

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

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. In addition, Parties are kindly requested to:

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

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

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

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

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

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

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

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

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

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

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

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

## IDENTIFICATION OF THE RESPONDER

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

Bosnia and Herzegovina

\* Name of the contact person/coordinator

[Redacted]

\* Email address of the contact person/coordinator

[Redacted]

## 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?**<sup>[6]</sup> If yes, please provide a copy of the relevant provision(s).

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

- Yes
- No

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

The three criminal laws in Bosnia and Herzegovina (BiH) do not use identical terminology as stated in the Lanzarote Convention, but the provisions in all three laws describe and qualify when offence against child is committed by a person close to the child, who is in fact a person of trust, authority or influence.

NOTE: some of the changes in the law are not English translation of the law, so it is necessary to look at the local language version.

Criminal Code of the Federation of Bosnia and Herzegovina - Article 205 - Sexual Intercourse by Abuse of Position and Article 207 - Sexual Intercourse with a Child ( <https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/005%20-%20Criminal%20Code,%20Criminal%20Procedure%20Codes%20and%20Criminal%20Sanctions/Criminal%20Codes/FBH/FBH%20CRIMINAL%20CODE%2036-03.pdf> & <https://www.paragraf.ba/propisi/fbih/krivicni-zakon-federacije-bosne-i-hercegovine.html> )

Criminal Code of the Republic of Srpska Article 172 - Sexual Intercourse with a Child under the Age of 15 and Article 173 - Sexual Abuse of a Child over the Age of Fifteen ( [https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/New2019/RSCC\\_64-17.pdf](https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/New2019/RSCC_64-17.pdf) & <https://www.paragraf.ba/propisi/republika-srpska/krivicni-zakon-republike-srpske.html> ) ;

-----Criminal Code of Brčko District of Bosnia and Herzegovina - Article 202 - Sexual Intercourse through Abuse of Office and Article 204 - Sexual Intercourse with a Child ( <https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/005%20-20Criminal%20Code,%20Criminal%20Procedure%20Codes%20and%20Criminal%20Sanctions/Criminal%20Codes/BDBH/BD%20Criminal%20Code%2010-03.pdf> & <https://www.paragraf.ba/propisi/brcko/krivicni-zakon-brcko-distrikta-bosne-i-hercegovine.html> )

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

b. **[for 22 Parties + Belgium and Luxembourg] establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the**

perpetrator holds that position just as an “aggravating circumstance”?<sup>[7]</sup> If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes
- No

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

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

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

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.c Yes)

The answer given under question 1. a. the legal provisions specify exactly who are the adults who are considered to hold this position.

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

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

[9] *Ibid.*

- Yes
- No

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

Our criminal laws do not define the concept and do not use the term "circle of trust".

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

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

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

[10] *Ibid.*, Recommendation 6

- Yes
- No

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?<sup>[1]</sup> Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
- No

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

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

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a. **where the offender abuses a recognised position of influence?** <sup>[12]</sup> 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)

See the relevant provisions listed in the answer to question number 1. a.

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?<sup>[13]</sup> 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?**<sup>[14]</sup> Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes  
 No

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

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

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

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

[15] *Ibid.*, Recommendation 9

- Yes  
 No

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

Our criminal laws also criminalize acts other than sexual intercourse and equivalent acts as follows:  
Criminal Code of the Federation of Bosnia and Herzegovina: Article 208, "Lechery (Concupiscence)", Article 209 „Satisfying Lust in the Presence of a Child or Juvenile“, Article 210a „Human trafficking“, Article 211 "Abuse of a Child or Juvenile for Pornography", Article 212 "Introducing Pornography to a Child".  
Criminal Code of the Republic of Srpska Article 174 "Soliciting a Child's Presence During Sexual Acts", Article 175 "Exploitation of Children for Pornography", Article 176 "Exploitation of Children for Pornographic Performances", Article 177 "Introducing Pornography to Children", Article 178 "Use of a Computer Network or Communications by Other Technical Means for the Commission of Criminal Offenses of Sexual Abuse or Exploitation of Children", Article 179 "Satisfying Sexual Lust in the Presence of a Child" and Article 180 "Soliciting a Child to Prostitution".  
Criminal Code of the Brčko District of Bosnia and Herzegovina: Article 205 "Debauchery", Article 206 "Satisfying Sexual Desire in Presence of a Child or a Minor", Article 207a "Human trafficking", Article 208 Abuse of a Child or a Minor for Pornographic Purposes, Article 209 "Showing Pornographic Material to a Child"

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

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

[16] *Ibid.*, Recommendation 11

- Yes
- No

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

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

[17] *Ibid.*, Recommendation 12

- Yes
- No

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

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

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

[18] *Ibid.*, Recommendation 57

- Yes
- No

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

Yes, in accordance with all three laws on criminal procedure, the prosecution of all criminal offenses in question is conducted by prosecutors exclusively ex officio, according to the principle of accusatoriality and according to the principle of legality of criminal prosecution. This is done according to the procedure established by the laws on criminal procedure and the laws on dealing with children and juveniles in criminal proceedings, and not by proposal. This means that if there is evidence for the commission of a criminal act, it will be prosecuted ex officio and no complaint from the victim or his legal representative is required.



