

# 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

Czech Republic

\* 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?**<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)

Not as a separate sexual offence against children. But there is a general offence of Sexual Coercion which includes the abuse of dependence, or of one's position and resulting credibility or influence, as a constituting element of the offence. (Section 186 paragraph 2 CC). Although it is not an offence only protecting children, the commission of the offence against a child is a circumstance that conditions the application of a higher penalty (Section 186 paragraphs 3 and 5 CC). Secondly, there is the general offence of Rape, which consists in forcing sexual intercourse by violence or threat of violence or threat of other serious harm, or by taking advantage of the victim's defencelessness. The commission of the offence against a child is a circumstance that conditions the application of a higher penalty (Section 185 paragraphs 2 a 3 CC). And thirdly, there is the general offence of Sexual Assault, which consists in performing sexual intercourse or other sexual exploitation with a child under the age of fifteen. Committing the offence against a child under the age of fifteen entrusted to the care of the perpetrator, taking advantage of the child's dependence or the position of the perpetrator and the resulting credibility or influence is a circumstance that conditions the application of a higher penalty (Section 187 paragraph 2 CC).

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

[7] *Ibid.*, Recommendation 2

- Yes  
 No

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

Not as a separate offence of sexual abuse of children. We have separate offence of Sexual Coercion, which requires the abuse of dependence, or of one's position and resulting credibility or influence, as a constituting element of the offence. The commission of such an offence against a child is then a circumstance conditioning the application of a higher penalty rate. (Section 186 paragraphs 3 and 5 CC). Secondly, there is the general offence of Rape, which consists in forcing sexual intercourse by violence or threat of violence or threat of other serious harm, or by taking advantage of the victim's defencelessness. The commission of the offence against a child is a circumstance that conditions the application of a higher penalty (Section 185 paragraphs 2 a 3 CC). And thirdly, there is the general offence of Sexual Assault, which consists in performing sexual intercourse or other sexual exploitation with a child under the age of fifteen. Committing the offence against a child under the age of fifteen entrusted to the care of the perpetrator, taking advantage of the child's dependence or the position of the perpetrator and the resulting credibility or influence is a circumstance that conditions the application of a higher penalty (Section 187 paragraph 2 CC).

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

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

- Yes  
 No

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

Not in the legislation. But according to the Supreme Court judgement "a position of trust and influence is any position that inspires confidence in the victim or influences them by its authority. The accused, by the very position in which they are in relation to the victim, inspire confidence in the victim or have authority over the victim or influence the victim" (Supreme Court Judgement 8 Tdo 1415/2013-176, 16. July 2014). This definition however is not exclusive to children.

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d. [define the notion of "circle of trust"?](#)<sup>[9]</sup>

[9] *Ibid*

- Yes  
 No

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

No. The closest term to that in our national legislation would be a “close person”, which is defined as a relative in the direct line of descent, an adoptive parent, an adoptee, a sibling, a spouse and a partner. Other persons in a family or similar relationship shall be deemed to be close to each other only if the injury suffered by one of them is reasonably perceived by the other as their own (Section 125 CC). However, the term “close person” does not form part of the constituent elements of the criminal offence of Sexual Coercion.

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## 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?<sup>[10]</sup> Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes  
 No

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

Yes. In the criminal law of Czech Republic, a child is defined as a person under the age of 18 years (Section 126 CC). The criminal offence of Sexual Coercion includes a qualified constituent element consisting in committing the offence against a child and against a child under the age of fifteen (Section 186 paragraphs 3 and 5 CC). The criminal offence of Rape includes a qualified constituent element consisting in committing the offence against a child and against a child under the age of fifteen (Section 185 paragraphs 2 and 3 CC). Altogether, these offences therefore explicitly guarantee protection for all children.

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

[1] *Ibid.*, Recommendation 5

- Yes  
 No

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

Yes. In Czech Republic, the age of consent for sexual intercourse is set at 15 years (Section 187 CC). A child is defined as a person under the age of 18 years (Section 126 CC). Therefore, 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.

