

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

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

The notion of the circle of trust

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

The previous and current monitoring rounds on the circle of trust

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

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

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

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

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

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

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

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

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

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

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

9. In addition, Parties are kindly requested to:

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

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

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

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

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

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

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

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

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

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

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

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

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Georgia

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

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

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

- Yes
 No

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

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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”?**^[7] If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes
 No

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

Under the Criminal Code of Georgia, offence of sexual abuse of children by someone in a recognized position of trust, authority or influence, are defined as an aggravating circumstances. The above mentioned circumstances are aggravating for the following crimes:

Article 137 – Rape;

Article 138 – Another action of a sexual nature;

Article 139 – Coercion into penetration of a sexual nature into the body of a person, or into another action of a sexual nature;

Article 141 – Lewd act.

Besides, it is worth to mention Article 253 (Engagement in prostitution), article 254 (Promotion of prostitution), article 255 (Illegal making or sale of a pornographic work or other items) and article 255-1 (Engagement of minors in illegal production and sale of pornographic works or other similar items) has the following aggravating circumstance: act committed against a person under the custodianship, guardianship or surveillance, or a family member, of an offender.

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

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

Yes

No

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

It has to be noted that the definition of a family member is given in the Criminal Code of Georgia. Pursuant to Article 11-1, for the purposes of the Criminal Code, the following persons shall be considered family members: a mother, father, grandfather, grandmother, spouse, person in an unregistered marriage, child (stepchild), foster child, foster carer (foster mother, foster father), stepmother, stepfather, grandchild, sister, brother, parent of the spouse, parent of the person in an unregistered marriage, spouse of the child (including the one in an unregistered marriage), former spouse, person who previously was in an unregistered marriage, guardian, custodian, supporter, person under guardianship and custodianship, beneficiary of support, as well as other persons that maintain or maintained a common household.

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

[9] *Ibid*

- Yes
 No

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

It should be noted that the aforementioned aggravating circumstance (committed against a minor using trust, and authoritative and influential position, –) was added to the Criminal Code by the law of July 13, 2020. Under the Commentary of the Criminal Code of Georgia, the use of a position of trust, authority or influence towards a minor can take place in the relationship between a minor and a teacher, a minor’s medical doctor, a minor and his coach, a minor and his family member (parent), etc.

It has to be noted that the definition of a family member is given in the Criminal Code of Georgia. Pursuant to Article 11-1, for the purposes of the Criminal Code, the following persons shall be considered family members: a mother, father, grandfather, grandmother, spouse, person in an unregistered marriage, child (stepchild), foster child, foster carer (foster mother, foster father), stepmother, stepfather, grandchild, sister, brother, parent of the spouse, parent of the person in an unregistered marriage, spouse of the child (including the one in an unregistered marriage), former spouse, person who previously was in an unregistered marriage, guardian, custodian, supporter, person under guardianship and custodianship, beneficiary of support, as well as other persons that maintain or maintained a common household.

Note: The above mentioned Commentary includes a comprehensive explanation of the Code’s content and detailed legal interpretations of its provisions in light of other provisions of the Code, other relevant pieces of national legislation of Georgian and international treaties which Georgia is a party to. The book is compiled and edited by the professors of the criminal law and is intended to help a wide range of stakeholders, including (a) legal practitioners when applying the Criminal Code of Georgia.

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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?^[10] Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes
 No

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

Yes. Pursuant to the Article 3.1 of the Criminal Procedure Code of Georgia, minor is a person who has not attained the age of 18.

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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?^[1] Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
 No

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

According to the domestic legislation, Sexual abuse committed against the person under 18 is considered as an aggravated circumstance for criminal liability.

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

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

[12] *Ibid.*, Recommendation 1

- Yes
 No

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

See the answer for the N1 question.

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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)

Under the Article 1108 of the Civil Code of Georgia, marriage shall be permitted from the age of 18. Besides, For the purposes of the Criminal Code of Georgia, the following persons shall be considered family members: a mother, father, grandfather, grandmother, spouse, person in an unregistered marriage, child (stepchild), foster child, foster carer (foster mother, foster father), stepmother, stepfather, grandchild, sister, brother, parent of the spouse, parent of the person in an unregistered marriage, spouse of the child (including the one in an unregistered marriage), former spouse, person who previously was in an unregistered marriage, guardian, custodian, supporter, person under guardianship and custodianship, beneficiary of support, as well as other persons that maintain or maintained a common household (Article 111).

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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?^[14] Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes
 No

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

Pursuant to Article 140 of the Criminal Code of Georgia Penetration of a sexual nature into the body of a person below 16 years of age, committed knowingly by an adult, shall be punished by imprisonment for a term of seven to nine years. The same act committed:

- a) knowingly by an offender against a person with disability or a pregnant woman;
- b) by a group of persons;
- c) against two or more persons;
- d) repeatedly;
- e) by a person who had previously committed any crime under Articles 137-139 and 141 of this Code shall be punished by imprisonment for a term of eight to twelve years.

Article 141 of the Criminal Code of Georgia defines that a lewd act of an adult committed knowingly by an offender without violence against a person that has not reached 16 years of age, shall be punished by imprisonment for a term of five to nine years. The same act committed using trust, and authoritative and influential position, shall be punished by imprisonment for a term of eight to twelve years.

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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](#)?^[15]

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

[15] Ibid., Recommendation 9

- Yes
- No

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

In addition to the crimes against sexual freedom and sexual inviolability, which are defined by the Articles 137-141 of the Criminal Code, other acts that violate the sexual inviolability of children are also criminalized by the following articles: 143-1 –Human trafficking, 143-2 - Child trafficking, 144-1 - Torture, 253 – Engagement in prostitution, 254 – Promotion of prostitution, 255 - Illegal making or sale of a pornographic work or other items, 255-1 - Engagement of minors in illegal production and sale of pornographic works or other similar items, 255-2 - Offering a meeting of a sexual character to a minor.