The Criminal Procedure Code of the Federation of Bosnia and Herzegovina ( <https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/005%20-%20Criminal%20Code,%20Criminal%20Procedure%20Codes%20and%20Criminal%20Sanctions/Criminal%20Procedure%20Codes/FBH/FBH%20CRIMINAL%20PROCEDURE%20CODE%2035-03.pdf> & <https://www.paragraf.ba/propisi/fbih/zakon-o-krivicnom-postupku-federacije-bosne-i-hercegovine.html> )

Article 18

Principle of Legality of Prosecution

The prosecutor is obligated to initiate a prosecution if there is evidence that a criminal offense has been committed unless otherwise prescribed by this Code.

The Criminal Procedure Code of Republika Srpska ( <https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/New2015/RS%20Criminal%20Procedure%20Code%2053-12.pdf> & <https://www.paragraf.ba/propisi/republika-srpska/zakon-o-krivicnom-postupku-republike-srpske.html> )

Article 17

Principle of Legality of Prosecution

(1) The prosecutor shall initiate a prosecution if there is evidence that a criminal offense has been committed, unless otherwise prescribed by this Code.

(2) For certain criminal acts, when prescribed by law, the prosecutor may initiate criminal prosecution only based on the proposal of the injured party.

The Criminal Procedure Code of the Brčko district of Bosnia and Herzegovina (<https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/005%20-%20Criminal%20Code,%20Criminal%20Procedure%20Codes%20and%20Criminal%20Sanctions/Criminal%20Procedure%20Codes/BDBH/BD%20Law%20on%20Crimina%20Procedure%2010-03.pdf> i <https://www.paragraf.ba/propisi/brcko/zakon-o-krivicnom-postupku-brcko-distrikta-bosne-i-hercegovine.html>

Article 17

Principle of Legality of Prosecution

The Prosecutor shall initiate prosecution if there is evidence that a criminal offense has been committed unless otherwise stipulated by this Law.

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

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

[19] *Ibid*

- Yes  
 No

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

Yes, the Prosecutor is obliged to initiate criminal prosecution in each specific case if there is evidence of a criminal offense committed to the detriment of children and minors and the withdrawal of the report cannot stop further official prosecution.  
Legal provisions are listed under 5.a.

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

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

[20] *Ibid.*, Recommendation 56

- Yes  
 No

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

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

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

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

- Yes  
 No

If appropriate, please provide more information (6.a No)

No. In accordance with all three criminal laws mentioned above, criminal liability does not exist for persons under the age of 14. In addition, three laws on the protection and treatment of children and juveniles in criminal proceedings for the Federation of BiH, Republika Srpska and Brčko District of BiH (which are almost identical laws) explain in detail the responsibility and position of all minors in criminal proceedings, their rights and responsibilities. ( <https://www.paragraf.ba/propisi/fbih/zakon-o-zastiti-i-postupanju-sa-djecom-i-maloljetnicima-u-krivicnom-postupku.html> , <https://www.paragraf.ba/propisi/republika-srpska/zakon-o-zastiti-i-postupanju-sa-djecom-i-maloljetnicima-u-krivicnom-postupku.html> i <https://advokat-prnjavorac.com/Zakon-o-zastiti-i-postupanju-sa-djecom-i-maloljetnicima-u-krivicnom-postupku-Brcko-Distrikt.html> )

Article 2 of these three laws states:

Article 2

Definition of the Child and Application of Criminal Sanctions

(1) In accordance with this Law the child is any person below the age of 18 years.

(2) No criminal sanctions may be imposed onto and no other measures provided in this Law may apply to a child who was below the age of 14 years (hereinafter child) at the time of the commission of a criminal offence.

(3) The juvenile is a child who was at the time of the commission of a criminal offence over the age of 16 and below the age of 18 (hereinafter juvenile) and to whom criminal sanctions and other measure foreseen by this Law may be imposed.

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

[22] Question included for capacity-building purposes

- Yes  
 No

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

Yes. The three laws on the protection and treatment of children and juveniles in criminal proceedings for the Federation of BiH, Republika Srpska and Brčko District of BiH make a difference depending on the age of the children:

Article 2

Definition of the Child and Application of Criminal Sanctions

(1) In accordance with this Law the child is any person below the age of 18 years.

(2) No criminal sanctions may be imposed onto and no other measures provided in this Law may apply to a child who was below the age of 14 years (hereinafter child) at the time of the commission of a criminal offence.

(3) The juvenile is a child who was at the time of the commission of a criminal offence over the age of 16 and below the age of 18 (hereinafter juvenile) and to whom criminal sanctions and other measure foreseen by this Law may be imposed.

Article 3

Age of Juvenile for the Purpose of this Law

(1) A younger juvenile is a juvenile person who, at the time of the commission of a criminal offence, is over the age of 14 and below the age of 16 years.