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

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

[12] *Ibid.*, Recommendation 1

- Yes  
 No

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

Yes (Section 186 paragraphs 2, 3 and 5 CC and Section 187 paragraph 2 CC).

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

[13] *Ibid.*, Recommendation 7

- Yes  
 No

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

Yes. In the field of criminal law, even in cases where a person has become fully emancipated before the age of majority (e.g. by marriage), they are still considered a child. The perpetrator's marital or other relationship is also irrelevant (Section 126 CC, Section 186 paragraphs 2 and 3 CC). Forcing intercourse and similar sexual contact with the use of violence is qualified more strictly as the criminal offence of Rape (Section 185 CC).

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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

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

Yes. The criminal offense of Sexual Coercion consists in compelling a child to engage in sexual intercourse, sexual self-pleasuring, exposure or other comparable conduct by taking advantage of the child's dependence or the perpetrator's position and resulting credibility or influence. The perpetrator's conduct does not have to be a violent or even physical (Section 186 paragraphs 2 and 3 CC). The criminal offence of Sexual Assault consists in performing sexual intercourse or other sexual exploitation with a child under the age of fifteen entrusted to the care of the perpetrator, taking advantage of the child's dependence or the position of the perpetrator and the resulting credibility or influence (Section 187 paragraph 2 CC). The criminal offence of Rape includes coercing someone into sexual intercourse by taking advantage of the victim's defencelessness (Section 185 paragraph 1 CC).

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## 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)

Yes, on top of sexual intercourse (which is understood as any sexual gratification on another person's body whether of a penetrative or non-penetrative nature), sexual self-gratification, exposure and other comparable conducts are also criminalised (Section 186 CC). The term "sexual integrity" is not specifically used.



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

[16] *Ibid.*, Recommendation 11

- Yes  
 No

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

Yes, the criminal law of Czech Republic does not differentiate between heterosexual and homosexual sexual activities.

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

[17] *Ibid.*, Recommendation 12

- Yes  
 No

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

No, the criminal law of Czech Republic does not differentiate between heterosexual and homosexual sexual activities.

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## 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 the principle of legality, the prosecutor has a duty to prosecute all criminal offences of which they become aware. Neither the victim nor the victim's legal representative needs to file a criminal complaint to initiate a criminal prosecution (Section 2 paragraph 3 CCP).

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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

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

No. In accordance with the principle of legality, the prosecutor has a duty to prosecute all criminal offences of which they become aware (Section 2 paragraph 3 CCP). However, the criminal prosecution of the offence of Sexual Coercion (Section 186 CC) may be initiated and continued only with the consent of the aggrieved party (Section 163 CCP). The law provides for cases where such consent to prosecution is not required, and one of these cases is when the victim was a person under 18 years of age.

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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

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## 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

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

Yes. If the conduct described in the Criminal Code is committed by a person under the age of 15, the provisions of the Juvenile Justice Act shall apply. Children under the age of 15 are not criminally responsible and if they commit an otherwise criminal act, the court will impose on them the measures necessary for their correction (Section 89 JJA). There are a number of measures that can be imposed on the child and none of them are of criminal nature. They include an upbringing requirement, upbringing restriction, reprimand with warning, placement in a therapeutic, psychological or other appropriate educational programme in an educational care centre, supervision by a probation officer, protective upbringing, protective treatment (Section 93 JJA).

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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. Adults are persons older than 18 years of age. Person under the age of 18 years is considered a child (Section 126 CC), however, there is a subcategory of juveniles, who are children above the age of criminal responsibility – between 15 and 18 years of age. If, at the time of the commission of the offence, the juvenile meets the conditions of insufficient mental and moral maturity, they are not criminally liable for such an offence and the court may impose on them only the educational measures.(Section 5 JJA, Section 10 JJA, Sections 15 to 35 JJA). If the juvenile is mentally sound and morally mature when committing a criminal offense, educational, protective or punitive measures can be imposed on them and the main feature of the punitive measures is that their rates are reduced compared to the rates of sanctions for adult offenders (essentially to half that of adult offenders).

