

# LANZAROTE COMMITTEE

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

## Implementation report

Adopted by  
the Lanzarote Committee  
on 3 July 2025

## Protecting children against sexual abuse in the circle of trust: Legal frameworks



# LANZAROTE COMMITTEE

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

Implementation report

## **Protecting children against sexual abuse in the circle of trust: Legal frameworks**

Adopted by the Lanzarote Committee  
on 3 July 2025

Council of Europe

French edition:  
*La protection des enfants contre les abus sexuels  
commis dans le cercle de confiance:  
Les cadres juridiques*

*The opinions expressed in this document are the  
responsibility of the author(s) and do not necessarily  
reflect the official policy of the Council of Europe.*

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text. The source text must always be acknowledged as follows "© Council of Europe, year of the publication." All other requests concerning the reproduction/translation of all or part of the document should be addressed to the Publications and Visual Identity Division, Council of Europe (F-67075 Strasbourg Cedex or [publishing@coe.int](mailto:publishing@coe.int)).

All other correspondence concerning this document, should be addressed to the Children's Rights Division [children@coe.int](mailto:children@coe.int)

Cover design:  
Publications and Visual Identity Division (PVID)  
Council of Europe

Photo: Shutterstock

© Council of Europe, October 2025

Secretariat of the Council of Europe  
Convention on the Protection of  
Children against Sexual Exploitation  
and Sexual Abuse  
(Lanzarote Convention)  
F-67075 Strasbourg Cedex

[lanzarote.committee@coe.int](mailto:lanzarote.committee@coe.int)

[www.coe.int/lanzarote](http://www.coe.int/lanzarote)

## Executive Summary

Most cases of child sexual abuse are perpetrated by someone the child knows and trusts. In this report, the Lanzarote Committee assesses the protection of children within their "circle of trust" in the 48 State Parties to the Lanzarote Convention. The "circle of trust" includes members of the extended family, persons having care-taking functions or exercising control over the child, and persons with whom the child interacts in a trust environment, including their close peers. The report assesses how Parties criminalise child sexual abuse committed within the circle of trust and how children are protected before, during and after criminal proceedings. It also looks at specific measures to respond to cases of intrafamilial abuse, and how States address harmful sexual behaviour by children themselves. Finally, it examines the procedural rules applicable to investigations and prosecutions, and measures to supervise and monitor offenders.

Overall, the Lanzarote Committee identified significant progress made by State Parties to the Lanzarote Convention since the 1<sup>st</sup> monitoring round, which also focused on the circle of trust, notably in respect of procedural safeguards for victims during criminal investigations and proceedings. Nevertheless, important gaps still persist, especially as regards the criminalisation of sexual abuse of any child under 18 years old, in the context of intrafamilial sexual abuse, and where there is no use of coercion, threat or force. Parties are also called upon to strengthen the provision of legal and psychological support provided to victims and those close to them, and the supervision and monitoring of offenders.

Comprehensive legislation **criminalising sexual abuse of children of all ages by persons in a recognised position of trust, authority or influence** is essential to ensure that all children are protected from sexual abuse. A few Parties have made progress in this area and now provide a clear reference to "a recognised position of trust, authority or influence" in their criminal law definitions of sexual offences against children. However, many Parties still limit this protection to very specific circumstances or to children below the legal age for sexual activities. Some continue to require the element of coercion to constitute a criminal offence. Also, in some Parties children can be held criminally liable for the offence of sexual relations with an adult blood relative or an adoptive or foster parent. Some Parties also continue to allow marriage to the victim to exempt perpetrators from liability or fail to criminalise sexual abuse by spouses of married children. Discriminatory legal wording still exists in some Parties, undermining protection for all children regardless of the sex or sexual orientation of the child victim or the perpetrator.

**Protecting children from sexual abuse in the family context** requires early detection, swift protective measures, and coordinated interventions that prioritise the child's safety and best interests. The Committee found that most Parties do provide for the removal of the alleged perpetrator from the home even before criminal proceedings are initiated. In many Parties, it is also possible to fully suspend or withdraw parental rights or authority pending the outcome of criminal proceedings or following a criminal conviction of the parent. Conversely, the removal of the child victim should be a last resort, yet not all Parties clearly reflect this principle in law or practice. In most Parties that allow for exploratory interviews with children there is no need to obtain the prior consent of the child's parents or legal guardians if these might prevent the child from disclosing sexual abuse. Progress has also been made by Parties concerning the appointment and provision of special representatives and guardians *ad litem* in cases where a parent is an alleged perpetrator. Most Parties equally ensure that data protection laws and confidentiality rules do not hinder the exchange of information between agencies responding to cases of child sexual abuse.

**Children who display harmful sexual behaviour** require tailored measures to meet their developmental needs. The Committee found that in most Parties, where a child below the age of criminal responsibility engages in harmful sexual behaviour with another child, they are referred to child welfare services and/or subject to safeguarding measures. While most Parties take a distinct approach to sanctioning children above the age of criminal responsibility, compared to adults who commit similar offences, the Committee calls on Parties to take a restorative justice approach and uphold child-friendly justice principles.

Effective mechanisms for **initiating investigations and prosecution** are essential to ensure that cases of child sexual abuse in the circle of trust are addressed regardless of a victim's ability or willingness to file a complaint. The report finds that most Parties now allow for the initiation of proceedings *ex officio* without the prior lodging of a complaint by a victim. Major progress has also been made regarding the possibility to continue proceedings following the withdrawal of a complaint by a victim, with over a three-fold increase in the number of Parties which allow for this possibility. Progress was also made in the context of reporting. Many Parties impose legal obligations on certain professionals to report suspicion of sexual offences against children, and ensure that confidentiality is not a barrier to this reporting duty. Many Parties also make it possible to suspend professionals or volunteers under investigation for abuse and ensure that legal persons can also be held liable if they benefit from these offences.

Child victims require specific **safeguards and protection during investigations and proceedings** to reduce the risk of re-traumatisation and ensure their effective participation in the justice process. With regards to the investigation phase, significant progress was seen since the first monitoring round with the expansion of the *Barnahus* model of multidisciplinary integrated child-friendly services for children that help to avoid the secondary victimisation of child victims. In the context of criminal proceedings, major progress has been made in respect of the possibility for children to testify in a courtroom without being physically present, for children to be questioned without the physical presence of the presumed offender, and to video record the child's testimony. However, while almost all Parties ensure pre-recorded/pre-constituted testimony is admissible in court, only half of them use these to replace live evidence given by the child. There has also been progress with respect to measures to protect the privacy of child victims. Most Parties allow for hearings without the presence of the public and have legal provisions preventing the disclosure of the victim's identity in the media. Even though all Parties provide child victims with access to some form of free legal advice, not all Parties provide a "legal aid lawyer" or attorney free of charge or under more lenient conditions than for adults.

**Victims and third parties also require additional safeguards** outside the context of criminal proceedings. Many Parties have legal safeguards to protect both the child victim and their family members from adverse consequences or secondary victimisation following the child's disclosure of sexual abuse. Progress has been observed in the provision of therapeutic assistance to persons close to the victim. In several Parties, support for the family members of the victim is provided within *Barnahus* or *Barnahus*-type services.

Significant gaps remain as regards the **supervision and monitoring of offenders** after release from prison the **sharing of data on convicted offenders** between Parties. These are both key steps Parties can take to prevent re-offending.

The Lanzarote Committee reiterates the need for Parties to fully align their legal frameworks with the Lanzarote Convention. This report offers targeted recommendations and concrete examples of good practices to support reform to improve the legal protection of children from sexual abuse in the circle of trust.

