or through the parent, guardian or representative, shall address a request for legal aid to the responsible institutions, which inform the child, the guardian or representative of the proceedings, according to the legislation in force.
6. During the development of administrative and judicial proceedings, personal data and private life of the child shall not be made public.

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

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

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

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

- Yes
 No

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

The Criminal Code was amended in 2017

Law No. 18/2017, "On the rights and protection of children." was adopted

Law No. 37/2017 CODE OF CRIMINAL JUSTICE FOR CHILDREN was adopted

CHAPTER I GENERAL PROVISIONS

Article 1

Object

1. The Code of Criminal Justice for Children (hereinafter referred to as the Code) contains special provisions on criminal liability of children; procedural rules relating to investigation, criminal prosecution, court proceedings, execution of criminal sentences, rehabilitation or other measures involving a child in conflict with the law, as well as a child victim and/or witness of the criminal offence.

Article 2

Purpose

The purpose of this Code is to:

1. Guarantee a legal framework on criminal justice for children which is in line with the Constitution, United Nations Organisation (UN) Convention on the Rights of the Child and other international standards and norms which aim at protecting children and the best interest of child effectively.
2. Promote reintegration of the child in conflict with the criminal law and the assuming by the child of a constructive role in society.
3. Ensure re-socialization and rehabilitation of the child who has committed the criminal offence.
4. Protect the rights of child victim and/or witness of the criminal offence.
5. Prevent re-victimization and secondary victimization of the child who has been earlier a victim of a criminal offence.
6. Prevent the re-commission of criminal offences by the child.

7. Protect public order principles in the process of administering of criminal justice for children.
8. Enhance accountability and professionalism of the competent bodies administering cases of criminal justice for children.
9. Ensure educational and prevention measures against children who commit criminal offences and ensure establishment of mechanisms to supervise their enforcement.

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

INVESTIGATION Question 19. In the investigation phase:

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

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

[49] *Ibid.*, Recommendation 41

- Yes
 No

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

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

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

[50] *Ibid.*, Recommendation 42

- Yes
 No

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

CHAPTER IV

TRAINING AND SPECIALISATION OF COMPETENT BODIES IN CRIMINAL JUSTICE PROCESS INVOLVING CHILDREN

Article 25

Specialization of persons administering and assisting the criminal justice process involving children

1. The competent bodies take all the relevant measures to make sure that the persons dealing with the children have the necessary knowledge, highest professional awareness for the protection of rights of the child in conflict with the law, child victim or witness and take the necessary measures for their irremovability from these positions.
2. The competent bodies, according to this Code guarantee and make sure that any person who has been sentenced by a final court decision for a criminal offence committed intentionally against the child or domestic violence offence shall be prohibited from working and providing any services to the child.
3. The competent bodies and non-profit organisations providing services to the child take all the adequate measures to make sure that the persons sentenced for criminal offences against children will have no contact with the child.
4. Persons administering the criminal justice process involving children must be specialised and trained specifically in the field of protection of rights of the child. Exemption is made only to those cases where the act or omissions of the child endanger public security and in foreseen cases of the situation of flagrancy under the provisions of the Criminal Procedure Code. In such event, the non-specialized person, after the preliminary measures are taken, shall immediately notify the specialized person/structures to resume this process.
5. The competent bodies, in proceedings involving children, shall make sure that the specialised employees may assist the child in the criminal justice process.
6. Violation of paragraph 3 of this article shall constitute a criminal offence according to the Criminal Code.

Article 26

Training topics

1. Any person assigned by the competent body administering criminal justice for children shall be trained and gain specific knowledge mainly related to:
 - a) methodology of communication with the child in conflict with the law and communication with the child victim and/or witness of the criminal offence;
 - b) standards and principles guaranteeing the rights of the child;
 - c) principles and ethical obligations related to their functions;
 - ç) signs and symptoms indicating that a criminal offence has been committed against a child;
 - d) skills and techniques related to the assessment of critical situations, risk assessment, referral of cases and guaranteeing of the principle of confidentiality;
 - dh) skills related to the technique of cross-examination of children, child psychology and communication with the child in a language convenient to the child;
 - e) dynamics and nature of violence against the child, effect and consequences including the physical and psychological as well as that of the incitement to commit the criminal offence;
 - ë) techniques and special measures for the support and protection of the child victim and witness;
 - f) methods of mandatory work for the professionals working with the children; as well as
 - g) other similar fields related to criminal justice for children.
2. The training topics are specific depending on the tasks of the professionals of the competent bodies and the position of the child in criminal justice for children. Their training is mandatory and continuous