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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)

Interviewing a child when sexual abuse is suspected by a person who has demonstrable influence over the child and who enjoys the child's trust may be carried out without informing the legal representative only if there could be a conflict of interest between the legal representative and the child or between children of the same parents. In such a case, the public prosecutor shall appoint a guardian for the child. The guardian shall assume the rights and duties of the child's legal representative for criminal proceedings. A social worker or other person with experience in the education of young people is always present when the child is interviewed. The legal representative shall be informed of the interview after the interview has taken place.

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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)

Our legislation does not require the law enforcement authorities to seek the prior consent of the legal representative (parent) for interviewing a child. In this a case, the public prosecutor shall appoint a guardian for the child. The guardian shall assume the rights and duties of the child's legal representative for criminal proceedings. A social worker or other person with experience in the education of young people is always present when the child is interviewed. The legal representative shall be informed of the interview after the interview has taken place.

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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)

In the case of suspected sexual abuse of a child in a family setting, the police may:

a) Detain the suspect for a maximum period of 48 hours and, after the prosecution has been initiated, file a motion with the prosecutor for remand in custody. The reason for detention is, inter alia, the existence of a reasonable suspicion that the person will repeat the criminal activity for which they are being prosecuted or will complete the criminal act which they prepared or threatened to commit. The terms of detention are continuously evaluated by the law enforcement authorities (police, prosecutor's office, court). The maximum permissible duration of detention depends on the seriousness of the offence for which the person is prosecuted.

b) Detain the suspect for a maximum of 48 hours, initiate criminal proceedings, but do not file a motion for detention (taking into account the person of the accused and the nature and gravity of the case). The public prosecutor then decides on the imposition of a precautionary measure. Such a precautionary measure may be, for example, a prohibition of contact with certain persons or a prohibition of entry into a dwelling.

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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)

Removing a child from the family environment when sexual abuse is suspected by a trusted person is a procedure of last resort. The court decides on the removal by a provisional measure at the request of the social and legal protection of children authority. The social and legal protection authority for children, within the scope of its competence, shall submit an application to the competent court to issue a provisional measure for the protection of the child, namely the placement of the child in the care of a third party or the placement of the child in an institution providing immediate assistance.

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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)

Within the framework of the early intervention system, the child's personal data is shared with social and legal protection authorities, crisis intervention institutions and the White Circle of Safety, based on an agreement on the mediation of contact and the transfer of personal data to ensure the offer of assistance with the consent of the child's legal representative (guardian, foster parent).

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## 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. Suspension and withdrawal of parental responsibility are two different interventions:

a) The suspension of parental responsibility shall apply to all rights and obligations of the parent. However, the parent remains the holder of parental responsibility. Suspension of parental responsibility may occur either by court decision or by law. This intervention must be in accordance with the interests of the child and is not punitive. It is therefore not a punishment for the parent but is used when there is an obstacle to the exercise of parental responsibility.

b) The limitation of parental responsibility is a measure which affects the parent of a child because of fault on his/her part (e.g. when he/she endangers the child's moral upbringing). Unlike the suspension of parental responsibility, the limitation may only concern certain rights and obligations of the parent. The court will determine in its decision which rights and obligations are affected by the limitation and will appoint a guardian for the child. The limitation of parental responsibility also arises from a situation where the court pronounces a limitation or prohibition of the parent's contact with the child. In this case too, the court appoints a guardian for the child.

c) The withdrawal of parental responsibility is an exceptional measure, and the court shall only take such a measure if one of the grounds enumerated by the law is fulfilled. Such a ground is serious, repeated, long-term abuse of parental responsibility or its exercise. The decision is always aimed at a specific parent and a specific child. When one of the child's parents is withdrawn from parental responsibility, the other parent exercises parental responsibility. In such cases, there is no need to appoint a guardian or guardian for the child. The decision to withdraw parental responsibility usually includes the prohibition of direct and indirect contact between the parent and the child.