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

[16] *Ibid.*, Recommendation 11

- Yes
 No

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

According to the criminal Code of Georgia, if the crime is committed on the grounds of intolerance based on gender, sexual orientation, gender identity or other grounds containing discrimination, according to Article 53-1 of the Criminal Code, there is an aggravating circumstance of responsibility for all relevant crimes under the Code.

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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?^[17] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes
 No

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

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

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

[18] *Ibid.*, Recommendation 57

- Yes
 No

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

According to the Article 100 of the Criminal Procedure Code of Georgia, when notified of the commission of a crime, an investigator, prosecutor shall be obliged to initiate an investigation. An investigator shall immediately notify a prosecutor of the commencement of an investigation.

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

[19] *Ibid*

- Yes
 No

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

As defined by the Article 16 of the Criminal Procedure Code of Georgia, when making a decision to initiate or terminate a criminal prosecution, a prosecutor shall exercise discretionary powers and take into consideration the public interests.

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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?**^[20]

[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:

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

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

- Yes
 No

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

Under the article 3 of the Juvenile Justice Code of Georgia, the minimum age in the case of criminal liability is 14 years. Hence, one of the target groups of the Juvenile Referral Center operating since 2020 under the Agency for Crime Prevention, Execution of Non-Custodial Sentences and Probation of the Ministry of Justice of Georgia are juveniles aged 7 to 14, in respect of whom the commission of a crime, including sexual abuse is confirmed by the competent agencies, based on the standard of reasonable suspicion.

A social worker, a psychologist, a project specialist and a coordinator of psychosocial programs are involved in the process of working with minors at the Juvenile Referral Center. In addition to the specialists of the Juvenile Referral Center, representatives of various agencies are involved in the work process, depending on the needs of the beneficiary.

The Juvenile Referral Center elaborates a plan tailored to each beneficiary, which includes various activities, both in the psycho-social direction, as well as non-formal education and leisure activities.

Rehabilitation-resocialization process in the Juvenile Referral Center includes:

- Individual consultation of a psychologist;
- Individual consultation of a social worker;
- Psycho-social rehabilitation programs;
- Art therapy;
- Training modules focused on skill development;
- Events and projects aimed at constructive use of informal education and free time;
- Support of a minor's parent, guardian or caretaker;

The process of working with the minor continues as long as needed for his/her full rehabilitation and resocialization.

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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?^[22] Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes
 No

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

Under the article 3 of the Juvenile Justice Code of Georgia, the minimum age in the case of criminal liability is 14 years. Pursuant to Article 8 of the Juvenile Justice code of Georgia, in juvenile justice procedure, priority shall be given to the most lenient treatment for achieving the purposes of the Criminal Code of Georgia, the Criminal Procedure Code of Georgia, the Code of Administrative Offences of Georgia, the Imprisonment Code of Georgia and Juvenile Justice Code.

In the first place, the possibility of diversion of a minor or the application of a restorative justice measure shall be considered, and it shall be evaluated whether such diversion or such measure will serve the goals of the re-socialization and rehabilitation of the minor and the prevention of new crimes better than the imposition of criminal liability and punishment. Any measure applied to a minor instead of court proceedings shall contribute to the protection of the rights and legal guarantees of the minor. Besides, as defined by Article 14 of the Juvenile Justice Code of Georgia, when making decisions with respect to minors, account shall be taken of their individual characteristics: age; level of development; conditions of life, upbringing and development; education; health status, family situation, and other circumstances which allow the assessment of the nature and behavior of minors and identification of their needs. At any stage of juvenile justice procedure, a person administering juvenile justice procedure shall treat a minor with special care. It is worth to mention that according to the Article 73 of the Juvenile Justice Code, fixed-term imprisonment may be imposed on a minor if he/she has committed a serious or a particularly serious crime, if he/she has avoided serving a non-custodial sentence, and/or a judgment of conviction has been delivered against him /her in the past. For minors aged between 14 and 16, the imposed sentence shall be reduced by one third. In addition, the final sentence shall not exceed 10 years. For minors aged between 16 and 18, the imposed sentence shall be reduced by one fourth. In addition, the final sentence shall not exceed 12 years. Paragraphs 2 and 3 of this article shall apply irrespective of the circumstances provided for by Article 76 (Imposing on a minor a lesser sentence than provided for by law) of this Code.

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CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

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

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

- Yes

No

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

In the case of a domestic crime, a person who is supposedly abusive or whose impartiality is in doubt because of the nature of the relationship between the person and the abusive member of the family, or in other cases of conflict of interest, may not be involved as a legal representative of a minor in criminal proceedings, and may not read or be provided with the testimony given by the minor (protocol of interview, explanation).

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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?](#)^[24] Please provide details.

[24] *Ibid*

Yes
 No

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

Please see Article 15 and Article 50 of the Juvenile Justice Code of Georgia. Besides, under the Article 10 of the Law on the Elimination of Violence against Women and/or Domestic Violence, and the Protection and Support of Victims of such Violence, to ensure prompt response to domestic violence, the authorized body, in order to ensure protection of the victim and to restrain certain actions of the abuser, may issue a restraining or protective order as a temporary measure. In order to ensure the protection of victims and the restriction of certain actions of abusers, the issuance of a restraining order by an authorized police officer as a measure of temporary measure shall be binding in the case of the initiation of investigation or in the case of pending investigation under Article 108, Article 109, Article 115, Article 117, Article 118, Article 120, Article 126, Article 137 and Article 138, Article 143(3)(e) and Article 143(4), Article 144 (2)(i) and Article 144 (3), Articles 144-1, 144-3 and Article 151, Article 160(2)(a) and Article 160(3) and Article 3811 of the Criminal Code of Georgia. A protective order is an act issued by a court (judge) of first instance through an administrative proceeding that determines temporary measures for protecting the victim. For more and detailed information please see articles 9-1 ,10, 10-1,11,12 of the previous named law. Besides, other procedural issues related to restraining orders are regulated by the order of the Minister of Internal Affairs.