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

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

[51] *Ibid.*, Recommendation 43

- Yes
 No

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Article 39

Special rules of questioning the child victim or witness

1. The judge, when giving testimony may put the child victim or witness at serious risk of life or health, in accordance with the age, during trial shall ensure:

- a) cross-examination of the child witness/victim by using devices that alter the image and/or voice of a witness/victim, cross-examination behind a non-transparent screen, or distant crossexamination;
- b) cross-examination of the child witness/victim before a court hearing starts in the presence of the defence counsel of the child and video recording of the cross-examination of the child;
- c) follow up of the process and cross-examination of the child witness or victim, when possible and appropriate by the same persons and the limitation, as much as possible of the number of cross-examinations.

2. The competent bodies shall make sure that in any case confrontation of the child victim with the accused person in the premises where the process takes place shall be avoided.

3. The court proceedings shall be held in camera when a child victim or witness is involved.

4. The court, concerning the child victim or witness, according to the provisions of paragraph 1 of this article, shall make sure that:

- a) the child is questioned in friendly premises and outside the court premises;
- b) evidence is secured within the shortest possible period after initiation of criminal proceedings in order to avoid the negative effects deriving from a lengthy process;
- c) questioning is not repeated at other trial instances in order to avoid re-victimization of the child, unless otherwise foreseen in the law;
- ç) other measures deemed appropriate shall be taken.

5. The child victim and witness shall be cross-examined without delay after the reporting of facts to the respective bodies.

6. The same rules shall be applied by other competent bodies even during the crossexamination of the child victim and witness.

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

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

[52] *Ibid.*, Recommendation 54

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

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

[53] *Ibid.*, Recommendation 44

- Yes
 No

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

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

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

[54] *Ibid.*, Recommendation 45

- Yes
 No

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

JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

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

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

[55] *Ibid.*, Recommendation 46

- Yes
 No

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Article 39

Special rules of questioning the child victim or witness

1. The judge, when giving testimony may put the child victim or witness at serious risk of life or health, in accordance with the age, during trial shall ensure:

- a) cross-examination of the child witness/victim by using devices that alter the image and/or voice of a witness/victim, cross-examination behind a non-transparent screen, or distant cross-examination;
- b) cross-examination of the child witness/victim before a court hearing starts in the presence of the defence counsel of the child and video recording of the cross-examination of the child;
- c) follow up of the process and cross-examination of the child witness or victim, when possible and appropriate by the same persons and the limitation, as much as possible of the number of cross-examinations.

2. The competent bodies shall make sure that in any case confrontation of the child victim with the accused person in the premises where the process takes place shall be avoided.

3. The court proceedings shall be held in camera when a child victim or witness is involved.

4. The court, concerning the child victim or witness, according to the provisions of paragraph 1 of this article, shall make sure that:

- a) the child is questioned in friendly premises and outside the court premises;
- b) evidence is secured within the shortest possible period after initiation of criminal proceedings in order to avoid the negative effects deriving from a lengthy process;
- c) questioning is not repeated at other trial instances in order to avoid re-victimization of the child, unless otherwise foreseen in the law;
- ç) other measures deemed appropriate shall be taken.

5. The child victim and witness shall be cross-examined without delay after the reporting of facts to the respective bodies.

6. The same rules shall be applied by other competent bodies even during the cross-examination of the child victim and witness.

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

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

[56] *Ibid.*, Recommendation 59

- Yes
 No

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Article 40

Special rules for cross-examining the child 14-18 years of age

1. In addition to the rules foreseen in article 361/a of the Code of Criminal Procedure, the child over the age of 14 years give testimony when the defendant is not present. In such case, the judge orders the temporary removal of the defendant from the courtroom ensuring the mandatory presence of the defence counsel of the defendant in court proceedings.
2. The court, where appropriate, in case of application of paragraph 1 of this article, shall inform the child of the right to request the defendant to be present. If so requested by the child, the court assesses the request immediately, given the concrete circumstances, maturity of the child, risk of re-victimisation and secondary victimization and decides on the request.