As a preliminary measure, the court can adjust the circumstances of a minor child if the child has found themselves in a state of lack of proper care (regardless of whether or not there is a person who has the right to care for the child), or if the child's life, normal development or other an important interest is seriously threatened or has been violated. In such a case, the court will order that the child be placed in a suitable environment – e.g. in a specific facility or with a specific person.

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

## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes  
 No

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

The suspension is not automatic. If a parent has committed an intentional criminal offence against their child, or used their child – who is not criminally liable – for committing a criminal offence, or if the parent has committed a criminal offence as an accomplice, instigator, aider and abettor or organiser of the criminal offence committed by their child, a court shall separately consider whether there are reasons for relieving the parent of their parental responsibility (Section 871 paragraph 2 Civil Code). If parental responsibility is revoked, the parent has the right to personal contact with the child only if a court decides to preserve this right of the parent, taking into account the best interests of the child.

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

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

[30] *Ibid*

- Yes  
 No

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

The withdrawal is not automatic. If a parent has committed an intentional criminal offence against their child (not specifically a sexual criminal offence), or used their child – who is not criminally liable – for committing a criminal offence, or if the parent has committed a criminal offence as an accomplice, instigator, aider and abettor or organiser of the criminal offence committed by their child, a court shall separately consider whether there are reasons for relieving the parent of their parental responsibility (Section 871 paragraph 2 Civil Code). If parental responsibility is revoked, the parent has the right to personal contact with the child only if a court decides to preserve this right of the parent, taking into account the best interests of the child.

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

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

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



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

The public prosecutor and the police authority are obliged to receive reports of facts indicating that a criminal offence has been committed. During that the public prosecutor or the police authority shall instruct the notifier on the liability for knowingly providing false information (Section 158 paragraph 2 CCP). In the case of questioning of a witness, the witness must always be instructed on the right to refuse to testify, on the obligation to tell the full truth and not to conceal anything, on the importance of their testimony in terms of the general interest and on the criminal consequences of perjury, false accusation, and defamation. If a child under the age of fifteen years is questioned as a witness, they shall be instructed in a manner appropriate to their age. And most importantly, the offences of defamation, false accusation and perjury require intentional commission, which will not be met in the case of a statement made in good faith (Section 184, Section 345, Section 346 CC).

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

Persons close to the victims, who have suffered damage or non-pecuniary harm as a result of the criminal offence on the victim, are provided with professional assistance, which includes psychological counselling, social counselling, legal assistance, provision of legal information or restorative programmes, before, during and after the initiation of criminal proceedings. Professional assistance shall be provided for as long as its purpose so requires (Section 4 Victims of Crime Act).

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 victims and persons close to the victims, who have suffered damage or non-pecuniary harm as a result of the criminal offence on the victim, are provided with professional assistance, which includes psychological counselling, social counselling, legal assistance, provision of legal information or restorative programmes, before, during and after the initiation of criminal proceedings. The content of the testimony of the child victim is irrelevant as to the right to professional assistance, if the conditions are met. Professional assistance shall be provided for as long as its purpose so requires (Section 4 Victims of Crime Act).

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

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

The only method of monitoring operates within the framework of supervision, which is part of the execution of a criminal sanction and must be ordered by the court. This supervision consists of regular personal contact between the offender and an official of the Probation and Mediation Service, who also supervises compliance with the conditions imposed on the offender by the court or by law (Section 49 CC).

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

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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

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

There is no national regulation concerning the sharing of information on people convicted of sexual offences. We ordinarily cooperate with third countries within the framework of international judicial cooperation in criminal matters.