(2) Older juvenile is a juvenile who, at the time of the commission of a criminal offence, is over the age of 16 and below the age of 18 years.

(3) A young adult is a person who, at the time of the commission of a criminal offence, is over the age of 18 and below the age of 21 years.

Article 50  
Sentencing Older Juveniles

Only an older juvenile criminally liable may be punished if s/he has perpetrated a criminal offence for which a punishment of imprisonment for a term exceeding five years has been prescribed, if it would not be justifiable to apply a correctional measure because of the grave consequences of the offence perpetrated and the high degree of criminal responsibility.

Article 51  
Juvenile Imprisonment Sentencing

(1) The duration of the imposed sentence of juvenile imprisonment may not be longer than ten years and shall be pronounced in full years or full months. In case of a criminal offence punishable by the sentence of the long-term imprisonment, or if at least two concurrent criminal offences punishable by the sentence of imprisonment for a term of more than ten years have been perpetrated, the maximum juvenile imprisonment term shall be up to 10 years.

(2) In meting out sentencing to an older juvenile for a criminal offence, the court shall not impose a sentence of the juvenile imprisonment for a term longer than the term of the imprisonment sentence provided for that criminal offence; however, the court shall not be bounded by the minimum prescribed for that sentence.

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## CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes  
 No

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

Yes, this is regulated by the laws on criminal procedure, which stipulate that the prosecutor undertakes all actions in the procedure for which he is legally authorized by himself or through persons who are obliged by law to act on his request in the criminal procedure. Bearing in mind the aforementioned legal provisions, the prosecutor for the purpose of the investigation may, if the circumstances of the specific crime so dictate, decide that the investigative actions of the interview with the child are carried out without prior notification, i. e. the consent of the parent/legal guardian in order to collect evidence and data in exposing the criminal offense and the perpetrator.

The Law on Criminal Procedure of the Federation of Bosnia and Herzegovina in Art. 47 "Taking Actions",

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

[24] *Ibid*

- Yes  
 No

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

Yes. This is done by order of the prosecutor as stated in the previous answer.

The three laws on the protection and treatment of children and juveniles in criminal proceedings for the Federation of BiH (Art. 22), Republika Srpska (Art. 21) and the Brčko District of BiH state who are experts in proceedings with children, namely:

Expert Advisors

(1) The courts and the prosecution offices shall have the following expert advisors: social pedagogues – defectologists, social workers, pedagogues and psychologists.

(2) In the course of the proceedings, the expert advisors to the prosecution office may collect information on the personality of the juvenile; collect the data and provide opinion necessary for the prosecutor to decide about the justifiability of initiation of the proceedings against a juvenile, collect the data regarding pronouncement of correctional recommendation, provide opinion on necessity of applying measures for placement of juvenile into reception centre and other measures for ensuring presence of the juvenile in the course of the proceedings, visit detained juveniles and report to the prosecutor and if necessary propose necessary measures, provide opinion about application of correctional recommendations, measures and security measures and their substitution with other measures or suspension of the proceedings, keep data and collect statistics and other data and opinions upon prosecutor's request and order.

(3) In the course of the proceedings, the expert advisors to the court may collect information necessary to decide about application of correctional recommendations, provide opinion on necessity of applying measures for placement of juvenile into reception centre and other measures for ensuring presence of the juvenile in the course of the proceedings, visit detained juveniles and report to the judge and if necessary propose necessary measures, attend hearings and main trial and provide expert opinion about application of certain measures towards children who are victims or witnesses of a criminal offence, keep records and collect statistics upon judge's request and provide opinion about other issues when agreed by parties and DA or if court finds it necessary.

(4) The expert advisor of the PO or court shall collect information referred to in Paragraphs 2 and 3 of this Article in cooperation with competent custodian authority which for purposes of this Law, commonly, shall have special department or service for juveniles, and if necessary directly from parents, guardian or adoptive parents of juvenile, institutions, other persons and when necessary directly from the juvenile.

(5) Prosecutor, in the course of the preparatory proceedings and court, in the course of the proceedings may decide that expert advisor attends actions taken in presence of the juvenile offender, and especially in course of his/her questioning. The court shall decide about the expert advisor's presence in accordance with Article 185 of this Law when in the proceedings children and juvenile victims and witnesses are being questioned.

(6) If POs and courts have no expert advisors, judges and prosecutors shall request that data from Paragraph 2 and 3 of this Article is collected by experts of the custodian authority and for the purpose of questioning children and juveniles they may engage experts (social pedagogues-defectologists, social workers, pedagogues and psychologists) from other appropriate institutions.