## Table of contents

|                                                                                                                                                 |    |
|-------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Executive Summary .....                                                                                                                         | 3  |
| Introduction .....                                                                                                                              | 7  |
| 1 Criminalisation of sexual abuse in the circle of trust .....                                                                                  | 10 |
| 1.1 Criminalisation of sexual abuse of children of all ages by persons in a recognised position of trust, authority or influence .....          | 11 |
| 1.2 Criminal liability of children for sexual activity with family members.....                                                                 | 20 |
| 1.3 Exemption from criminal liability or punishment due to marriage to the victim.....                                                          | 21 |
| 1.4 Protection of children who are married against sexual abuse by their spouse .....                                                           | 22 |
| 1.5 Criminalisation of sexual activities other than sexual intercourse or equivalent actions ...                                                | 22 |
| 1.6 Criminalisation of sexual activities without discrimination based on sex or sexual orientation .....                                        | 27 |
| Chart 1: Constituent elements of sexual abuse Article 18 Lanzarote Convention.....                                                              | 29 |
| 2 Protecting child victims of sexual abuse within the family .....                                                                              | 30 |
| 2.1 Exploratory interviews concerning possible sexual abuse in the family .....                                                                 | 30 |
| 2.2 Removal of the alleged perpetrator and the child victim from the family home.....                                                           | 32 |
| 2.3 Access to personal information by agencies involved in response to cases of child sexual abuse .....                                        | 35 |
| 2.4 Withdrawal and suspension of parental rights and authority.....                                                                             | 36 |
| 2.5 Special representatives.....                                                                                                                | 39 |
| 3 Addressing harmful sexual behaviours by children.....                                                                                         | 45 |
| 3.1 Age of criminal responsibility in State Parties .....                                                                                       | 46 |
| 3.2 Children below the age of criminal responsibility .....                                                                                     | 48 |
| 3.3 Children above the age of criminal responsibility .....                                                                                     | 50 |
| Chart 2: Age of criminal responsibility for sexual offences and legal age for sexual activities .....                                           | 53 |
| 4 Initiating investigations and prosecution .....                                                                                               | 54 |
| 4.1 Initiation and continuation of investigations and proceedings: in the absence of a complaint or in cases of withdrawal of a complaint ..... | 54 |
| 4.2 Initiating investigations and prosecutions: Reporting in good faith .....                                                                   | 59 |
| 4.3 Protections for any person reporting suspicion of sexual abuse.....                                                                         | 64 |
| 4.4 Precautionary measures in respect of professionals and volunteers.....                                                                      | 66 |
| 4.5 Corporate liability .....                                                                                                                   | 68 |
| 5 Protecting child victims during investigations and criminal court proceedings.....                                                            | 72 |
| 5.1 Support for child victims in the investigation phase.....                                                                                   | 72 |
| 5.2 Use of video recording and /or live link technology to facilitate pre-constituted evidence, remote hearings.....                            | 81 |

|     |                                                                                              |     |
|-----|----------------------------------------------------------------------------------------------|-----|
| 5.3 | Avoiding contact between the victim and the accused during criminal proceedings .....        | 86  |
| 5.4 | Protecting the child's right to privacy and personal data from disclosure in the media ..... | 89  |
| 5.5 | Access to legal advice and legal representation .....                                        | 92  |
| 5.6 | Psychological assistance to child victims in investigative and judicial proceedings .....    | 95  |
| 6   | Other safeguards for victims and third parties .....                                         | 98  |
| 6.1 | Provision of therapeutic assistance to persons close to the victim.....                      | 99  |
| 6.2 | Preventing secondary victimisation.....                                                      | 102 |
| 6.3 | Long term victim support .....                                                               | 104 |
| 7   | Measures following criminal proceedings.....                                                 | 107 |
| 7.1 | Measures to monitor or supervise persons convicted of child sexual abuse.....                | 107 |
| 7.2 | Sharing data on offenders convicted of child sexual abuse with other countries.....          | 112 |
|     | Appendix 1: Intervention measures for children under criminal age of responsibility .....    | 116 |
|     | Appendix 2: Intervention measures for children over criminal age of responsibility.....      | 118 |
|     | Appendix 3: Special representatives .....                                                    | 120 |

## Introduction

### Preliminary Remarks

In 2022, the Lanzarote Committee decided to return to the theme of its first monitoring round completed in 2018, namely the protection of children against sexual abuse in the circle of trust. This decision reflects the continued importance of the theme, the almost two-fold increase in the number of Parties to the Lanzarote Convention since the launch of the first monitoring round in 2012, and the developments in international law and practice. This report contains the Lanzarote Committee's evaluation of the implementation by all 48 State Parties of those provisions of the Lanzarote Convention that are relevant to the protection of children against sexual abuse in the circle of trust.

By "first monitoring round" this report, unless otherwise specified, refers to the findings of the 1<sup>st</sup> implementation report adopted by the Lanzarote Committee on 4 December 2015 on the topic of "Protection of children against sexual abuse in the circle of trust: The framework".

The Lanzarote Convention is the main legal text used in the analysis. Whenever a reference is made to a provision, it is to be understood to be a provision of the Lanzarote Convention, unless otherwise specified.

### Definitions

This report uses the following terms as defined by Article 3 of the Lanzarote Convention:

- A child is "any person under the age of 18 years";
- The term victim means "any child subject to sexual exploitation or sexual abuse";
- Sexual exploitation and sexual abuse of children includes the following behaviours:
  - Engaging in sexual activities with a child under the national legal age of sexual activities, or of any child under 18 through the use of coercion, force or threats, abuse of a recognised position of trust, authority or influence over the child, or of a particularly vulnerable situation of the child (Article 18 of the Lanzarote Convention);
  - Offences relating to the commercial sexual exploitation of children ("child prostitution"), as outlined in Article 19 of the Lanzarote Convention;
  - Offences concerning child sexual abuse material ("child pornography"), as outlined in Articles 20 and 21 of the Lanzarote Convention;
  - Intentionally causing children to witness sexual abuse or sexual activities, even without having to participate, as outlined in Article 22 of the Lanzarote Convention;
  - Solicitation of children for sexual purposes, as outlined in Article 23 of the Lanzarote Convention, as interpreted by the Lanzarote Committee in its Opinion on Article 23.

The notion of a child's "*circle of trust*" includes all persons in a recognised position of trust, authority or influence over the child.

As specified in the [thematic questionnaire](#), the term "national legal framework" "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".

## Methodology

The Committee followed the practice of the first monitoring round and first examined the implementation of the Lanzarote Convention in the Parties' legal frameworks, with an examination of their policy frameworks foreseen at the next stage. In June 2023 the Committee adopted a [questionnaire](#) which included questions derived from the Committee's first monitoring round recommendations and findings, as well as some new questions based on the Committee's adopted texts and international standards that had emerged since. Out of the 48 Parties to the Lanzarote Convention that had acceded to or ratified the Convention by June 2023, 47 Parties submitted their [replies](#) to this questionnaire.<sup>1</sup> The **Russian Federation** did not provide a reply, information submitted to the Lanzarote Committee by civil society organisations was used.

In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Committee also sought the views of civil society and other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation on the Convention by Parties, notably by asking for comments on Parties' replies or additional information. This resulted in five [submissions](#) made by civil society organisations and national human rights institutions providing commentary on the situation in Austria, Ireland, the Netherlands, the Russian Federation, and the United Kingdom (Northern Ireland).

Finally, the Committee also sought the views of children with regard to the theme of the monitoring round. [Contributions](#) from child consultations were received from Bosnia and Herzegovina and Portugal.