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:

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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)

An immediate prohibition from working with children when sexual abuse is suspected cannot be imposed. A prohibition of activity is a type of punishment that can be imposed by the criminal court for the commission of an offence if the offender has committed the offence in connection with that activity (Section 74 CC).

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

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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)

The Criminal Code contains a list of offences, the failure to report which, if known, is a criminal offence (Section 368 CC). If anyone learns in a credible manner that another has committed the offence of Trafficking in Human Beings, Exploitation of a Child for the Production of Pornography, or Abuse of a Person Entrusted to His or Her Care and fails to report such offence without delay to the prosecutor or police authority, they may be punished by imprisonment for up to three years. Failure to report another child abuse offence does not give rise to criminal liability.

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

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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)

Only a natural person can be the perpetrator of sexual abuse. A criminal offence committed by a legal person is an unlawful act committed in its interest or in the course of its business if, inter alia, an employee acted on the basis of a decision, approval or instruction of the bodies of the legal person or because those persons failed to take measures which they should have taken pursuant to another legal regulation. (Section 8 Act on Criminal Liability of Legal Persons). The liability of a legal person does not exclude the criminal liability of the specific natural person acting.

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

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**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 aggrieved person may be represented by an attorney (Section 50 CCP). The attorney shall represent the child to exercise their rights. If the victim does not choose their own attorney, the court shall appoint a lawyer registered in the register of providers of assistance to victims of crime for legal aid as their attorney (Section 51a paragraph 2 CCP). A guardian is appointed in order to properly protect the interests of the child in the absence of a legal representative (parent). There are no specific conditions on the legal knowledge of the child's 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

The aggrieved person may be represented by an attorney (Section 50 CCP). By the nature of the case, it is not possible for the same person to be both guardian and attorney in criminal proceedings. A guardian is appointed in order to properly protect the interests of the child in the absence of a legal representative. The attorney shall represent the child to exercise their rights.

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

A child victim is entitled to legal aid provided by the attorney free of charge (Section 51a paragraph 2 CCP). The remuneration for the performance of the guardianship function and the reimbursement of expenses is paid by the law enforcement authorities.

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

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

A parent may not represent a child if there could be a conflict of interest between the parent and the child. In such cases, the court shall appoint a guardian for the child in a civil proceedings (Section 892 paragraph 3 Civil Code). If there is a risk of delay and the legal representative or guardian is unable to exercise the rights of the child or if a guardian has not been appointed although there are grounds for appointing one, a guardian shall be appointed without delay within the criminal proceedings proper (Section 45 paragraph 2 CCP).

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

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

[44] *Ibid*

- Yes  
 No

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

The guardian of a child, who is the aggrieved party, shall exercise all of the rights of the child and may therefore be present and participate within the criminal proceedings in acts in which the aggrieved party may participate (Section 45 CCP).

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

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

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

[45] *Ibid.*, Recommendation 38

The legislation does not limit the possibility of imposing protective measures to the age of the victim, i.e. they can be applied even in cases where the victim is a child, provided the legal conditions are met.

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

A child is considered a particularly vulnerable victim (Section 2 paragraph 4 Victims of Crime Act). All the relevant authorities have a duty to respect the personality and dignity of the victim, to treat the victim with courtesy and consideration and to accommodate the victim as far as possible. They shall treat the victim with due regard for their age, state of health, including mental state, mental maturity and cultural identity, in such a way as to avoid aggravating the harm caused to the victim by the offence or causing secondary harm (Section 3 paragraph 2 Victims of Crime Act). The victim has a number of rights guaranteeing the prevention of aggravation of harm and secondary victimisation (they should always be treated with respect to their dignity), however, all of those are general and not specific to the victims of sexual abuse committed towards a child by someone in their circle of trust. With regards to children being victims of offences in the sexual sphere, it is prohibited to disclose information about them that could reveal their identity (Section 8b paragraph 2 CCP). If a child is questioned as a witness about circumstances the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning must be conducted with particular care and content so that the questioning does not need to be repeated in further proceedings. During the questioning a social and legal protection authority for children shall be present or another person experienced in the education of young people who would contribute to the proper conduct of the interrogation (Section 102 paragraph 1 CCP). During the questioning, such a person may be asked questions only through the law enforcement authority (Section 101b CCP, Section 102 paragraph 3 CCP). In further proceedings, the child witness is to be questioned again only if necessary. In proceedings before the court, evidence may be taken by reading out a report or by playing back a video or audio recording of the questioning conducted by means of a videoconferencing device (Section 102 paragraph 2 CCP). A child witness cannot be confronted (face to face) with the accused (Section 104a paragraph 5 CCP).