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

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

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

- Yes  
 No

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

Yes. Our legal framework, through laws on protection against domestic violence as a protective measure, enables the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of violence, namely: Law on protection against domestic violence of the Federation of Bosnia and Herzegovina in Art. 11 "Removal from an apartment, house or other residential space" ( <https://www.paragraf.ba/propisi/fbih/zakon-o-zastiti-od-nasilja-u-porodici.html> ), The Law on Protection from Domestic Violence of the Republic of Srpska in Article 24 ( [https://www.sigurnodijete.ba/wp-content/uploads/2019/06/zakon\\_o\\_zastiti\\_od\\_nasilja\\_u\\_porodici\\_RS.pdf](https://www.sigurnodijete.ba/wp-content/uploads/2019/06/zakon_o_zastiti_od_nasilja_u_porodici_RS.pdf) ) and the Law on Protection from Domestic Violence of the Brčko District of Bosnia and Herzegovina in Article 20 ( <https://advokat-prnjavorac.com/Zakon-o-zastiti-od-nasilja-u-porodici-Brcko-distrikt.html> ) .

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

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

[26] *Ibid.*, Recommendation 27

- Yes  
 No

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

Yes. The relevant provisions are listed in the answer to question number 8.

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

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

[27] *Ibid.*, Recommendation 25

- Yes  
 No

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

Yes. All three of the above-mentioned laws on protection against domestic violence state that competent institutions in the field of family, social, police and health protection are obliged to collect data, share and keep records on domestic violence.

Law on Protection from Domestic Violence of the Federation of Bosnia and Herzegovina

Article 40

Record keeping

The police administration is obliged to keep records on reported cases of domestic violence and on the implementation of protective measures from art. 11, 12 and 13 of this law.

Regulation on the method of implementation of measures from Art. 11, 12 and 13 of this law will contain the necessary records and the record-keeping form from paragraph 1 of this article.

The competent court is obliged to keep records of the submitted requests for the imposition of protective measures and the pronounced protective measures.

The content and form of keeping records from paragraph 3 of this article will be prescribed by the federal minister of justice within 60 days from the date of entry into force of this law.

The guardianship authority is obliged to keep records of protective measures imposed on persons protected by protective measures and on violent persons to whom protective measures have been imposed.

The content and form of records from paragraph 5 of this article will be prescribed by the federal minister of labor and social policy within 60 days from the date of adoption of this law.

The regulation on the method of implementation of the measure referred to in Article 15 of this law will also contain the necessary records of the imposed measures and a form for keeping those records.

All records from this article must be kept in accordance with Article 18 of the Law on Gender Equality in Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no. 16/03 and 102/09).

Records from this article must be submitted to the Gender Center of the Federation of Bosnia and Herzegovina no later than January 10 for the previous year.

Law on Protection from Domestic Violence of Republika of Srpska

Article 34

(1) Protection entities and other bodies authorized to act under this law are obliged to keep records of actions taken under this law and data on the number of initiated and completed procedures and other measures taken, and submit reports thereof to the Ministry.

- (2) The Ministry collects, processes and records data on domestic violence.
- (3) The Minister shall issue a rulebook on the content of records and reports on domestic violence from paragraph 1 of this article.

Law on Protection from Domestic Violence Brčko District BiH

Article 29 (Records)

- (1) Subjects of protection and other bodies authorized to act in accordance with this law are obliged to keep records of actions taken and data on the number of initiated and completed procedures and other measures taken, and submit reports thereof to the Department of Health and other services.
- (2) The Department of Health and Other Services collects, processes and records data on domestic violence.
- (3) The Head of the Department for Health and Other Services issues the Rulebook on the content of records and reports on domestic violence from paragraph 1 of this article.

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

## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

[28] *Ibid.*, Recommendation 32

- Yes
- No

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

Yes. Our three family laws prescribe the reasons for revocation and restoration of parental rights, namely:

- The Family Law of the Federation of BiH (<https://www.paragraf.ba/propisi/fbih/porodicni-zakon-federacije-bih.html>) Article 154 "Deprivation of parental care";
- The Family Law of the Republika Srpska (<https://advokat-prnjavorac.com/zakoni/Porodicni-zakon-Republike-Srpske-2023.pdf>) Article 119. "Temporary separation of the child from the family by decision of the guardianship authority", Article 120. "Separation of the child from the family by court decision", Article 124. "Reasons for revocation of parental rights" and Article 125. "The procedure for revocation of parental rights"; and
- Family Law of the Brčko District of BiH (<https://www.paragraf.ba/propisi/brcko/porodicni-zakon-brcko-distrikta-bih.html>) Article 136 "Withdrawal of parental care".

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



## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes  
 No

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

No. In our family legislation, there is no automatic suspension of parental rights, but the same can be taken away in a non-litigation procedure, in accordance with the provisions stated in the answer to question no. 8.

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

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

[30] *Ibid*

- Yes  
 No

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

## GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

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

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

All three family laws prescribe the obligation that all bodies, organizations, legal entities and natural persons are obliged to inform the guardianship authority without delay about the violation of the child's rights, especially about violence, sexual abuse and abuse of the child. Such reports are not processed as defamation.