Information submitted by all stakeholders was examined by the Committee question by question during its three plenary meetings in 2024. Rapporteurs from among the Committee's members and observers in co-operation with the Secretariat prepared a preliminary analysis of the information and preliminary recommendations which were presented to the Committee for discussion during these meetings. The first draft of the report was examined by the Committee at its 44<sup>th</sup> plenary meeting in March 2025, and adopted the revised report at its 45<sup>th</sup> meeting in July 2025.

## Report structure and content overview

The draft report is structured around seven chapters reflecting the following themes:

1. Criminalisation of sexual abuse in the circle of trust;
2. Protecting child victims of sexual abuse in the family;
3. Addressing harmful sexual behaviours by children;
4. Initiating investigations and prosecution;
5. Protecting child victims during investigations and criminal proceedings;
6. Other safeguards for victims and third parties;
7. Measures following criminal proceedings.

---

<sup>1</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, United Kingdom.

The report contains special boxes with descriptions of promising practices, information from the civil society submissions, and children’s views. Each section concludes with recommendations and, sometimes, additional guidance addressed to the Parties. Additional guidance reflects suggestions for Parties wishing to further enhance the protection of children against sexual abuse in the circle of trust or suggestions on practical means to implement the recommendation(s) made in the relevant section. While most of the recommendations stem from the questions asked in the thematic questionnaire, some are not linked to a specific question but are rather based on additional information provided by some Parties on topics that may be of concern to all Parties.

In line with the practice of the 2<sup>nd</sup> monitoring round, the verbs “require”, “request”, and “invite” are employed in the recommendations in the following manner:

- “require” in the recommendations corresponding to obligations arising from the Lanzarote Convention, as clarified by its explanatory report;
- “request” in the recommendations corresponding to obligations arising from the Lanzarote Convention, as clarified by documents adopted by the Committee (such as previous monitoring round findings, opinions or other documents); and
- “invite” in the recommendations based on promising practices or other measures to enhance protection of children against sexual violence even beyond specific requirements of the Lanzarote Convention.

Recommendations can be addressed to one or multiple listed State Parties, or to all Parties. When recommendations are addressed to all Parties, this does not necessarily mean that no Parties are compliant, but rather that there was insufficient or inconclusive information to allow the Committee to list only the Parties that were not compliant with this recommendation.

The report also includes appendices with a state-by-state overview on intervention measures applicable to children and on legislation regarding special representatives.

## Acknowledgments

The Committee thanks the representatives of the States<sup>2</sup> and observers<sup>3</sup> who acted as Rapporteurs by preparing a preliminary analysis and draft recommendations. It is also grateful to the representatives of civil society and the national human rights institutions who submitted comments on Parties’ replies to the questionnaire or provided additional information and in so doing enriched this report.

## Recommendation

### Recommendation 1

The Lanzarote Committee invites **all Parties** to take note of the promising practices identified in this report and to consider implementing similar practices at national level.

<sup>2</sup> Austria, Belgium, France, Hungary, Iceland, Ireland, Lithuania, Portugal, Slovenia.

<sup>3</sup> Missing Children Europe, Protect Children, Save the Children Finland.

# 1 Criminalisation of sexual abuse in the circle of trust

## Children's views

Children consulted in Bosnia and Herzegovina said:

"Young people don't feel safe and often choose to remain silent about most issues, due to teasing from their peers, but it's crucial for children to feel safe and have their circle of trust."

In the children's opinion, the circle of trust comprises individuals they have known for an extended period, such as parents, siblings, friends, and comrades. Some children also included the staff of the Day Care Center, the school pedagogue, and the headroom teacher among those they trust. Interestingly, one group expanded their circle of trust to include the internet and books.

## Articles of the Convention

### Article 18 – Sexual abuse

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

a. engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;

b engaging in sexual activities with a child where:

- use is made of coercion, force or threats; or
- abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
- abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

[...]

### Article 27 – Sanctions and measures

1. Each Party shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include penalties involving deprivation of liberty which can give rise to extradition.

[...]

1. Effective prosecution of child sexual abuse requires the criminalisation of certain conduct in a clear, foreseeable manner and in accordance with the relevant provisions of the Lanzarote Convention. While the Lanzarote Convention does not make any reference to a “circle of trust”, this notion was used in the first monitoring round carried out by the Lanzarote Committee to facilitate the reference to a child’s relationships with persons in a recognised position of trust, authority, or influence. This chapter will examine the legal provisions that Parties have in place to criminalise sexual abuse of a child by a person in a recognised position of trust, authority or influence over the child. It will assess whether the wording used by the relevant laws is sufficiently broad to cover all possible situations of such abuse and whether protection is available to children both below and above the legal age for sexual activities as defined by national legislation. Further, it will consider whether certain legal situations arising in Parties are in conformity with the Lanzarote Convention. This chapter will also examine whether Parties protect children against sexual abuse in situations where children can enter marriage before reaching the age of majority. Finally, it will look at what kind of acts Parties consider to constitute sexual offences against children.

## 1.1 Criminalisation of sexual abuse of children of all ages by persons in a recognised position of trust, authority or influence

2. Article 18 paragraph 1.b second indent requires Parties to criminalise sexual activities with children under 18 where abuse is made of a recognised position of trust, authority or influence over the child. For such activities to be considered a criminal offence, the Lanzarote Convention does not require the perpetrator to use coercion or violence, or to abuse a particularly vulnerable situation of the child (including a mental or physical disability or a situation of dependence). Sexual activities with a child using coercion or violence or abusing the child's particularly vulnerable situation are covered by other aspects of Article 18 (first and third indents of Article 18 paragraph 1.b respectively) and are therefore beyond the scope of this report.

### Findings from the first monitoring round

3. In the first monitoring round, the Lanzarote Committee examined separately the issue of formulations used by the Parties to criminalise sexual abuse of children by a person in a recognised position of trust, authority or influence and the issue of availability of protection to children above the legal age for sexual activities.

4. As regards the formulations used, the Committee considered the different ways in which Parties defined situations of abuse of a position of trust, authority or influence when engaging in sexual activities with a child. In the case of Parties using lists enumerating positions or roles in which such abuse could be perpetrated, the Committee considered that when such an enumeration was open-ended (for example if it ended with "or any other person in a child's circle of trust" / "or any other trusted person by the child"), the situation was in conformity with the Lanzarote Convention as there was enough flexibility to determine on a case by case basis whether the alleged perpetrator had abused his or her position of authority, influence or trust. Likewise, the situation was in conformity in Parties where the criminal offence was worded more broadly, for example "abuse of authority in fact and in law", and case-law interpreted this as covering abuse of recognised positions of trust or influence.

5. The Committee found that only **Spain** used "abuse of a recognised position of trust, authority or influence over the child" in the criminal definition of the related offence. Most of the other 25 Parties monitored listed in their criminal legislation specific types of relationships. Upon analysing their legislation, the Committee noted that while covering relationships within the family or in the context of a professional activity, it might exclude, for example, a family friend, a neighbour, etc. None of the Parties, therefore, except **Spain**, could clearly be said to cover all possible situations.

6. As regards the availability of protection to children above the legal age for sexual activities, the Committee held that criminalising sexual activity with a child with abuse of a position of trust, authority or influence in legal provisions applicable to all children or persons or specifically to children above the legal age for sexual activities were both, in principle, in conformity with Article 18 paragraph 1.b second indent. It noted that **North Macedonia** and **Ukraine** did not have provisions applicable to children above the legal age for sexual activities and urged them to review their legislation (R5).

7. The Committee also urged **Belgium** and invited all other Parties to ensure that all children under the age of 18 are protected against sexual abuse regardless of their marital status (R7) and considered that the **Republic of Moldova** should clearly indicate in its law that sexual abuse "in the circle of trust" is criminalised even when the perpetrator does not use coercion, force or threats (R8).