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

Victims and persons close to them, who have suffered damage or non-pecuniary harm as a result of the criminal offence, are provided with professional assistance, which includes psychological counselling, social counselling, legal assistance, provision of legal information or restorative programmes, before, during and after the initiation of criminal proceedings. Professional assistance shall be provided for as long as its purpose so requires (Section 4 Victims of Crime Act). If a child is questioned as a witness about circumstances the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning must be conducted with particular care and content so that the questioning does not need to be repeated in further proceedings. During the questioning a social and legal protection authority for children shall be present or another person experienced in the education of young people who would contribute to the proper conduct of the interrogation (Section 102 paragraph 1 CCP).

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)

Czech Republic was not evaluated during the 1st monitoring round in 2015. However, several changes were made to national legislation between 2015 and 2023 to better accommodate the specificities of children in criminal proceedings. In particular, the need to question particularly vulnerable victims in special questioning rooms has been emphasised and their number has increased. Currently there are 81 of them spread out throughout the Czech Republic. (Section 20 Victims of Crime Act). The time limit for applying for financial assistance for victims of sexual offences against human dignity has been extended – the application must now be made no later than 2 years from the date on which the victim reached the age of majority or 5 years from the date of the offence, if later (Section 30 Victims of Crime Act).

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

## INVESTIGATION Question 19. In the investigation phase:

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

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

[49] *Ibid.*, Recommendation 41

- Yes  
 No



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

Interviewing a child as a particularly vulnerable victim must be carried out with particular sensitivity and in the light of the specific circumstances that make them particularly vulnerable. The interview of a child in pre-trial proceedings shall always be carried out by a trained person, unless it is urgent, and a trained person cannot be provided (Section 20 Victims of Crime Act). Wherever possible, special questioning rooms are used for the purpose of interviewing children, with interior design adapted to children so that they feel safe but not distracted. There are currently 81 of such special questioning rooms in the Czech Republic. These rooms are primarily located in the police department or in the social and legal protection of children departments of some municipal authorities. They are rooms resembling a bright living room equipped with a comfortable sofa, a coffee table and other necessary furniture. The questioning rooms are technically equipped with cameras and microphones (so that the interview does not have to be repeated), and there is also a monitoring room adjacent to the interview room to provide a possibility to observe the interview. If necessary, the interview of a child can also take place elsewhere (e.g. in a hospital).

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)

The interview of a child in pre-trial proceedings shall always be carried out by a trained person, unless it is urgent, and a trained person cannot be provided (Section 20 paragraph 2 Victims of Crime Act). Since 2013, training has been provided for police officers – specialists working with children, focusing on the interviewing of particularly vulnerable victims in a special questioning room. These specialists are also provided with methodologies for interviewing child witnesses, the use of demonstrative aids and interviewing particularly vulnerable victims in general. Every police officer who comes into contact with children must complete two basic training courses: a) Child in criminal proceedings, and b) Interviewing a person under the age of 18 and a particularly vulnerable victim. In addition, every police officer is trained to identify a particularly vulnerable victim (which automatically includes a child under the Victims of Crime Act).