Family Law of the Federation of Bosnia and Herzegovina

Protection of personal rights and interests of the child

Article 150

- (1) The guardianship authority is obliged ex officio to take the necessary measures to protect the rights and best interests of the child, based on immediate knowledge or notification.
- (2) All authorities, organizations and natural persons are obliged to submit notification of violation of the child's rights, especially violence, abuse, sexual abuse and neglect of the child, to the guardianship authority without delay.
- (3) The court before which a misdemeanour or criminal proceeding related to the violation of the child's rights has been initiated is obliged to inform the guardianship authority and the court competent for imposing measures to protect the rights and interests of the child, as well as deliver to them the final decision made in that proceeding.
- (4) Assistance to the guardianship authority in undertaking the measures referred to in paragraph 1 of this article shall be provided ex officio by the authorities of the locally competent police administrations.
- (5) Before taking the measures referred to in paragraph 1 of this article, the guardianship authority will hear the minor child about the circumstances important for the decision, if he is able to understand what it is about. The opinion of a minor child will be especially respected and valued in the case of taking measures to separate the child from his parents.

The Family Law of Republika Srpska

Guardianship authority

Article 14.

- (1) The work of protection and provision of legal assistance to the family and its members in the manner and according to the procedure determined by law is performed by the center for social welfare, i.e. the body of the local self-government unit competent for social protection work, if by the decision of the competent body of the local self-government unit, the performance of these tasks is not entrusted to someone to another authority or organization (hereinafter: guardianship authority).
- (2) All authorities, organizations, legal and natural persons are obliged to inform the guardianship authority without delay about the violation of the child's rights, especially about violence, sexual abuse and abuse of the child.

Family Law of Brčko District of Bosnia and Herzegovina

Article 133

(Protection of personal rights and interests of the child)

- (1) The guardianship body is obliged ex officio to take the necessary measures to protect the rights and best interests of the child, based on immediate knowledge and information.
- (2) All authorities, organizations and natural persons are obliged to submit the notice of violation of the child's rights, especially violence, abuse, sexual abuse and neglect of the child, to the Guardianship Authority without delay.
- (3) The court before which the misdemeanour or criminal proceedings related to the violation of the child's rights have been initiated, is obliged to inform the Guardianship Authority about it and deliver the legally binding decision made in that proceeding.
- (4) Assistance to the Guardianship Authority in undertaking the measures referred to in paragraph 1 of this Article is provided by the Police of the Brčko District of Bosnia and Herzegovina.
- (5) Before taking the measures referred to in paragraph 1 of this article, the guardianship authority will hear the minor child about the circumstances important for decision-making, if he is able to understand what it is about. The opinion of a minor child will be especially respected and valued in the case of taking measures to separate the child from his parents.

- (6) The procedure from the previous paragraphs is urgent.  
(7) An appeal against a decision does not delay execution.

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

## ASSISTANCE TO THIRD PARTIES Question 11.

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

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

All centres for social welfare are also responsible for providing psychological assistance. Centers for social welfare and/or social protection services provide psychological support to the victim from the very reporting of violence, taking statements, participating in court proceedings and providing psychological assistance and support to the victim and her family.

At almost all health centres in BiH, mental health centres have also been established, which, among other things, provide therapeutic psychological and psychiatric work, and among other things, they are trained and work with children who are victims of some form of violence.

Within the framework of the existing protocols in the Republic of Srpska, the following are in force: General Protocol on handling cases of domestic violence in the Republika Srpska, Protocol on handling cases of violence, abuse or neglect of children and Protocol on handling cases of peer violence among children and young people in the education system Republika Srpska. In the case of violence, psychological, psychosocial, legal, medical and other assistance is provided to child victims exposed to all forms of violence. The Strategy for the Improvement of Sexual and Reproductive Health in the Republic of Srpska (2019-2029) defines a special goal related to the improvement of clinical management in cases of violence, with special reference to cases of rape, including emergency situations. In achieving this goal, measures related to the development and adoption of unique protocols in the health system for treatment and assistance to victims of violence were defined; additional training of health workers for recognizing and providing assistance to victims of violence and strengthening the multisectoral approach for recognizing and providing assistance to victims of violence.

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

## ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

The three laws on the protection and treatment of children and juveniles in criminal proceedings for the Federation of BiH (Art. 187), the Republika Srpska (Art. 186) and the Brčko District of BiH (Art. 186) prescribe: "criminal proceedings against offenders of crimes against children and juveniles and in all procedural action, the child or juvenile who is the victim of the criminal offence shall be treated with extra caution considering his/her age, personality, education and living conditions in order to avoid any potential harmful effects on his/her future life, upbringing and development."

Also, in accordance with all three laws on criminal procedure, the provision "Exclusion of the public" states that the measure can be imposed ex officio or at the proposal of the parties and defence counsel, for the entire main trial or one part of it, for the protection of the interests of minors or witness.