## Findings from the current monitoring round

### Preliminary considerations

#### *Age of the perpetrator*

8. Article 18 does not specify that only an adult engaging in sexual activities with a child should be subject to criminal liability, nor does it prohibit imposing such liability on children having reached the age of criminal responsibility according to the national legislation of the State where the offence took place. The information submitted by the Parties demonstrates that they do not share a single approach to this issue, with some specifying that only an adult can be held criminally liable for the conduct discussed, while others extend the relevant liability to any person. The issue of criminal liability of children who sexually offend or display risky or harmful sexual behaviour will be examined in Chapter 3 of this report.

#### *Protecting children below the legal age for sexual activities*

9. Article 18 paragraph 1.b second indent does not limit the scope of its protection to children of a certain age. All Parties in respect of which information is available criminalise engaging in sexual activity with a child below the statutory legal age for sexual activities, which is required by Article 18 paragraph 1.a. However, this is not sufficient for the purposes of compliance with Article 18 paragraph 1.b second indent.

10. At the same time, Parties have a choice as to the means used to meet the requirements of this provision: they can either consider abuse of a recognised position of trust, authority or influence as a constituent element of a separate offence of which children below the legal age for sexual activities may be victims or include that as an aggravating circumstance to be considered in the determination of the sanctions. If the latter is chosen, the scope of the relevant domestic legislative provision(s) should match the scope of Article 18 paragraph 1.b second indent in order to be in conformity with the Lanzarote Convention.

### Findings

11. Parties which have criminal law provisions protecting children from sexual abuse by someone in a position of trust, authority or influence treat such abuse as:

- a constituent element of a separate offence against children above the legal age for sexual activities;
- a constituent element of a separate offence against children of all ages;
- a constituent element of a separate offence against persons of all ages;
- an aggravating circumstance for sexual offences against children below the legal age for sexual activities;
- an aggravating circumstance for a sexual offence against children of any age.<sup>4</sup>

12. In addition, **Belgium** has a criminal law provision identifying the circumstances in which a child of any age cannot be considered to have given consent, one of them including sexual activities with an adult abusing his or her position of trust, authority or influence.

---

<sup>4</sup> Information is not available in respect of **North Macedonia**.

## Promising practices

**12 Parties** have a clear reference to “a [recognised] position of trust, authority or influence” in their criminal law provisions concerning sexual offences against children.<sup>5</sup> When compared to the findings of the first monitoring round, progress has been made in this regard in **Belgium, Italy, Lithuania, Luxembourg, Malta** and **Portugal**. As the Committee already indicated in the first monitoring round, using this formulation allows Parties to cover all possible situations concerned by Article 18 paragraph 1.b second indent and thus constitutes an effective way of implementing this provision. Not all of these Parties criminalise the abuse of a position of trust, authority or influence in sexual activity with children of all ages. Nevertheless, using this formulation, for the above reason, can be considered a promising practice.

Parties with legislative provisions applicable to children below and above the legal age for sexual activities

13. 38/48 Parties have legislative provisions criminalising all or a limited number of situations of sexual activity with a child involving abuse of a position of trust, authority or influence.<sup>6</sup> These Parties have provisions applicable to children both above and below the legal age for sexual activities.

14. Out of those 38, 21 Parties have corresponding legal provisions formulated in a way that ensures that all situations are covered, and children of all ages are protected.<sup>7</sup>

| State Party     | Definition applicable to children above the legal age for sexual activities or another set age                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Definition applicable to children below the legal age for sexual activities or another set age |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| <b>Austria</b>  | Sexual activity with a) children who are related to the offender in a direct descending line, adopted and stepchildren and children under the guardianship of the offender, b) children educated, trained or supervised by the offender abusing their relation to the child ( <i>the position of supervision is interpreted broadly by the courts to include persons without a formal supervision role</i> );<br>Sexual activity with children by members of a licensed health profession, chaplains, employees of educational institutions or persons otherwise working there, and government officials if the victim is a child placed in their care. |                                                                                                |
| <b>Belgium</b>  | Sexual activity with a child by an adult abusing <i>position of trust, authority or influence</i> is identified as a circumstance where a child of any age cannot be considered to have given consent                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                |
| <b>Bulgaria</b> | Sexual activity between ascendants and descendants, brothers and sisters, adoptive parents and adopted children<br>Sexual activity with a child in a situation where the offender took advantage of the child's dependency or own position of control or supervision ( <i>interpreted by courts as a position of trust, authority or influence</i> )                                                                                                                                                                                                                                                                                                    |                                                                                                |
| <b>Cyprus</b>   | Sexual activity with a child in a situation where there is abuse of a <i>position of trust, authority or influence</i> over the child                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                |
| <b>Estonia</b>  | Sexual activity of an adult with a child involving abuse of <i>influence (authority) or confidence (trust)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                |
| <b>Finland</b>  | Sexual activity with a child by a person taking advantage of <i>position of authority or supervision or another comparable position</i> in a school, institution, employment relationship or free time activities;<br>sexual activity with a child whose capacity for independent sexual self-determination, due to his or her immaturity and the age difference between the parties involved, is essentially inferior to that of the perpetrator;                                                                                                                                                                                                      |                                                                                                |

<sup>5</sup> Belgium, Cyprus, Estonia, Georgia, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovak Republic, and Spain.

<sup>6</sup> Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, and United Kingdom.

<sup>7</sup> Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Sweden, and Switzerland.

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                      |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | sexual activity with a person of any age whose possibilities to express or formulate his or her will are impaired due to the abuse of a <i>special position of power</i> by the perpetrator.                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                      |
|                    | Sexual activity with a child by a parent or another person in comparable position                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                      |
| <b>France</b>      | Sexual activity with a child by any person above the age of 18 having <i>statutory or de facto authority</i> over the child or abusing the authority derived from his or her position ( <i>interpreted by courts as including any recognised position of trust, authority or influence</i> )                                                                                                                                                                                                              | Same situation is considered as an aggravating circumstance                                                                                                                                                                                                                                                                                          |
| <b>Hungary</b>     | Sexual activity with a child by any person above the age of 18 obtained by abusing his or her <i>power or influence</i> over the child                                                                                                                                                                                                                                                                                                                                                                    | Aggravating circumstance for the offence of sexual abuse of a child who is the perpetrator's relative, raised by the perpetrator or under his or her supervision or has otherwise been subject to the supervision, care or medical treatment by the perpetrator, or if the perpetrator has abused any other <i>power or influence</i> over the child |
| <b>Ireland</b>     | Sexual activity with a child carried out by a person in authority, meaning parents and other blood relatives, current and former guardians, stepparents, foster parents, cohabiting partners of the parents, any other persons temporarily fulfilling the parental role, and any other persons currently or formerly responsible for the education, supervision, training, care or welfare of the child ( <i>interpreted broadly by the courts to include persons without a formal supervision role</i> ) | Same situation is an aggravating circumstance                                                                                                                                                                                                                                                                                                        |
| <b>Italy</b>       | Sexual activity with a child carried out with abuse of <i>trust, authority or influence</i> over the child by reason of one's status or the office held or family, domestic, work, cohabitation or hospitality relationships                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                      |
| <b>Lithuania</b>   | Sexual activity with a child by a parent, guardian, custodian or other legal representative of the child, or a person with statutory authority over the child, or a person who has abused his or her [position of <i>trust, authority or influence</i> ] over the child                                                                                                                                                                                                                                   | Same situation is considered as an aggravating circumstance                                                                                                                                                                                                                                                                                          |
| <b>Luxembourg</b>  | Sexual activity with a child by a parent, a lawful, natural or adoptive ascendant, any person in the collateral line up to the third degree or any relative up to the third degree, any person having authority over the child, a person abusing the <i>authority</i> derived from his or her functions, or a <i>recognised position of trust or influence</i> , or any person to whom the child has been entrusted and who is responsible for the child                                                  |                                                                                                                                                                                                                                                                                                                                                      |
| <b>Monaco</b>      | Sexual activity with a child (not emancipated by marriage) by any person above the age of 18 having statutory or de facto <i>authority</i> over the child or abusing the <i>authority derived from his or her position</i> ( <i>interpreted by courts as including any recognised position of trust, authority or influence</i> )                                                                                                                                                                         | Same situation is considered as an aggravating circumstance                                                                                                                                                                                                                                                                                          |
| <b>Netherlands</b> | Sexual activity with a child by a parent, a person caring for the child or raising the child as a family member, exercising authority over the child or otherwise entrusted with the care, supervision or education of that child or to whom the child is subordinate                                                                                                                                                                                                                                     | Same situation is an aggravating circumstance                                                                                                                                                                                                                                                                                                        |
| <b>Norway</b>      | Sexual activity with a child aged 15 and older obtained by abuse of child's <i>trust</i> ( <i>interpreted by courts as including any recognised position of trust, authority or influence</i> )                                                                                                                                                                                                                                                                                                           | Same situation is considered as an aggravating circumstance in respect of children aged below 15                                                                                                                                                                                                                                                     |
| <b>Poland</b>      | "Abuse of <i>trust</i> " is an aggravating circumstance for the offence of sexual activity with a child of any age abusing a relationship of dependency or taking advantage of a vulnerable position ( <i>interpreted by courts as including any recognised position of trust, authority or influence</i> )                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                      |
| <b>Portugal</b>    | Sexual activity with a child by a person exercising parental responsibilities over the child or entrusted with the child's education or care, or otherwise abusing a position of trust, authority or influence                                                                                                                                                                                                                                                                                            | An aggravating circumstance if the child is an ascendant, descendant, adopted child of the offender or their relative up to the second degree, or is otherwise in a family or cohabitation                                                                                                                                                           |