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)

Yes. If a child is questioned as a witness about circumstances, the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning shall be conducted with particular care and content, so that it does not need to be repeated in further proceedings. During the questioning a social and legal protection authority for children shall be present or another person experienced in the education of young people who would contribute to the proper conduct of the interrogation. Such person can request to interrupt or postpone the questioning if its continuation would have a negative effect on the mental state of the child being questioned (Section 102 CCP). Questions directed to the intimate sphere of the victim being questioned, may only be asked if necessary to clarify facts relevant to the criminal proceedings. Such questions must be asked in a particularly gentle and comprehensive manner, so as not to make it necessary to repeat the interview; their wording must be adapted to the age, personal experience and psychological state of the victim, while maintaining the necessary sensitivity (Section 18 paragraph 1 Victims of Crime Act).

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 interview of a child shall be conducted in such a way that it does not have to be repeated at a later date. In the case of a further interview before the same authority, the interviewer shall normally be the same person, unless important reasons prevent this (Section 20 paragraph 3 Victims of Crime Act). Furthermore,

the child victim may request to be interviewed by a person of the same or opposite sex in the pre-trial proceedings, the request must be granted unless important reasons prevent it. The same applies to a translator (Section 19 Victims of Crime Act).

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)

The interview of a child shall be conducted in such a way that it does not have to be repeated at a later date. In further proceedings, the child witness is to be questioned again only if necessary. In proceedings before the court, evidence may be taken by reading out a report or by playing back a video or audio recording of the questioning conducted by means of a videoconferencing device (Section 102 paragraph 2 CCP). If the victim does not wish to have immediate visual contact with the person suspected of having committed the offence or with the person against whom the criminal proceedings are being conducted, necessary measures shall be taken (unless compelling reasons prevent it) to prevent such visual contact, in particular by using audio-visual technology where technically possible (Section 20 paragraph 4 Victims of Crime Act). At any stage of the criminal proceedings, the child victim may request that necessary measures be taken to prevent them from coming into contact with a person whom they have identified as the perpetrator, who is suspected of having committed a criminal offence or against whom the criminal proceedings are being conducted (Section 17 Victims of Crime Act).

If the child (their legal representative, guardian, attorney) so requests, data on the child's residence and delivery address or data on their place of employment shall be kept separately so that they can be consulted only by the law enforcement authorities.

The method of recording the child's interrogation from the previous phase of the investigation also serves to protect the child. The recording of the interrogation is played before the court without the child being present. If the child needs to be re-interviewed, they are enabled to do so by video-conferencing equipment from another room.

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

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

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

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

[55] *Ibid.*, Recommendation 46

- Yes  
 No

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

Yes. If a child is questioned as a witness about circumstances, the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning shall be conducted with particular care and content, so that it does not need to be repeated in further proceedings – this usually means recording the questioning of the child victim, which is a standard procedure of questioning conducted in a special questioning room (Section 102 paragraph 1 CCP). In further proceedings, the child witness is to be questioned again only if necessary. In proceedings before the court, evidence may be taken by reading out a report or by playing back a video or audio recording of the questioning of the child victim in the pre-trial proceedings conducted by means of a videoconferencing device. (Section 102 paragraph 2 CCP).

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)

Yes. In proceedings before the court, evidence may be taken by reading out a report or by playing back a video or audio recording of the questioning of the child victim in the pre-trial proceedings conducted by means of a videoconferencing device without having to comply with other statutory conditions that are otherwise required by law for reading or playing back, i.e., in this case it is not conditioned on the consent of the accused (Section 102 paragraph 2 CCP). In general, the aggrieved has the right to attend the main trial, which, of course, may not be exercised if the aggrieved does not wish to do so (Section 41 paragraph 1 CCP).

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

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

[57] *Ibid.*, Recommendation 60

- Yes  
 No

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

No. A child is defined as a person under the age of 18 years (Section 126 CC). The actual age of the child is not relevant. The general rights of the aggrieved are also not dependant on their age.