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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?^[25] Please provide details.

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

- Yes
- No

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

Please see the previous answer.

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

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

[26] *Ibid.*, Recommendation 27

- Yes
- No

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

According to the Article 26 of the Code on the Rights of the Child a child may not be separated from his/her parent against his/her will, except when such separation is necessary for the best interests of the child, on the basis of a decision of a competent authority made in accordance with the legislation of Georgia. A decision on the separation of the child from his/her parent shall be made by a social worker, who shall submit a motion to a judge of the regional (city) court based on the domicile of the child. The judge shall review the motion of the social worker at his/her sole discretion, without an oral hearing, and shall make a decision within 24 hours on the separation of the child from his/her parent or on the refusal to grant the motion on the separation of the child from his/her parent. Where the life, health or safety of the child is under immediate and direct threat, a social worker shall be authorized to make an immediate decision on the separation of the child from his/her parent and shall submit a relevant motion to a court to obtain consent within 24 hours. The motion of the social worker shall include necessary justification for the immediate separation of the child from his/her parent. A police officer shall participate in the assessment of the threat, whose positive or negative opinion shall be recorded in the relevant protocol. In the case provided for by paragraph 3 of this article, the judge shall review the motion of the social worker at his/her sole discretion, without an oral hearing, and within 24 hours, shall make a decision on granting or refusing to grant consent in relation to the separation of the child from his/her parent. A child may not be separated from his/her parent because the parent does not have adequate living conditions or financial resources, except when the carrying out of family support measures would not have a desirable effect or there are reasonable grounds to believe that the carrying out of such measures would not have a desirable effect. A child with disabilities

shall have the right to live in the family environment, similar to the rights of other children. The child shall not be separated from his/her parent because the child or his/her parent is a person with disabilities. A decision on the separation of the child from his/her parent shall be subject to a periodic review. Returning the child to the family environment after the reasons of his/her separation from his/her parent are eradicated, shall be in conformity with the best interests of the child.

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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?](#)^[27] Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes
 No

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

The resolution of the Government of Georgia of September 12, 2016 on the Approval of Child Protection Referral Procedures aims to promote the protection of children from all forms of violence in or outside family by establishing a coordinated and effective system of referral procedures and defines the functions and rules for coordinated work between relevant bodies/institutions, in order to respond effectively and quickly to the cases of violence (Article 1). For the effective functioning of the referral procedures, information about the child is exchanged between the entities involved in the referral procedures in written form, and in case of emergency, through telephone and/or other means of communication (Article 17).

In 2020, the Government approved the concept of a Center for Psychological and Social Services for the Children Victims of Violence. The aim of the Center is to provide child victims with short and long-term psychosocial rehabilitation, prevent secondary victimization and conduct effective investigation. The preparatory procedures required for launching the Center started in 2021. This included setting up the infrastructure, purchasing the necessary equipment, development of SOPs and training of staff. The Psycho-Social Service Center for the Juvenile Victims of Violence was launched in Tbilisi, in March, 2022, in a pilot mode. On the basis of pilot results, one more center will be established in Kutaisi.

This innovative first-ever Center in Georgia, is similar to so-called “BARNAHUS” model, which is well known in Scandinavian countries. Pursuing to the Standard Operating Procedures for the Psycho-Social Service Center for the Juvenile Victims of Violence, the tasks of the center are:

- a) protecting the best interests of the child;
- b) prevention of re-victimization and secondary victimization in the process of administration of justice and promotion of effective investigation, provision of coordinated cooperation of law enforcement and other agencies involved in the process;
- c) assessment of the child's needs by a multidisciplinary team;
- d) assessment of the child's mental health by a relevant specialist as needed;
- e) forensic medical examination of the child;
- f) short and long-term psychological-social rehabilitation of the child;

- g) connecting the child or his parent/legal representative with other necessary services;
 - h) child survey/interrogation using an evidence-based approach;
 - i) Provision of incident coordination and oversight by a multidisciplinary and multisectoral interagency team.
- Besides, the Psycho-Social Service Center for the Juvenile Victims of Violence should provide a coordinated response in order to prevent secondary/re-victimization of the child during the investigation process and should facilitate effective investigation, create a child-friendly, multidisciplinary and multi-sectoral approach that provides a child-friendly justice process on the basis of the "one window" principle.

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CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

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

[28] *Ibid.*, Recommendation 32

- Yes
- No

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

Please see the answer for the question 7.

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

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

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

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

- Yes
- No

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

Please see the answer for the question 7.

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

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

[30] *Ibid*

- Yes
 No

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

Under the Article 31.5 of the Constitution of Georgia a person shall be presumed innocent until proved guilty, in accordance with the procedures established by law and the court's judgment of conviction that has entered into legal force.

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GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

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

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

Pursuant to the Article 100 of the Criminal Procedural Code of Georgia, when notified of the commission of a crime, an investigator, prosecutor shall be obliged to initiate an investigation. An investigator shall immediately notify a prosecutor of the commencement of an investigation. It is worth to mention that under the Article 373 False denunciation is punishable.

Besides, the resolution of the Government of Georgia of September 12, 2016 on the Approval of Child Protection Referral Procedures aims to promote the protection of children from all forms of violence in or outside family by establishing a coordinated and effective system of referral procedures and defines the functions and rules for coordinated work between relevant bodies/institutions, in order to respond effectively and quickly to the cases of violence. The resolution specifies the role of different bodies and the principles of the methodology for identifying violence against children. It is notable that according to the Article 1726

Administrative Offences Code of Georgia, failure of an entity (institution or/and its authorized employee) involved in childcare referral procedures provided for by the legislation of Georgia to perform its duties with respect to detecting child abuse and reporting it to the relevant state body shall carry a warning or a fine from GEL 50 to 100 for the natural person concerned or a fine from GEL 100 to 200 for the institution (legal person) concerned.

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ASSISTANCE TO THIRD PARTIES Question 11.