|                        |                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        |                                                                                                                                                                                                                                                                                               | relationship with the offender, under their guardianship or tutelage                                                                                                                                                                                                                                                                                             |
| <b>Romania</b>         | Sexual activity with a child who receives care, protection, education, custody or treatment from the perpetrator, is the perpetrator's family member or living with the perpetrator, or when the perpetrator has abused their <i>recognised position of trust or authority</i> over the child | Same situation is considered as an aggravating circumstance                                                                                                                                                                                                                                                                                                      |
| <b>Slovak Republic</b> | Sexual activity with a child entrusted to the perpetrator's care or is under the perpetrator's supervision or depends on the perpetrator, or when the perpetrator has abused a <i>recognised position of trust, authority or influence</i> over the child                                     | Sexual activity with a child carried out by a "close person" is an aggravating circumstance. The Party specified in its reply that the status of a close person is determined on a case-by-case basis by law enforcement authorities and courts and includes any position that inspires trust in the child or involves the exercise of authority over the child. |
| <b>Sweden</b>          | Sexual activity with a child of any age improperly exploiting the child's reduced ability to protect his or her sexual integrity, notably due to the perpetrator's authority ( <i>interpreted to include special influence or natural authority over the child</i> ) <sup>8</sup>             |                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Switzerland</b>     | Sexual activity with a child dependent on the perpetrator due to a relationship arising from the child's education, care or employment, or another form of dependent relationship ( <i>interpreted broadly to include any relationships of trust or influence</i> )                           | Same situation is considered as an aggravating circumstance                                                                                                                                                                                                                                                                                                      |

15. The remaining 17 Parties out of those 38,<sup>9</sup> while having in place some legislative provisions applicable to children both below and above the legal age for sexual activities, identify the list of circumstances or positions triggering criminal liability in a limited way, which may leave without sufficient protection children in certain situations covered by Article 18 paragraph 1.b second indent. It is recalled that, according to the first monitoring round's findings, if Parties choose to enumerate the roles or positions which a perpetrator should hold for their sexual activity with a child to be considered a criminal offence, the Committee considers such an enumeration in conformity with the Convention if it is open-ended (for example it should end with "or any other person in a child's circle of trust" / "or any other person trusted by the child"), or have a confirmed broad interpretation by law enforcement and courts (see paragraph 5 above).<sup>10</sup>

16. In **Spain**, this finding concerns only the provisions applicable to children below the legal age for sexual activities, while those applicable to children above that age are in full compliance with Article 18 paragraph 1.b second indent.

| State Party  | Definition applicable to children above the legal age for sexual activities or another set age                         | Definition applicable to children below the legal age for sexual activities or another set age                                                                                                          |
|--------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Spain</b> | Sexual activity with a child by a person abusing a recognised position of trust, authority or influence over the child | An aggravating circumstance if the perpetrator is the child's biological or adopted ascendant, sibling or in-law, or has availed themselves of their position of authority as a public officer or agent |

17. In the remaining 16 Parties (see below), the definitions used in legislative provisions in respect of children both above and below the legal age for sexual activities are not sufficiently broad to comply with Article 18 paragraph 1.b second indent.

<sup>8</sup> Legislative amendment expected to enter into force on 1 July 2025.

<sup>9</sup> Albania, Bosnia and Herzegovina, Croatia, Czechia, Denmark, Germany, Greece, Iceland, Liechtenstein, Montenegro, San Marino, Serbia, Slovenia, Spain, Tunisia, Türkiye, and United Kingdom.

<sup>10</sup> See also Recommendation 3 of the first implementation report to "avoid any rigid listing of very specific situations".

| State Party                   | Definition applicable to children above the legal age for sexual activities or another set age                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Definition applicable to children below the legal age for sexual activities or another set age                                                                                                        |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Albania</b>                | Sexual activity between blood relatives of any age and between adoptive or foster parents and their children                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Family connection is an aggravating circumstance in the offence of “immoral act”                                                                                                                      |
| <b>Bosnia and Herzegovina</b> | Sexual activity with a child by a teacher, educator, parent, guardian, stepparent or any other any person who abuses their status or relationship toward a child entrusted to them for education, upbringing, custody or care, and (Republic of Srpska) spiritual guidance; Sexual activity involving abuse of an employer’s position (Republic of Srpska)                                                                                                                                                                                                                                  | Same situation is an aggravating circumstance                                                                                                                                                         |
| <b>Croatia</b>                | Sexual activity of an adult with a child whose upbringing, education, minding, spiritual guidance or care was entrusted to the offender, including ascendants by blood or adoption and step-parents                                                                                                                                                                                                                                                                                                                                                                                         | An aggravating circumstance if the offence was committed against a child by a “close person”, with the abuse of authority or a relationship of dependence                                             |
| <b>Czechia</b>                | Sexual intercourse with a relative in the direct descending line or with a sibling                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Sexual activity with a child that was entrusted to the offender’s supervision, in a situation where the offender abused their own position and the resulting credibility or influence over the victim |
| <b>Denmark</b>                | Sexual activities with a child by an adoptive parent, stepparent or foster parent, a person to whom the child was entrusted for instruction or education, or by any person who by gravely abusing their superior age or experience induced any person under the age of 18 to sexual intercourse or other sexual relations                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                       |
|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | “Exploiting mental or physical superiority” is an aggravating circumstance                                                                                                                            |
| <b>Germany</b>                | Sexual activity with a child by a person a) to whom the child was entrusted for upbringing or care, b) to whom the child was entrusted within a service, training or employment relationship, by abusing a dependence associated with that relationship; c) for whom the child is their or their spouse’s/partner’s biological or adopted descendant; d) who is entrusted with the education, upbringing or care of children in a specialised institution.                                                                                                                                  |                                                                                                                                                                                                       |
| <b>Greece</b>                 | Sexual activity with a child by a person to whom the child was entrusted for supervision or care, even temporarily (aggravating circumstances include the commission of the offence by a) a relative, b) a person cohabiting with the child or maintaining a friendly relationship with the child’s relatives, c) a teacher, instructor, coach, or any person providing lessons to the child, d) a person receiving services from the child, e) a cleric with whom the child has a spiritual relationship, f) a psychologist, doctor, nurse, or specialist providing services to the child) | Same situation is an aggravating circumstance                                                                                                                                                         |
| <b>Iceland</b>                | Sexual activity with a child who is the offender’s biological or adopted child, stepchild, foster child, child of a cohabiting partner, bound by other similar relationship of direct descent or committed to his/her authority for upbringing and care                                                                                                                                                                                                                                                                                                                                     | Same situation is an aggravating circumstance                                                                                                                                                         |
|                               | Sexual relations between siblings (prosecution can be waived if the participants are children)<br>A victim’s age below 18 is an aggravating circumstance for the offence of sexual relations with a client in a confidential relationship or with an inmate of a prison, mental hospital, child welfare institution where the offender is the facility’s employee or supervisor.                                                                                                                                                                                                            |                                                                                                                                                                                                       |
| <b>Liechtenstein</b>          | Sexual activity with a child by a person for whom the child is a direct descendant, adopted child, stepchild or ward or a person raising, educating or supervising the child;<br>Sexual activity with a child carried out by a) a physician, a member of a licensed health profession, a pastor with respect to a person in their professional care; b) an employee of an educational facility or a                                                                                                                                                                                         |                                                                                                                                                                                                       |