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. If a child is questioned as a witness about circumstances, the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning shall be conducted with particular care and content, so that it does not need to be repeated in further proceedings. During the questioning a social and legal protection authority for children shall be present or another person experienced in the education of young people who would contribute to the proper conduct of the interrogation (Section 102 paragraph 1 CCP). In further proceedings, the child witness is to be questioned again only if necessary. In proceedings before the court, evidence may be taken by reading out a report or by playing back a video or audio recording of the questioning conducted by means of a videoconferencing device. The person who was present during the questioning shall be questioned, as necessary, to confirm the accuracy and completeness of the record (Section 102 paragraph 2 CCP).

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>

A victim of a sexual offence and children in general may be asked questions during the questioning only through the law enforcement authority (Section 101b CCP, Section 102 paragraph 3 CCP). A child victim of a sexual offence cannot be confronted (face to face) with the accused (Section 104a paragraph 5 CCP). At any stage of the criminal proceedings, the child victim may request that necessary measures be taken to prevent them from coming into contact during the acts in which they participate with a person whom they have identified as the perpetrator, who is suspected of having committed a criminal offence or against whom the criminal proceedings are being conducted (Section 17 Victims of Crime Act). It is also possible to impose a preliminary measure on the accused person. A preliminary measure may be imposed only if the cases prescribed by law (Section 88b CCP). Among others, the preliminary measures of prohibition to contact certain persons and prohibition to enter residence can be imposed (Section 88c CCP).

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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. If a child is questioned as a witness about circumstances the recollection of which, in view of their age, could adversely affect their mental and moral development, the questioning must be conducted with particular care and content so that the questioning does not need to be repeated in further proceedings (Section 102 CCP). Such questioning usually happens during the pre-trial proceedings. If there is a fear that the witness will not tell the truth in the presence of the accused or if there is a danger to the witness, the court shall take measures to ensure the safety or confidentiality of the identity of the witness or shall remove the accused from the courtroom during the questioning of such witness. However, on returning to the courtroom, the accused shall be informed of the content of the witness's statement, may comment on it and, without meeting the witness, may ask him questions through the court (Section 209 CCP). Should the ascertained circumstances indicate that the witness or persons close to them appear to be under a threat of bodily harm or any other serious risk of violation of their fundamental rights in relation to their testimony, and if a witness protection cannot be reliably ensured in another way, the authorities involved in criminal proceedings will adopt measures to conceal the identity or appearance of the witness (Section 55 paragraph 2 CCP).

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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.*

A child victim of a sexual offence cannot be confronted (face to face) with the accused (Section 104a paragraph 5 CCP).

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

It is forbidden to disclose any information (including images, recordings and the decision – not anonymised – itself) enabling the identification of the child victim or the victim of a sexual offence in general (Section 8b CCP).

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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)

A child victim is entitled to legal aid provided by the attorney free of charge, even without meeting the conditions laid down for adult aggrieved (Section 51a paragraph 2 CCP).

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)

A child victim is entitled to legal aid provided by the attorney free of charge (Section 51a paragraph 2 CCP). A child – as a particularly vulnerable victim – is entitled to legal aid under the Victims of Crime Act, which can only be provided by lawyers (Section 6 paragraph 2 Victims of Crime Act). Therefore, a child is granted the right to be represented by a lawyer, however our legislation does not specify a requirement that the lawyer be specialized in proceedings related to sexual offences.

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

Victims and persons close to the victims, who have suffered damage or non-pecuniary harm as a result of the criminal offence on the victim, are provided with professional assistance, which includes psychological counselling, social counselling, legal assistance, provision of legal information or restorative programmes, before, during and after the initiation of criminal proceedings. Professional assistance shall be provided for as long as its purpose so requires (Section 4 Victims of Crime Act).

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## Contact

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