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

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

Pursuant to the Article 43.1 of the Code on the Rights of the Child, within the framework of the unified child healthcare system, the state shall ensure that children who are victims of crime, victims of various forms of violence and those who are witnesses, including children with disabilities, are provided with physical and psychic healthcare and psychosocial rehabilitation in healthy and decent conditions. The content, form and duration of the programme shall be determined according to the individual needs and the best interests of the child. Also, Article 53.6 defines that in order to protect the child from any form of violence, the State is obliged to take appropriate administrative, social and educational measures, including to establish effective mechanisms to support the child and his/her family, prevent and detect any form of violence against the child or between children, report, appeal, refer and investigate such violence, in order to carry out other necessary measures for the physical and psychological rehabilitation of the victim child and for the restoration of his/her rights. It is worth to mention that under the Article of the 61.1 the state shall provide short-term and long-term programmes and services accessible to children who are crime victims and/or victims of violence for their physical and psychosocial rehabilitation, and mechanisms for protecting children from humiliation, repeated traumas and damage, and for providing accessibility to justice, appeal and compensation for damage.

It is also notable that pursuing to the Standard Operating Procedures for the Psycho-Social Service Center for the Juvenile Victims of Violence, one of the main goal of the Centre is short and long-term psychological-social rehabilitation of the child and connecting the child or his parent/legal representative with other necessary services.

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ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

The mentioned issue is generally regulated on the basis of the criminal legislation of Georgia. Besides, under the Article 19 of the resolution of the Government of Georgia of September 12, 2016 on the Approval of Child Protection Referral Procedures, the information received about the identity of the child victim of violence, his health and psychological condition is confidential and can be disclosed only among the relevant authorized employees of the entities involved in the referral procedures for the purpose of performing official activities. The information is also available to the child's parent(s) and legal guardian if there is no conflict of interest and the child's parents or parent does not have/has suspended or withdrawn parental rights.

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

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

Based on the Law of Georgia "On Combating Crimes Against Sexual Freedom and Inviolability", the court is empowered to deprive a person convicted for a crime against sexual freedom and inviolability number of rights by it's a guilty verdict. For example, the person might be deprived of a right to work and be employed in any type of educational institutions that involves minors or to provide any kind of educational/tutoring services to minors.

The law envisages the monitoring mechanisms of a person convicted or disenfranchised for committing a crime against sexual freedom and inviolability. In particular, according to Article 7 of the aforementioned law, an authorized employee of the Ministry of Internal Affairs of Georgia is authorized to appear at the place of residence/workplace of the convicted/disenfranchised person in order to monitor the fulfillment of the restrictions/obligations imposed on him/her. Additionally, if necessary, they can summon him/her to appear, request information about their residence/workplace or other identifiable data provided by the law and implement other measures defined by the legislation of Georgia.

In order to facilitate the enforcement of the above-mentioned law, crime prevention and the identification of the offender in the event of a person committing a crime again, the Ministry of Internal Affairs of Georgia has

created a register of persons convicted of crimes against sexual freedom and inviolability.

It is important to note that on the basis of the named law, the form of the notice of deprivation of the certain rights was introduced. The said notice is a document issued by a legal entity of public law - the service agency of the Ministry of Internal Affairs of Georgia, in which, based on the data registered/recorded by the Information-Analytical Department of the Ministry of Internal Affairs of Georgia is reflected, including the information on deprivation of rights based on the law "Combating crimes against sexual freedom and Inviolability" of Georgia.

Institution, educational and educative institutions out-of-school system (including out-of-school artistic and sports institutions), institution providing educational/learning/educative services, institution provided for by the legislation of Georgia, in which the employment of a person convicted/deprived for committing a crime against sexual freedom and inviolability is prohibited, is obliged to require the person to present a notice of conviction/revocation of the right, before granting him/her the right to perform the relevant activity. Non-fulfilment of the mentioned obligation leads to the imposition of responsibility prescribed by the legislation of Georgia.

In addition, in early and preschool educational institution, general educational institution, professional educational institution/college, special professional educational institution, as well as, higher educational institution and specialized institution, service institution (shelter) for victims of human trafficking (shelter), in accordance with the law of Georgia "On combating crimes against sexual freedom and Inviolability ", it is prohibited to employ a person convicted for a crime against sexual freedom regardless of the removal or dismissal of the conviction.

Article 173-14 of the Administrative Offences Code of Georgia defines responsibility for employing a person convicted for committing a crime against sexual freedom and inviolability, for giving him/her the opportunity to continue his/her activity or for granting the person a right to carry out the relevant activity.

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

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

- Yes
 No

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

The Ministry of Internal Affairs of Georgia has issued Interpol Green Notices against persons convicted of sexual crimes against children. Accordingly, all Interpol member states have access to the mentioned information.

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

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

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

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

- Yes
 No

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

According to the Article 159 of the Criminal Procedure Code of Georgia, an accused person may be removed from his/her position (work) if there is a probable cause that, by staying at that position (work), he /she will interfere with an investigation, with the reimbursement of damages caused as a result of the crime, or will continue criminal activities. As for the crimes against sexual freedom and sexual inviolability, based on the Article 3 of the the Law on Combating Crimes against Sexual Freedom and Inviolability, a convicted person may be deprived of one or more of the rights provided for in this before mentioned law.

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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”^[37] settings are held liable?^[38] Please provide details.

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

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

- Yes
 No

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

Under the Article 375 of the Criminal Code of Georgia, concealment of a crime under Articles 182(1), 186(1) and (2), 1941(1) and (2), 202(1), 221(1-3), 332(1) and (2), 339(1), 3391(1) and (2), 365(1-3) and 372(1) of this Code without prior promise, shall be punished by a fine or house arrest for a term of six months to two years, or imprisonment for a term of up to two years. Concealment of a serious crime without prior promise shall be punished by imprisonment for a term of one to four years. Concealment of a particularly serious crime without prior promise shall be punished by imprisonment for a term of two to six years.