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | person otherwise working in such a facility with respect to a person in the care of the facility; c) an official with respect to a person who has been entrusted to their custody or due to mental or psychological illness or disability, including addiction, for purposes of counselling, treatment, or care.                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Montenegro</b>     | Sexual activity of an adult with a child who is a direct blood relative or a sibling                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                             |
|                       | Sexual activities with a child by teachers, instructors, guardians, adoptive parents, stepparents, or any another person who by virtue of his employment or his position of power commits the offence against a child entrusted to them for study, education, support and care                                                                                                                                                            | Same situation is an aggravating circumstance                                                                                                                                                                                                                                                                                                                                               |
| <b>San Marino</b>     | Lewd acts committed on a person admitted to a hospital, hospice, boarding school, detention irrespective of age                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                             |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                           | An aggravating circumstance if the offence was committed by an ascendant, adoptive parent, guardian, educator, teacher, health professional or someone who has custody of the child to provide supervision, education, instruction or care                                                                                                                                                  |
| <b>Serbia</b>         | Sexual activity of an adult with a child who is a direct descendant or a sibling                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                             |
|                       | Sexual activity with a child by a teacher, tutor, guardian, adoptive parent, stepfather or another person who abuses their position or authority vis-à-vis a child entrusted to them for learning, tutoring, guardianship or care                                                                                                                                                                                                         | Same situation is an aggravating circumstance                                                                                                                                                                                                                                                                                                                                               |
| <b>Slovenia</b>       | Sexual intercourse of an adult with a child who is a direct descendant or sibling                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                             |
|                       | Sexual activity with a child by a teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of their position commits an offence in respect of a child entrusted to them for teaching, education, protection or care                                                                                                                                                                                 | Same situation, plus commission of the offence by members of clergy, doctors or other medical specialists is an aggravating circumstance                                                                                                                                                                                                                                                    |
| <b>Tunisia</b>        | Sexual activity with children of any age is criminalised. It is an aggravating circumstance if: <ul style="list-style-type: none"> <li>- in respect of children aged above 16, the perpetrator is the child's teacher, servant or doctor or has an authority over the child or abuses the authority derived from their position,</li> <li>- in respect of children aged below 16, the perpetrator has a position of authority.</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Türkiye</b>        | Sexual activity with a child above the age of 15 by a prospective adoptive parent during the child's pre-adoptive placement, by a foster parent, by a person prohibited by law from marrying the victim (relatives of first and second degree), or by any other person entrusted with the protection, care and custody of the child                                                                                                       | Sexual activity with a child below the age of 15 by blood relatives up to the third degree, an adoptive or foster parent, stepparent, stepsibling, guardian, teacher, trainer, instructor, caregiver, health care provider, persons entrusted with the child's protection, care or supervision, or by persons misusing the influence derived from a public office or a service relationship |
| <b>United Kingdom</b> | Sexual activity with child family members of any age.                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                             |
|                       | Sexual activity with a child by a person in a position of trust (see footnote for the list of position holders) <sup>11</sup>                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                             |

<sup>11</sup> In **England** and **Wales**, this means persons who: look after a child detained or resident in a specialised facility, such as a hospital, home or other institution; knowingly coach, teach, train, supervise or instruct a child on a regular basis in a sport or a religion. In **Scotland**, this means persons who: look after children in hospitals, care homes, residential establishments, schools, further and higher education institutions, and institutions in which a child has been detained by virtue of an order of court or under an enactment; have any parental responsibilities or rights in respect of the child or fulfil any such responsibilities or exercise such rights under an arrangement with a person who has such rights or responsibilities, or has ever had such rights or responsibilities, or otherwise treat the child as a child of their family, where they are members of the same household. In **Northern Ireland**, this means persons who: look after children detained in an institution by virtue of a court order or under a statutory provision, resident in a home or other place where accommodation is provided by an authority or a charitable organisation, cared for in hospitals, independent clinics, residential care homes or private hospitals,

## Information submitted by civil society organisations and human rights institutions

The **Northern Ireland Human Rights Commission** informed the Committee that in 2022, “during the passage of the Justice (Sexual Offences and Trafficking Victims) Bill a number of stakeholders raised concern at the narrow scope of the proposed extension to the abuse of position of trust offence, noting the ‘loopholes’ created by extending only to the sport and faith sectors... Whilst the relevant provisions became law, in response to concerns raised the Minister for Justice pledged to carry out a review of this area to explore whether there was evidence to support a further change to the law to widen the scope; a consultation to this effect was launched in 2022. However, there is currently no commitment to amend the law”.

Parties with legislative provisions applicable only to children below the legal age for sexual activities or lacking relevant legislative provisions altogether

18. 8/48 Parties (**Andorra, Armenia, Azerbaijan, Georgia, Latvia, Malta, Republic of Moldova, and Ukraine**) do not have legislative provisions criminalising sexual activity with a child above the legal age for sexual activities by a person abusing their recognised position of trust, authority or influence, without an element of coercion or violence, even though they do have criminal law provisions including some of similar situations either as an aggravating circumstance for sexual offences, or a constituent element of a separate offence, against children below the legal age for sexual activities. None of those provisions cover all situations of abuse of a recognised position of trust, authority or influence when engaging sexually with a child.