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes  
 No

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

In the system of positive legislation of the Republika Srpska through the Law on the Special Register of Persons Convicted of Criminal Offenses of Sexual Abuse and Exploitation of Children <https://advokat-prnjavorac.com/zakoni/Zakon-o-posebnom-registru-lica-pravosnazno-osudenih-za-krivivinna-djela-Republike-Srpske.pdf>, a mechanism is enabled for monitoring persons convicted of sexual abuse of children, including persons who have a recognized position of trust. Data from the register can also be given to foreign state authorities in accordance with the rules international legal assistance (Article 11). Unfortunately, such laws were not adopted for the territory of the Federation of Bosnia and Herzegovina and Brčko District of Bosnia and Herzegovina.

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

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

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

- Yes  
 No

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

In the three laws on criminal procedure, the articles "Centralization of data" are listed, which define the existence of centralized databases related, among other things, to the production and distribution of pornographic files, as well as to other criminal acts in respect of which international agreements provide for the centralization of data. The same also prescribes the submission of data to the competent ministry of Bosnia and Herzegovina about the criminal act, the perpetrator, and the final judgment. The provisions are listed in the Law on Criminal Procedure of Federation of Bosnia and Herzegovina (Art. 432), the Law on Criminal Procedure of Republika Srpska (Art. 405) and the Law on Criminal Procedure of Brčko District of BiH (Art. 411).

The Directorate for Coordination of Police Bodies of BiH, Sector for International Operational Police Cooperation, Department - NCB Interpol Sarajevo, and in cooperation with the Ministries of Internal Affairs of the Federation of BiH, Republika Srpska and the Police of the Brčko District of BiH, acts in accordance with its competences in cases of sexual violence against children in all, even in those cases where the same was committed in the "circle of trust". These are mostly requests for checks aimed at identifying the victim, stopping victimization, and prosecuting the perpetrators through the ICSE DB - International Child Sexual database. Interpol's secure communication channel also exchanges information via Interpol's "Green Notices" on the travels of perpetrators of sexual offenses against children (very often persons from the "circle of trust") who come to or would visit Bosnia and Herzegovina. This information is then forwarded to local police agencies. We provide the same data about our nationals to other agencies upon request.

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

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

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

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

- Yes  
 No

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

In accordance with all three criminal laws, "Ban on Carrying out a Certain Occupation, Activity or Duty" as a special measure is imposed by the court when a criminal offense is committed by misuse of calling, activity or duty. Only the Criminal Code of the Republic of Srpska (Art. 77, paragraph 2) states: "The security measure of a complete ban on carrying out an occupation, activity or duty shall be pronounced on a perpetrator of criminal offence committed against a child's sexual integrity whenever through the performance of a such an occupation, activity or duty the direct contact with children is maintained." The Criminal Code of the FBiH (Art. 76) and the Criminal Code of the Brčko District of BiH (Art. 76) do not prescribe a permanent ban on working with children for perpetrators of crimes against children.

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

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

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

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

Yes

No

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

In all three criminal laws and all three laws on criminal procedure, there are provisions that prescribe responsibility for cases of non-reporting of a criminal offense or the perpetrator, namely: Criminal Code of the Federation of Bosnia and Herzegovina, Art. 345. "Failure to report a criminal offense or the perpetrator" and the Law on Criminal Procedure of the Federation of Bosnia and Herzegovina, Art. 228. "Obligation to report a criminal offense"; Criminal Code of the Republic of Srpska, Art. 332. "Failure to report a criminal offense or perpetrator" and the Law on Criminal Procedure of the Republic of Srpska art. 221. "Obligation to report a criminal offense"; Brčko District of Bosnia and Herzegovina - Criminal Code, Art. 339 "Failure to report a criminal offense or the perpetrator" and the Law on Criminal Procedure of the Brčko District of BiH Art. 213 "Obligation to report a criminal offense".

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

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

Please provide details.

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

Yes

No

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

Our three criminal laws prescribe the responsibility of a legal entity, namely: Criminal Code of the Federation of Bosnia and Herzegovina, Art. 128. "Basis of Liability of a Legal Person", Criminal Code of the Republic of Srpska, Art. 105 "Basis for Liability of a Legal Person" and the Criminal Code of the Brčko District of BiH, Art. 128 "Basis for Liability of a Legal Person" which identically stipulate that a legal entity is responsible "when the management or supervisory bodies of the legal entity failed to supervise the legality of the work of the workers".

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

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

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

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

The family laws of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District of Bosnia and Herzegovina stipulate that social welfare work is carried out by the guardianship authority, that is, centres for social welfare in the municipalities, which, among other things, deal with the protection of children's rights and their best interests. These laws also prescribe the institution of guardianship for a special case, which implies the appointment of a guardian for certain tasks in cases where it is necessary to protect the rights and interests of certain persons. A special guardian is appointed to the person (child) over whom the parents exercise parental rights to manage disputes between him and his parents (adoptive parents), as well as in all other cases when their interests are in conflict (the so-called conflicting guardianship). A special guardian can be a person employed in a centre for social welfare, or a relative of the child, who is reasonably expected to protect the child's interests to the greatest extent. The guardian of the child can also be appointed by the authority before which the proceedings are conducted (the court) and the guardianship authority shall be notified of this without delay, or the proceedings will be conducted by the competent guardianship authority, in accordance with the law.