Note: criminal liability for a crime under this article and Article 376 of this Code shall not be imposed on:

- a) a person who concealed a crime of a close relative without prior promise;
 - b) an authorized person of the institution (shelter) rendering services to victims of human trafficking provided for by the Law of Georgia on Combating Human Trafficking;
 - c) a member of the standing task group established under the Inter-Agency Coordination Council for implementing measures against human trafficking and reviewing issues relating to the granting of a status of the victim of human trafficking;
 - d) (deleted – 22.12.2022, No 2480);
 - e) an employee of a facility for providing services to victims of/persons affected by violence against women and/or domestic violence (a shelter/crisis centre) (except for a crime committed against a minor);
 - f) an employee of the Legal Entity under Public Law – Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking (except for a crime committed against a minor);
 - g) an operator of a free telephone assistance network for providing consultations to individuals.
- Pursuant to Article 376 of the Criminal Code of Georgia, failure to report a crime by a person who actually knows that a serious crime is being prepared or has been committed, shall be punished by imprisonment for a term of two to six years. Failure to report a crime by a person who actually knows that a particularly serious crime is being prepared or has been committed shall be punished by imprisonment for a term of three to seven years.

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

Please provide details.

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

- Yes
- No

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

The resolution of the Government of Georgia of September 12, 2016 on the Approval of Child Protection Referral Procedures aims to promote the protection of children from all forms of violence in or outside family by establishing a coordinated and effective system of referral procedures and defines the functions and rules for coordinated work between relevant bodies/institutions, in order to respond effectively and quickly to the cases of violence (Article 1). In particular, the child referral system includes: a) identifying the child victim of violence; B) assessing the child's condition; C) informing the relevant bodies of child abuse; D) if necessary, separating and placing the child in the relevant specialized institution/shelter/foster care, which will contribute to his/her safety and rehabilitation; E) monitoring the cases of violence (Article 4). More than ten different bodies are involved in the referral procedure and their powers and responsibilities are defined in detail in the resolution. Within the framework of their functions, the relevant referral responsibilities are assigned to the police, bodies of the Ministry of Education and Science, the Ministry of Justice of Georgia, Prosecutor's Office of Georgia, children's specialized institutions and shelters, medical service providers (including rural doctors), municipal administrations/city halls (Article 5). The resolution specifies the role of each body and the principles of the methodology for identifying violence against children. It is notable that according to the Article 1726 Administrative Offences Code of Georgia, failure of an entity (institution or/and its authorised employee) involved in childcare referral procedures provided for by the legislation of Georgia to perform its duties with respect to detecting child abuse and reporting it to the relevant state body shall carry a warning

or a fine from GEL 50 to 100 for the natural person concerned or a fine from GEL 100 to 200 for the institution (legal person) concerned.

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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:

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

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

For the detailed information please see answer for the N20 question.

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

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

[41] Ibid., Recommendation 36

For the detailed information please see answer for the N20 question.

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

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

[42] Ibid., Recommendation 37

For the detailed information please see answer for the N20 question.

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

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

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

[43] *Ibid.*, Recommendation 34

- Yes
 No

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

Under the Article 80 of the Code on the Rights of the Child, the child shall have the right to participate in administrative proceedings or judicial processes directly and/or through his/her representative, who may be the legal representative of the child or other procedural representative chosen by the child. Where a representative is chosen by a child, particular attention should be paid to cases where the parent, other family member, or person responsible for providing alternative care of the child, is an alleged violator. Besides, pursuant to the article 3.11 of the Juvenile Justice Code of Georgia, legal representative is a close relative of a minor, or a supporter, or a guardian or a custodian of a minor, who participates in juvenile justice procedure to protect the interests of the minor and who exercises the rights of the minor, except for rights which can be only exercised by minors due to the nature of these rights. It to be noted that Article 50 defines that a guardianship and custodianship authority shall, on the application of an investigator, or a prosecutor, or a judge, nominate an employee as a candidate for a procedural representative. The investigator, or the prosecutor, or the judge shall appoint the candidate nominated by the guardianship and custodianship authority, or other reliable person, as a procedural representative in the following situations:

- a) if the legal representative of the minor cannot participate in the process within one hour after the minor has been brought to a law enforcement authority;
- b) if the minor does not reside with his/her legal representative and/or refuses to contact his/her legal representative or refuses the participation of the latter in the process;
- c) if the legal representative acts against the best interests of the minor;
- d) if the minor is a victim of or an eyewitness to a crime committed by the legal representative;
- e) if the legal representative is charged with the commission the same crime;
- f) if the legal representative is inaccessible.

In the case of a domestic crime, a person who is supposedly abusive or whose impartiality is in doubt because of the nature of the relationship between the person and the abusive member of the family, or in other cases of conflict of interest, may not be involved as a legal representative of a minor in criminal proceedings, and may not read or be provided with the testimony given by the minor (protocol of interview, explanation).

Another reliable person shall be appointed as a procedural representative, taking into account the minor's opinion.

A procedural representative may:

- a) express his/her opinion on the needs of the minor to the official of the body administering the procedure;
- b) keep in contact with close relatives, or a lawyer or friends of the minor;
- c) inform the minor about health care, or psychological or social services, and available means of receiving these services;
- d) provide information to the minor about his/her procedural status, the importance, duration and form of testimony, and the interrogation procedure;
- e) notify the minor about the time and place of the hearing, and about other relevant actions and available measures of defence;
- f) provide information to the minor on the procedure for appealing the procedural decision delivered against

him/her;
g) perform other actions to assist the minor.

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

[44] *Ibid*

- Yes
 No

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

See the above answer.