19. As regards **Latvia** specifically, it is noted that it criminalises sexual activity with a person of any age committed “against the will of the victim by means of violence, threats or using trust, authority or exerting other influence over the victim”. The Committee, however, considers that such a formulation requires establishing as a constituent element of the offence whether the sexual activity was committed against the will of the child. Such a provision, therefore, does not appear to be sufficient to protect children against sexual abuse by persons in a recognised position of trust, authority or influence (see also section 1.5 below).

| State Party       | Definition applicable to children below the legal age for sexual activities or another set age                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Andorra</b>    | In respect of victims aged below 14: if the offender has a de jure or de facto position of familial authority                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Armenia</b>    | In respect of victims aged below 16: if the offence was committed by an ascendant relative or a person responsible for the upbringing, care or treatment of the child                                                                                                                                                                                                                                                                                                               |
| <b>Azerbaijan</b> | In respect of victims aged below 16: if the offender has been entrusted with children's upbringing, is a teacher or other employee of an educational or healthcare institution, or a professional responsible for the care of children                                                                                                                                                                                                                                              |
| <b>Georgia</b>    | In respect of victims aged below 16: for the offence of non-penetrative sexual act committed <i>using trust or authoritative or influential position</i>                                                                                                                                                                                                                                                                                                                            |
| <b>Latvia</b>     | In respect of victims aged below 16: <ul style="list-style-type: none"> <li>- offence involving non-contact sexual activity: <i>abusing trust, authority or other influence</i> over the child is a <u>constituent element</u> of the offence.</li> <li>- offences involving contact sexual activity: its commission by a person related to the child by first or second degree of kinship or sharing the household with the child is an <u>aggravating circumstance</u></li> </ul> |
| <b>Malta</b>      | In respect of victims aged below 16: if the offence was committed by any ascendant by consanguinity or affinity, adoptive parents, tutors or any other person charged, even temporarily, with the care, education, instruction, control or custody of the child                                                                                                                                                                                                                     |

voluntary and children’s homes and residential family centres; knowingly coach, teach, train, supervise or instruct a child on a regular basis in a sport or a religion.

|                            |                                                                                                                                                                |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                            | In respect of victims aged below 12: if the offence was committed by an ascendant, tutor or institutor                                                         |
| <b>Republic of Moldova</b> | In respect of victims aged below 16: if the offender provided the child's care, protection, education or treatment                                             |
| <b>Ukraine</b>             | In respect of victims aged below 16: if the offence was committed by a family member or close relative or person entrusted with the child's upbringing or care |

20. The **Russian Federation** does not have criminal law provisions criminalising sexual activity with children involving abuse of a recognised position of trust, authority or influence in respect of children of any age. It also does not consider this as an aggravating circumstance for the offence of sexual activity with children below the legal age for sexual activities.

21. The Committee notes with concern that the criminal code of the **Republic of Moldova** contains provisions, Article 174 and 175 specifically, which allow for the possibility that sexual activity with a child below the legal age for sexual activities can be based on consent: the definitions used for the criminal offences, respectively, are "Sexual intercourse with consent, committed knowingly against a person under 16 years of age" and "Acts of sexual nature with consent, committed knowingly against a person under 16 years of age". The Committee considers that under no circumstances can a child below the defined legal age for sexual activities provide informed consent to such an activity. It is concerned that similar legal provisions may also exist in other Parties.<sup>12</sup>

## Recommendations

### Recommendation 2

The Lanzarote Committee requires the following Parties to ensure, in accordance with Article 18 paragraph 1.b second indent, that their criminal law provisions criminalising sexual activity with a child by a person in a recognised position of trust, authority or influence over the child are formulated sufficiently widely to cover all relevant situations:

- **Spain** in respect of children below the legal age for sexual activities;
- **other Parties** in respect of children both below and above the legal age for sexual activities.<sup>13</sup>

### Recommendation 3

The Lanzarote Committee requires **Parties which have not yet done so**,<sup>14</sup> to ensure, in accordance with Article 18 paragraph 1.b second indent, that their criminal law provisions criminalise sexual activity with children of all ages, including above the legal age for sexual activities, by a person in a recognised position of trust, authority or influence. These provisions should be formulated sufficiently widely to cover all relevant situations.

### Recommendation 4

The Lanzarote Committee invites the **Republic of Moldova**, and **any other Parties which have similar provisions**, to review their legislation to ensure that a child below the legal age for sexual activities cannot be considered capable of providing consent to such an activity.

<sup>12</sup> See, for example, the [Comparative study of the legal age for sexual activities in the State Parties to the Lanzarote Convention](#), Council of Europe (2023), pp. 24-25.

<sup>13</sup> Albania, Bosnia and Herzegovina, Croatia, Czechia, Denmark, Germany, Greece, Iceland, Liechtenstein, Montenegro, San Marino, Serbia, Slovenia, Tunisia, Türkiye, and United Kingdom.

<sup>14</sup> Andorra, Armenia, Azerbaijan, Georgia, Greece, Latvia, Malta, Republic of Moldova, North Macedonia, Russian Federation, and Ukraine.

## *Other issues*

22. During the analysis of the information provided and available via public sources, several situations in Parties' legal frameworks were identified which do not appear to be in conformity with the Lanzarote Convention.

### **1.2 Criminal liability of children for sexual activity with family members**

23. **Albania, Austria,<sup>15</sup> Bulgaria, Czechia, Greece and Switzerland** have criminal law provisions under which a child can be held criminally liable for the offence of sexual relations with an adult blood relative in the ascending line and, in the case of all the above Parties but **Austria**, an adoptive (foster) parent. In **Austria** and **Switzerland**, children are exempted from criminal liability for sexual relations with their ascendant if they have been induced to commit the offence. In **Greece**, children may be exempted from such liability, without any specific condition.

24. **Albania, Austria,<sup>16</sup> Bulgaria, Czechia, Greece, Hungary, Iceland, and Switzerland** also have criminal law provisions under which a child can be held criminally liable for the offence of sexual relations with their sibling(s). In **Iceland** and **Greece**, children can be exempted from this liability on the basis of their minor age. In **Austria** and **Switzerland**, children are exempted from criminal liability if they have been induced to commit the offence.

25. The Committee recognises that the Lanzarote Convention does not expressly prohibit holding children criminally liable for sexual offences. It is nevertheless evident that a child's sexual activity with an adult family member, whether related by blood or through a relationship of adoption or foster care, is in most cases the result of abuse by that adult of a recognised position of trust, authority or influence, of which a child can only be a victim due to the imbalance of power and developmental differences between adults and children. Considering a child as a possible offender in this situation would be a cause for concern, in the light of a protective approach towards victims. Furthermore, the possibility for a child to be considered as an offender is likely to thwart reporting the offence.

26. As to the criminalisation of sexual relations between siblings of minor age, such relations can also be the result of abuse of a recognised position of trust, authority or influence by one of the siblings, in particular if one of them is significantly older than the other. Care should thus be taken to establish whether this is the case in each individual situation. If such abuse is established, the person who was abused should be considered as a victim and thus should not be held criminally liable. A different situation would be a cause for concern, in the light of a protective approach towards victims. In addition, considering that sexual activity between siblings can be a sign of having been subjected to sexual abuse by other people, authorities should always attempt to establish first whether such abuse has taken place. In cases where no abuse of one sibling by the other has been identified and the siblings involved are of minor age, Parties should consider treatment and other non-criminal measures as a more appropriate response than criminalisation.

---

<sup>15</sup> In Austria, this applies only to acts liable to produce offspring.

<sup>16</sup> In Austria, this applies only to acts liable to produce offspring.

## Recommendations

### Recommendation 5

The Lanzarote Committee invites **Albania, Austria, Bulgaria, Czechia, Greece, North Macedonia, Switzerland, and any other Parties which have similar provisions**, to ensure that a child is recognised as a victim of sexual abuse and not held criminally liable for the offence of sexual relations with an adult family member related to them by blood in the ascending line, an adoptive or foster parent, or an adult sibling.

The Lanzarote Committee invites **Albania, Austria, Bulgaria, Czechia, Greece, Hungary, Iceland, North Macedonia, Switzerland, and any other Parties which have similar provisions** to ensure, when prosecuting offences related to sexual activity between child siblings, that if one of the siblings is a victim of abuse of a recognised position of trust, authority or influence by the other, that person should not be held criminally liable.