Article 41

Special rules of cross-examination of the child victim and/or witness of sexual exploitation or sexual violence

1. In addition to the rules foreseen in article 58/b of the Code of Criminal Procedure, the rules foreseen in article 40 of this Code shall apply to the cross-examination of the child victim and/or witness of sexual exploitation or sexual violence. Audio and video recording of these children during cross-examination shall be mandatory.
2. The audio and video recorded testimony given by the child may be used during the court hearing.
3. The testimony of the child victim of sexual exploitation and/or sexual abuse may be heard in the courtroom without the child being present, through the use of the necessary communication technology.
4. No child witness or victim of domestic violence is questioned in the presence of abusive parent or relative, during the procedure issuing the protection order, emergency protection order.
5. In cases involving child victim or witness of sexual exploitation and/or sexual abuse, the court proceedings is held in-camera.

Article 42

Special rules for cross-examination of the child victim/witness under 14 years of age

1. All the guarantees and rights foreseen by this Code and article 361/a of the Code of Criminal Procedure shall apply, to the greatest possible extent, for the child victim and witness, under 14 years of age, in addition to the provisions of this article.
2. Children under 14 years of age may be cross-examined only with the consent and in the presence of their legal/procedural representative, psychologist and defence counsel. The legal/procedural representative is entitled to express his/her views on the questions addressed to the child.
3. The legal representative shall not be allowed to participate if this conflicts with the best interest of the child and he is suspected of commission of unlawful act and/or omissions.

4. The child under 14 years of age shall be explained in a clear and understandable way and through examples, the importance of telling the truth and the consequences deriving on third persons from failure to tell the truth. The child is explained that he has no criminal liability for the criminal offence, for refusal to give testimony or giving false testimony.

5. The prosecuting body shall preliminarily consult the psychologist on the content of questions to be made to the child in order to make the question properly, facilitate the giving of testimony, avoid intimidation or reluctance from the process.

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

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)^[57]

Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
 No

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

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

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

[58] *Ibid.*, Recommendation 47

- Yes
 No

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

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

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

LAW

No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Article 43

Measures to protect the privacy and well-being of the child victim and witness

The court shall, *ex officio*, at the request of a child victim or witness, child's legal/procedural representative and/or child's defence counsel, considering the best interest of the child, order, where appropriate, the taking of one or several adequate and appropriate measures to protect the privacy and physical and mental well-being of the child and to prevent suffering and secondary victimization including:

- a) expunging from the public record any names, addresses, educational institutions, and/or workplaces, professions or any other information that could be used to identify the child;
- b) prohibiting the defence counsel of the defendant and the child victim/witness from disclosing the identity of the child or any materials or information that could lead to identifying the child;
- c) ordering the non-disclosure of any records that identify the child to the extent deemed necessary by the court;
- ç) assigning a number to the child for the purpose of preparing the defence of the accused, date of birth and the full name of the child, where appropriate, shall be disclosed within a reasonable period;
- d) taking measures not to disclose the identity of the child including: alteration of the image/appearance/presentation or voice; testifying behind an opaque shield; cross-examination in another place and simultaneous transmission to the courtroom by means of closed-circuit television; videotaping (audio and video recording) cross-examination of the child witness prior to the hearing, in which case the defence counsel of the accused attends examination and is given the opportunity to examine the child witness or victim; communication through a qualified and suitable mediator, including the translator/interpreter for children with hearing, sight, speech or other disabilities, but not limited only to these;
- dh) holding in-camera hearings;
- e) giving orders to temporarily remove the accused from the courtroom if the child refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking the truth in that person's presence. In such cases, the defence counsel of the child shall remain in the courtroom and question the child, and the accused's right of confrontation shall thus be guaranteed;
- ë) allowing recesses during the child's testimony;
- f) taking any other measures that the court may deem necessary, including, where applicable, anonymity, taking into account the best interests of the child and the rights of the accused.

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

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

[60] *Ibid*

- Yes
- No

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

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

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

[61] *Ibid*

refer to information for points "a" and "b"

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

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

[62] *Ibid.*, Recommendation 49

refer to information for point "e"

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

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

[63] *Ibid.*, Recommendation 50

- Yes
- No

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

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

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

[64] *Ibid.*, Recommendation 51

- Yes
- No

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

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

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

[65] *Ibid.*, Recommendation 52

LAW
No. 37/2017
CODE OF CRIMINAL JUSTICE FOR CHILDREN
Article 45
Right to compensation for damage

1. The child victim of the criminal offence and the child's legal representative shall be informed and explained the decision of the court concerning the respective criminal offence, in the most appropriate way for the age and maturity of the child.
2. The court, where appropriate, shall inform the child victim of the criminal offence and child's legal representative of the right to compensation for damage

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