This is regulated by the following provisions: Family Law of the Federation of Bosnia and Herzegovina, Art. 168, Family Law of the Republic of Srpska, Art. 216 "Shared custody" and the Family Law of the Brčko District of Bosnia and Herzegovina, Art. 149 "Decision on appointment of a guardian".

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

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

[41] Ibid., Recommendation 36

See previous answer.

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

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

[42] *Ibid.*, Recommendation 37

Centres for social welfare are public institutions that ex officio provide professional support and guardianship services for children when necessary, and they do so free of charge.

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

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

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

[43] *Ibid.*, Recommendation 34

- Yes  
 No

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

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

[44] *Ibid*

- Yes  
 No

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

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

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

[45] *Ibid.*, Recommendation 38

In accordance with the legislative framework, the same scope of rights belongs to all minors and children, and certain investigative activities and court actions are carried out considering the age of the child or minor against whom the criminal offense was committed.

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



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

[46] *Ibid.*, Recommendation 39

This is regulated by three laws on the protection and treatment of children and juveniles in criminal proceedings and the articles in the "Procedure" articles, where it is stated that "When conducting criminal proceedings against offenders of crimes against children and juveniles and in all procedural action, the child or juvenile who is the victim of the criminal offence shall be treated with extra caution considering his/her age, personality, education and living conditions in order to avoid any potential harmful effects on his/her future life, upbringing and development."

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

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

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

The relevant norms are listed in the answer to question number 7.

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

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

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

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

- Yes  
 No

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

Since the adoption of the first implementation report, the new Criminal Code of the Republic of Srpska has been adopted, and it has been fully harmonized with the Lanzarote Convention.

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?**<sup>[49]</sup> Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes  
 No

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

There are departments for juveniles at the prosecutor's offices and police bodies in Bosnia and Herzegovina. Juvenile departments in prosecutor's offices consist of one or more juvenile prosecutors and one or more expert advisors. In police agencies, the juvenile department consists of one or more authorized juvenile officers and one or more expert advisors.

The High Judicial and Prosecutorial Council of BiH adopted the Minimum standards for equipping and using rooms for hearing child witnesses, and continued to provide support to UNICEF BiH, with the aim of equipping rooms in judicial institutions for hearing children in contact with the law. As a result of this activity, all prosecutor's offices in BiH are equipped with special rooms for hearing children and minors, which ensures the highest level of protection of children in criminal proceedings while respecting the best interests of the child, in accordance with the laws on the protection and treatment of children and juveniles in criminal proceedings, as well as with all relevant international standards and regulations.

Laws on the protection and treatment of children and juveniles in criminal proceedings prescribe that a child or a younger minor may be heard in his apartment or other place where he resides or in a centre for social work.

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

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

[50] *Ibid.*, Recommendation 42

- Yes

No

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

Continuous professional training and improvement of judges and prosecutors in the field of children's rights, juvenile delinquency and their criminal protection is taken care by the Judicial and Prosecutorial Training Center of Federation of Bosnia and Herzegovina, the Judicial and Prosecutorial Training Center of Republika Srpska and the Judicial Commission of the Brčko District of BiH in cooperation with two mentioned centers for education of judges and prosecutors, under the supervision of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina. This is prescribed in the article "Education" of the law on the protection and treatment of children and juveniles in criminal proceedings, where it is stated that professional training is planned and carried out in order to acquire special knowledge of persons who work in the field of juvenile delinquency and criminal protection of children, namely professional advisors of the prosecution and courts, police officers, experts of guardianship authorities, mediators, lawyers and workers employed in institutions and institutes, independently or through agreed cooperation with other institutions, through professional counseling, seminars, knowledge tests and other forms of additional training of persons working on those jobs.

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

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

[51] *Ibid.*, Recommendation 43

- Yes  
 No

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

The laws on the protection and treatment of children and juveniles in criminal proceedings stipulate that, when conducting procedural actions, special care should be taken towards the harmed child or minor, taking into account his age, personality traits, education and the circumstances in which he lives in order to avoid possible harmful consequences on future life, upbringing and development. Hearing of a child or minor as a rule carried out with the help of a pedagogue, psychologist or other professional person.

If a child or a younger minor injured by criminal acts committed to the detriment of the child or minor is examined as a witness, such examination may be conducted for a maximum of two times. The prosecutor or an authorized official conducts the examination using technical devices for image and sound transmission, without the presence of the prosecutor or an authorized official in the room where the witness is.

Laws on treatment of children and juveniles in criminal proceedings also stipulate that criminal proceedings in such cases are urgent.

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

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

[52] *Ibid.*, Recommendation 54

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

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

[53] *Ibid.*, Recommendation 44

- Yes  
 No

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

The laws on criminal procedure as well as the laws on the protection of children and minors in criminal proceedings prescribe exclusively that the hearing of a minor can be done with the help of a pedagogue or other expert, and that it is necessary to ensure that the conversation is recorded. The law does not prescribe that the interview must be conducted by the same person, although in practice, the hearing is usually conducted by the same juvenile prosecutor or an authorized official who is in charge of the case in which the child appears as the victim of a crime.