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

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

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

[45] *Ibid.*, Recommendation 38

In 2020, the Government approved the concept of a Center for Psychological and Social Services for the Children Victims of Violence. The aim of the Center is to provide child victims with short and long-term psychosocial rehabilitation, prevent secondary victimization and conduct effective investigation. The preparatory procedures required for launching the Center started in 2021. This included setting up the infrastructure, purchasing the necessary equipment, development of SOPs and training of staff. The Psycho-Social Service Center for the Juvenile Victims of Violence was launched in Tbilisi, in March, 2022, in a pilot mode. On the basis of pilot results, one more center will be established in Kutaisi. This innovative first-ever Center in Georgia, is similar to so-called "BARNAHUS" model, which is well known in Scandinavian countries. Pursuing to the Standard Operating Procedures for the Psycho-Social Service Center for the Juvenile Victims of Violence, the tasks of the center are:

- a) protecting the best interests of the child;
- b) prevention of re-victimization and secondary victimization in the process of administration of justice and promotion of effective investigation, provision of coordinated cooperation of law enforcement and other agencies involved in the process;
- c) assessment of the child's needs by a multidisciplinary team;

d) assessment of the child's mental health by a relevant specialist as needed;
e) forensic medical examination of the child;
f) short and long-term psychological-social rehabilitation of the child;
g) connecting the child or his parent/legal representative with other necessary services;
h) child survey/interrogation using an evidence-based approach;
i) Provision of incident coordination and oversight by a multidisciplinary and multisectoral interagency team.
Besides, the Psycho-Social Service Center for the Juvenile Victims of Violence should provide a coordinated response in order to prevent secondary/re-victimization of the child during the investigation process and should facilitate effective investigation, create a child-friendly, multidisciplinary and multi-sectoral approach that provides a child-friendly justice process on the basis of the "one window" principle.
For more information please see Article 24 and Article 52 of the Juvenile Justice Code of Georgia.

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

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

[46] *Ibid.*, Recommendation 39

Please see the above answer.

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

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

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

Please see the above answer.

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

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

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

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

- Yes
 No

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

In order to improve the protection of juveniles in litigation proceedings:

the Parliament of Georgia adopted the Juvenile Justice Code of Georgia in 2015. The purpose of this Code is to protect the best interests of minors, to re-socialize and rehabilitate minors who are in conflict with the law, to protect the rights of minor victims and witnesses, to prevent the secondary victimization of minor victims and minor witnesses and to avoid the re-victimization of minor victims, and to prevent new crimes and protect public order in the process of administration of justice;

On September 12, 2016, Resolution N437 of the Government of Georgia approved the "Child Protection Referral (Referral) Procedures". The purposes of the Referral are: To Proactive/timely reveal facts of violence against child; To take immediate response to protect child from any type of violence; Properly react on the facts of violence. In particular, all governmental institutions and their structural units, LEPLs, medical institutions and local municipalities has become obliged to refer the possible case of child violence to the Social Service Agency and the police. Besides to the police, the social worker has also been granted the authorization to assess whether a child is the victim of any type of violence and make a decision to remove the child from family or environment where the violence was committed;

The Code on the Rights of the Child was adopted in 2020, which aims to ensure the welfare of the child by facilitating the effective implementation of the Constitution of Georgia, the UN Convention on the Rights of the Child, its Additional Protocols and other international legal acts recognized by the state. The Code of the Rights of the Child creates a strong legal framework that defines the basic rights and freedoms of the child, creates the legal basis for the protection of the fundamental rights and freedoms of the child and the functioning of the support system.

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INVESTIGATION Question 19. In the investigation phase:

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

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

[49] *Ibid.*, Recommendation 41

- Yes
 No

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

The Order of the Minister of Internal Affairs of March 25, 2022, approved the Standard Operating Procedures for the Investigation of the facts of Sexual Abuse against a Child, which aims to conduct the investigation into the crimes committed against sexual freedom and inviolability in Barnahus - The Psycho-Social Service Center for the Juvenile Victims of Violence, in such a way as to ensure child-friendly in the process of administration of justice. Except in exceptional cases prescribed by the law, all investigative and procedural actions are conducted in Barnahus, while the timely mobilization of the persons involved in the juvenile justice processes is carried out, which in turn helps to conduct investigative and procedural actions to be carried out with the participation of the child without delay.

Besides, from 2018 until today, a child-friendly environment has been created in many units of the Prosecutor's Office, in the Ministry of Internal Affairs and in the Courts throughout Georgia.

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

Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes
 No

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

Please see the answer for the 20 question. In addition, according to the order N43-g of the Prosecutor General of March 16, 2021, from April 10, 2021, only specialized prosecutors provide procedural guidance over the cases of crimes against sexual freedom and inviolability in the agencies of the Prosecution Service of Georgia. Also, a guideline on "Investigation and Procedural Guidance of Crimes against Sexual Freedom and Inviolability" was elaborated in the Prosecution Service of Georgia in 2021. A separate chapter in the guideline is devoted to the specific circumstances to be considered in relation to minors.

Furthermore, only authorized representatives of the Ministry of Internal Affairs of Georgia specialized in juvenile justice shall perform actions in relation to minors, as provided for by the Law of Georgia on Police. Besides, Juvenile Affairs division was established in the Ministry of Internal Affairs in 2020. The specialized structural unit is equipped with all infrastructural and human resources that ensures, on the one hand, protection of the best interests of juveniles throughout the justice proceedings administration and on the other, increases the efficiency of the litigation proceedings.

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

[51] *Ibid.*, Recommendation 43

- Yes
- No

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

Under the Article 52 of the Juvenile Justice Code of Georgia, a minor may be interviewed/interrogated if he /she is able to verbally or in some other form convey information that is important for the case. A minor may not be interviewed/interrogated from 22:00 to 08:00. A minors shall be provided with appropriate food and drinking water at least every four hours, from 08:00 to 22:00, and with the right to unlimited use of a toilet. When determining an appropriate time for breaks during the interrogation of a minor, the judge shall take into account the age, and the level of development of the minor, and other circumstances. If a minor is a witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, the number of interrogations shall be as limited as possible and shall be determined by the need to achieve the goals of criminal proceedings. Besides, pursuing to the Standard Operating Procedures for the Psycho-Social Service Center for the Juvenile Victims of Violence, one of the circumstances to be additionally considered on the facts of sexual violence committed against minors is to interviewing of the child should be conducted on the territory of the center, by a specialized investigator, after the assessment of the child's psychological condition and readiness by the psychologist of the center, preferably once. Repeated interviewing of the child is allowed only in the case of necessity, when new circumstances have been revealed by other investigative activities conducted on the case and it is necessary to obtain additional information from the child and/or the child himself wishes to provide additional information to the investigator /prosecutor.