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

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

[54] *Ibid.*, Recommendation 45

- Yes  
 No

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

If a child harmed by a criminal offense committed against children and juveniles from the law on the protection and treatment of children and juveniles in criminal proceedings, is being heard as a witness, the prosecutor or police officer will hear the witness by means of audio and video technology, without the presence of the prosecutor or the police official. The questioning of the child is carried out with the help of an

expert advisor or other expert, based on whose opinion, when it is not against the interests of the child or the interests of conducting criminal proceedings, the presence of parents can be approved in the room where the witness is located.

For protecting children and juveniles harmed by a criminal act, other appropriate measures provided in the laws on protection of witnesses under threat and vulnerable witnesses are applied, which gives the minor or child, not to be present in the courtroom during the proceedings. Above all, the above refers to additional measures to ensure that the identity of the witness is not revealed (testifying behind a hidden obstacle or using electronic devices to change the voice or image, or both the image and the voice of the witness using technical devices for image and sound transmission) or hearing in the capacity of a protected witness.

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?**<sup>[55]</sup> Please provide details.

[55] *Ibid.*, Recommendation 46

- Yes  
 No

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

According to the laws in criminal procedure with regard to age or other justified interests, the witness may be heard through technical devices (Criminal Procedure Code of Federation of BiH, Article 100, Criminal Procedure Code of Republika Srpska, Article 151 and the Criminal Procedure Law of Brčko District of BiH Article 86.)

Law on Protection of Witnesses under Threat and Vulnerable Witnesses of the Federation of Bosnia and Herzegovina, Art. 10, the Law on the Protection of Witnesses in Criminal Proceedings of Republika Srpska, Art. 9 and the Law on Protection of Witnesses under Threat and Vulnerable Witnesses of the Brčko District of Bosnia and Herzegovina, Art. 9 prescribes the possibility of testifying through technical devices for image and sound transmission.

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

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

provide details.

[56] *Ibid.*, Recommendation 59

- Yes  
 No

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

The relevant norms are listed in the previous answer.

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

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

Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes  
 No

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

According to the criminal procedural legislation, a minor cannot be heard as a witness who, given his age and mental development, is not capable of understanding the importance of the right not to testify, with the exception that the Criminal Procedure Code of Republika Srpska additionally prescribes an exception "except for a child if he is directly damaged by a criminal act".

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

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

[58] *Ibid.*, Recommendation 47

- Yes  
 No

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

Yes, video recordings of interviews with child victims are valid evidence and are conducted to protect children in the process. This is regulated by the laws on protection and treatment of children and juveniles in criminal proceedings in the article "Procedure" and the laws on the protection of witnesses in criminal proceedings in the articles on exceptions from direct presentation of evidence.

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

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

[59] *Ibid.*, Recommendation 48

This is regulated by laws on protection and treatment of children and juveniles in criminal proceedings in the article "Prohibition of Witness Confrontation":

When the witness is a child or a juvenile who has suffered serious physical or psychological trauma due to the circumstances of the perpetration of the criminal offence or suffers from serious psychological disorders that makes him/her particularly sensitive, a confrontation with the suspect or the accused shall be prohibited.

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

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

[60] *Ibid*

- Yes  
 No

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

Yes, this is regulated by the above-mentioned legal norm prohibiting the confrontation with the suspect, or the accused person, which makes it clear that the taking of testimony without the presence of the presumed perpetrator is allowed both in the investigation phase and in the procedure phase.

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

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

[61] *Ibid*

The relevant norms are listed in the answer to question 20. e.

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

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

[62] *Ibid.*, Recommendation 49

This is regulated by laws on criminal procedure and the provision exclusion of public (closure to public) for the purpose of protecting the interests of minors.

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?](#)<sup>[63]</sup> 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)

Law on the Protection of Threatened and Vulnerable Witnesses of the Federation of Bosnia and Herzegovina, Art. 5, by the Law on the Protection of Witnesses in Criminal Proceedings of the Republic of Srpska, Art. 5 and the Law on the Protection of Threatened and Vulnerable Witnesses of the Brčko District of Bosnia and Herzegovina, Art. 6 stipulate in the article that "A witness under threat and an endangered witness has the right to legal aid in accordance with the law".  
Laws on protection against domestic violence also stipulate that in the procedures for exercising their rights and protection, victims have the right to free legal aid.

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?](#)<sup>[64]</sup> 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)

The relevant norms are listed in the answer to question 20. i.



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?](#)<sup>[65]</sup>

[65] *Ibid.*, Recommendation 52

Psychological help is provided in centres for social work, and psychological and psychiatric treatments are also provided in mental health centres and, if necessary, in psychiatric clinics.  
Laws on protection against domestic violence prescribe psychosocial assistance and social and medical protection for victims of domestic violence.

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

## Contact

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