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

[52] *Ibid.*, Recommendation 54

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e. where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same

person and under the same material conditions as the first?^[53] Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes
- No

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

According to the Standard Operating Procedures for the Psycho-Social Service Center for the Juvenile Victims of Violence, all other investigative and procedural activities toward the child should be conducted in the territory of the center, preferably by the same investigator, if necessary with the involvement of the same prosecutor, preferably once.

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

[54] *Ibid.*, Recommendation 45

- Yes
- No

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

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JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

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

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

[55] *Ibid.*, Recommendation 46

- Yes
- No

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

Pursuant to article 24.b of the Juvenile Justice Code of Georgia, Under the Juvenile Justice Code of Georgia, to protect the best interests of minor witnesses, a judge may, on his/her own initiative or on the motion of a minor witness, his/her legal representatives, or a lawyer or prosecutor, deliver a decision on interrogation of the minor witness before a court hearing with the participation of the lawyer of the defendant and with a video recording of the interrogation process. Besides, Article 52.3 defines that if a minor is an interviewee/witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, an audio or video recording may be made during his/her interview /interrogation. The audio or video recording of the testimony given by the minor may be played (demonstrated) at a court hearing.

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

[56] *Ibid.*, Recommendation 59

- Yes
 No

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

Pursuant to Article 52 of the Juvenile Justice Code of Georgia, if a minor is an interviewee/witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, an audio or video recording may be made during his/her interview/interrogation. The audio or video recording of the testimony given by the minor may be played (demonstrated) at a court hearing.

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

[57] *Ibid.*, Recommendation 60

- Yes
 No

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

However, it should be noted that pursuant to the Article 52.4 a minor under 14 years of age may be interviewed/interrogated only with the consent and in the presence of his/her legal representative. A legal representative may express his/her opinion and, with the permission of the court, clarify a question asked to a person under 14 years of age. An interviewee/witness under 14 years of age shall be explained of his/her duty to tell only the truth but shall not be informed about the imposition of criminal liability for refusing to testify and for giving a false testimony.

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

[58] *Ibid.*, Recommendation 47

- Yes
 No

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

As defined by Article 52.3 of the Juvenile Justice Code of Georgia, If a minor is an interviewee/witness with respect to a case of sexual exploitation and sexual violence or a victim of the sexual exploitation and sexual violence, an audio or video recording may be made during his/her interview/interrogation. The audio or video recording of the testimony given by the minor may be played (demonstrated) at a court hearing. Furthermore, pursuant to Article 3.23 Evidence is an information or an item, a document, substance or any other object containing the information submitted to the court in the manner prescribed by law, which parties use in a court to prove or refute certain facts and make their legal evaluation, perform duties, protect their rights and lawful interests, and which a court uses to establish whether there exists a fact or an act because of which a criminal proceeding is conducted, whether a certain person has committed a certain act and whether or not a person is guilty, also to establish circumstances that affect the nature and degree of liability of the accused, and characterise the person. A document is considered to be evidence if it contains information required for the establishment of factual and legal circumstances of a criminal case. Any source in which information is recorded in the form of words and signs and/or photo, film, video, sound or other recordings, or through other technical means, shall be considered a document.

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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?](#)^[59]

[59] *Ibid.*, Recommendation 48

Under the Article 52 of the Juvenile Justice Code of Georgia, as mentioned many times earlier, if a minor is an interviewee/witness with respect to a case of sexual exploitation and sexual violence or a victim of the

sexual exploitation and sexual violence, an audio or video recording may be made during his/her interview /interrogation. The audio or video recording of the testimony given by the minor may be played (demonstrated) at a court hearing. Besides, Under the Article 24.d, to protect the best interests of minor witnesses, a judge may, on his/her own initiative or on the motion of a minor witness, his/her legal representatives, or a lawyer or prosecutor, deliver a decision on the temporary removal of the defendant from the courtroom if the minor witness refuses to give testimony in the presence of the defendant or if the existing circumstances suggest that the minor witness might refrain from telling the truth in the presence of the defendant, or that secondary victimisation of the minor witness might occur. In this case, the participation of the lawyer of the defendant in the court hearing is compulsory.

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

[60] *Ibid*

- Yes
 No

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

See the previous answer

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

[61] *Ibid*

Please see the previous answers.

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

[62] *Ibid.*, Recommendation 49

Pursuant to Article 24 of the Juvenile Justice Code of Georgia, to protect the best interests of minor witnesses, a judge may, on his/her own initiative or on the motion of a minor witness, his/her legal

representatives, or a lawyer or prosecutor, deliver a decision on the partial or full closure of a court hearing. Besides, as defined by the Article 13 of the Juvenile Justice Code of Georgia the privacy of minors shall be protected at all stages of juvenile justice procedure. Information on the previous convictions and previous administrative liability of minors shall not be available to the public. The personal data of minors may not be disclosed or published, except as provided for by the Law of Georgia on Personal Data Protection.

Besides, under the Article 71 of the Code of the Rights of the Child, the personal data of the child involved in administrative proceedings or a judicial process may not be disclosed in any form, including by media, which may disclose or indirectly indicate the identity of the child (animage, a detailed description of the child or his /her family members, names, addresses, audio and video recordings and similar information). It shall be inadmissible to disclose in any form, including by media, a document or a record containing the personal data of a child, which is related to the use of disciplinary measures against the child, violence committed against or by the child, the health status of the child, the participation of the child in programmes of social assistance or charity programmes for children with disabilities or for poor families, and other information of similar content related to the child. The processing of the personal data of a child shall be permitted only in accordance with the legislation of Georgia. The State shall ensure the legislative regulation of the personal data of the child and shall establish uniform standards for matters related to the rights of the child in the fields of education, healthcare, social protection, justice and other fields, in accordance with international legal acts, the Constitution of Georgia, this Code and the Law of Georgia on Personal Data Protection.

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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?](#)^[63] Please provide details.

[63] *Ibid.*, Recommendation 50

- Yes
 No

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

Pursuant to Article 15.1 of the Juvenile Justice Code of Georgia, at any stage of criminal proceedings, an accused/convicted/acquitted minor and a minor victim shall be provided with the free legal aid, unless a defence lawyer (defence by agreement) hired by the minor participates in the proceedings. At any stage of criminal proceedings, a minor interviewee/witness shall enjoy this right if he/she is unable to pay, or is an interviewee/witness with respect to any offence under Chapters XIX, XX and XXII (Crime against Sexual Freedom and Sexual Inviolability) and Articles 1441–1444 of the Criminal Procedure Code of Georgia. Besides, Article 52 of the Juvenile Justice Code covers the issue.

Besides, Article 69 of the Code of the Rights of the Child, defines basic principles of justice adapted to the child. Namely, under the 69.4.c In order to enable the exercise of the right of the child to justice, the State shall provide the following main guarantees rights of the child to participate in administrative proceedings

and court hearing proceedings directly and/or through a representative chosen by him/her in accordance with the procedures established by the legislation of Georgia. According to the Article 74 of the above mentioned code, the child shall have the right to invite a lawyer. The State shall provide the child with legal aid free of charge where the child does not have an appointed lawyer.

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

[64] *Ibid.*, Recommendation 51

- Yes
 No

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

Please see Article 15.1 of the Juvenile Justice Code of Georgia. Besides, Article 52,3.4.8.9.10 defines that: A minor shall be interviewed/interrogated in the presence of his/her legal representative and a lawyer. In the case provided for in Article 15(1) of this Code, a minor interviewee/witness shall enjoy the right to free legal aid during the interview/interrogation. A person performing a procedural action during interviewing /interrogating a minor shall, considering the best interests of the minor, ensure the involvement of a psychologist. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview/interrogation; A minor under 14 years of age may be interviewed /interrogated only with the consent and in the presence of his/her legal representative. A legal representative may express his/her opinion and, with the permission of the court, clarify a question asked to a person under 14 years of age ; A procedural action, in which a minor victim is involved, shall be attended by his/her legal representative and lawyer. A person performing a procedural action shall, considering the best interests of a minor, also ensure the involvement of a psychologist in the procedural action. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview /interrogation. A coordinator of a witness and a victim shall be present at the procedural action if so desired by the minor victim ; A procedural action, in which a minor interviewee/witness is involved, shall be attended by his/her legal representative. A minor interviewee/witness shall have the right to have a lawyer during the procedural action. In the case provided for in Article 15(1) of this Code, a minor interviewee/witness may enjoy the right to free legal aid during. A person performing a procedural action shall, considering the best interests of a minor, also ensure the involvement of a psychologist in the procedural action. The psychologist shall assess the needs of the minor and shall provide him/her with psychological support during the interview /interrogation. A coordinator of a witness and a victim shall be present at the procedural action if so desired by the minor witness ; A judge, during a court trial, and a prosecutor, at the stage of investigation, may, by a ruling/resolution prohibit a legal representative of a minor interviewee/witness or a minor victim from attending a procedural action only if this is necessary for the best interests of the minor. It should be noted that under the Article 16 of the Juvenile Justice Code of Georgia, only persons specialised in juvenile justice shall administer juvenile justice proceedings. the standard of specialisation of persons administering juvenile justice procedure and participants of such process is determined by an ordinance of the Government of

Georgia (N668 Ordinance of the Government of Georgia, 30 December, 2015) and in the case of judges, by a decision of the High Council of Justice of Georgia.

Besides, pursuant to Article 79 of the Code of the Rights of the Child, The child shall have the right to receive consistent and qualified legal advice and/or legal aid in a language understandable to him/her through appropriate means of communication at the expense of the State, considering his/her age, individual capabilities and needs, and in accordance with the rules established by this Code. LEPL Legal Aid Service shall ensure that a child and/or a parent or other person responsible for the upbringing of a child is provided with legal advice and/or legal aid free of charge on matters related to the rights of the child, in accordance with the rules established by the legislation of Georgia. LEPL Legal Aid Service shall ensure that legal advice and/or legal aid is accessible to a child by telephone, adapted websites, printed media and other means. LEPL Legal Aid Service shall ensure that infrastructure, referral forms and all other services are available in accordance with child-friendly justice standards. It's worth to mention that pursuant to Article 80 of the Code of the Rights of the Child The child shall have the right to participate in administrative proceedings or judicial processes directly and/or through his/her representative, who may be the legal representative of the child or other procedural representative chosen by the child. Where a representative is chosen by a child, particular attention should be paid to cases where the parent, other family member, or person responsible for providing alternative care of the child, is an alleged violator.

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

[65] *Ibid.*, Recommendation 52

Under the Juvenile Justice Code of Georgia, Article 25, After the judgement is pronounced, the court shall inform a minor victim and his/her legal representative of the outcome of the court hearing and explain to them the right to compensation for injury and damage and the right to claim compensation as determined by the legislation of Georgia. Besides, pursuant to Article 77 of the Code of the Rights of the Child, in the case of sexual, economic, domestic or other forms of violence against a child, the limitation period for applying to a court to seek damages shall be suspended until the child attains majority or applies to a court before attaining majority. Besides, pursuant to the Article 61.2 of the before mentioned Code, a child who is a crime victim and/or a victim of violence and/or a child who is an alleged victim shall have the right to receive compensation from the State, including compensation for financial loss, through rapid procedures, when it is not possible to receive such compensation from an offender.

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