### Recommendation 6

The Lanzarote Committee invites **Albania, Austria, Bulgaria, Czechia, Greece, Hungary, Iceland, North Macedonia, Switzerland, and any other Parties which have similar provisions** to ensure that children are only prosecuted as a last resort for sexual activity between siblings and that priority is given, depending on the circumstances, to other more appropriate methods of dealing with their harmful behaviour (e.g. therapeutic assistance and educational measures).

## 1.3 Exemption from criminal liability or punishment due to marriage to the victim

27. The **Russian Federation** has a legislative provision stipulating that an adult who had not been previously convicted for the offence of sexual activity with a person below the legal age for sexual activities is to be exempted from punishment by the court if the perpetrator and his offence are no longer considered socially dangerous due to the conclusion of marriage between the perpetrator and the victim. A number of issues arise when considering this approach. Firstly, allowing marriage as a loophole to escape legal consequences of engaging in sexual activity with a child below the legal age for sexual activities is not in conformity with the requirement of Article 27 paragraph 1 of the Convention for States “to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness”. Secondly, this situation opens up the potential for further abuse of a child victim by coercing or manipulating them into marriage, which should not serve as a form of compensation for a crime. Overall, this and other similarly worded provisions are not in conformity with the spirit of the Convention. The Committee is concerned that such exemptions may still exist in other Parties.

## Recommendation

### Recommendation 7

The Lanzarote Committee requires the **Russian Federation and any other Parties which have similar provisions** to take the necessary legislative or other measures to ensure in accordance with Article 27 paragraph 1, that a perpetrator cannot be exempt from criminal liability or sanction as a result of marrying a child victim of a sexual offence committed by the perpetrator, even after the child victim has reached the age of majority.

## 1.4 Protection of children who are married against sexual abuse by their spouse

28. In the first monitoring round the Committee found that all Parties except **Belgium** protect children who are married against sexual abuse by their spouse. The current round therefore sought to establish if any progress had been made in **Belgium** and to monitor the situation in respect of the 22 Parties that have joined the Convention since then. It is understood by the Committee that consensual sexual activity of a child with a spouse, in States that allow persons below the age of majority to enter into marriage, would not be considered sexual abuse by a person in a recognised position of trust, authority or influence over the child.

29. 46/48 Parties, including **Belgium**, have legislative provisions either outlawing marriage before the age of majority or criminalising coercion-based sexual offences by a spouse or marital partner, including against a child emancipated through marriage. **Tunisia** does not have such a provision.<sup>17</sup>

30. The above indicates that progress in this regard has been achieved in **Belgium**.

### Recommendation

#### Recommendation 8

The Lanzarote Committee requires **the Russian Federation and Tunisia** to ensure, in accordance with Article 18 paragraph 1.b first indent, that children who are married are protected from sexual offences committed by their spouse.

## 1.5 Criminalisation of sexual activities other than sexual intercourse or equivalent actions

31. This section seeks to analyse which “sexual activities” have been criminalised by Parties. Article 18 refers to “sexual activities” without further defining the behaviours concerned. Paragraph 127 of the Explanatory Report recalls that it is left to the Parties to define the meaning and scope of the term “sexual activities”.

### Findings from the first monitoring round

32. In the first monitoring round, the Lanzarote Committee noted that few Parties had defined the term “sexual activities” and that most Parties required physical contact for sexual activities to constitute a criminal offence, the report does not specify in which Parties this was the case. The Lanzarote Committee therefore invited Parties “to review their legislation to address all serious harm to the sexual integrity of children by not limiting their criminal offences to sexual intercourse or equivalent acts (R9).”

---

<sup>17</sup> No information is available in respect of the **Russian Federation**.

## Findings from the current monitoring round

### *Definition and scope of behaviours included within the scope of sexual offences against children*

33. In the current monitoring round Parties were asked to provide information about whether legal frameworks criminalised acts “other than sexual intercourse and equivalent actions”. Some Parties provided information in relation to acts included in offences relating to Article 18 whereas other Parties provided information in relation to other offences set down at Articles 19-23.

34. This section looks at whether Parties criminalise the following types of conduct under legislation related to child sexual abuse:

- sexual activities involving penetration;
- sexual activities without penetration but with some physical contact;
- sexual activities without physical contact between the victim and the perpetrator, which may include conduct referred to in Articles 21, 22 and 23.

35. The criminalisation of conduct relating to “child pornography” (child sexual abuse material) was analysed in detail in the context of the second monitoring round on child sexual exploitation and sexual abuse facilitated by ICTs. Analysis of conduct related to Article 20 is therefore not included in the present section. Analysis of offences relating to sexual exploitation of a child through prostitution (Article 19) are also beyond the scope of the present report.

### *Criminalisation of sexual activities involving penetration*

36. All 48 Parties monitored criminalise sexual activities involving penetration where the victim is a child under the legal age for sexual activities. This is commonly criminalised under terms relating to “rape” or “rape of a minor”. It is recalled that the Lanzarote Convention requires Parties to criminalise sexual activities with a child under the legal age for sexual activities, without any other constituent elements. This means that there should be no need to prove that the child did not consent or that the perpetrator used violence, threat or force for this offence to be made out. These factors should however be taken into account as aggravating circumstances when deciding on the sanction in accordance with Article 28.

37. Where the child is over the legal age for sexual activities, and abuse is made of a recognised position of trust, authority or influence, the use of violence, threat or force and the child’s “consent” or “lack of consent” should not determine whether an offence has been committed or not. Use of violence, threat or force and abuse of a particularly vulnerable situation of a child above the legal age for sexual activities should also be criminalised but this may be as a separate offence or as aggravating circumstances. This appears to be the case in respect of sexual offences involving penetration in 40 Parties. This is not the case in **Andorra, Azerbaijan, Georgia, Malta, the Republic of Moldova, North Macedonia, the Russian Federation, and Ukraine.**

### *Criminalisation of sexual activities without penetration but involving some physical contact*

38. All 48 Parties criminalise sexual acts not involving penetration, such as sexual touching and molestation, where the victim is a child under the legal age for sexual activities.

39. Where the child is over the legal age for sexual activities, sexual activities not involving penetration (such as sexual touching) by a person in a recognised position of trust, authority or influence appear to be criminalised without any need to prove violence, threat, coercion or lack of

consent in 42/48 Parties. It was not clear that this was the case in: **Albania, Azerbaijan, Georgia, Malta, North Macedonia, and the Russian Federation.**

### Promising practices

Some Parties have introduced specific offences referring to “sexual abuse of a child” which clearly define what is meant by “sexual activities” and clearly criminalise offences involving penetration and non-penetration.

For example, in **Cyprus** the criminal law includes a specific offence of “sexual abuse of a child” and defines “sexual act” as including “any act that is reasonably considered-

- (a) sexual by its nature, regardless of the purpose of the person performing it, or
- (b) may be sexual by its nature and the circumstances under which it is being performed make it sexual;”

In **Ireland**, “sexual activity” means any activity where a reasonable person would consider that:

- (a) whatever its circumstances or the purpose of any person in relation to it, the activity is because of its nature sexual, or
- (b) because of its nature the activity may be sexual and because of its circumstances or the purposes of any person in relation to it (or both) the activity is sexual.

In the **United Kingdom** (England and Wales) the Sexual Offences Act 2003 (as amended) clearly criminalises intentional sexual touching and penetrative offences against children under the legal age for sexual activities and children under 18 where abuse is made of a recognised position of trust, authority or influence or by a family member. The law provides for much stricter sanctions for sexual touching involving penetration including:

- “(a) penetration of B’s anus or vagina with a part of A’s body or anything else,
- (b) penetration of B’s mouth with A’s penis,
- (c) penetration of A’s anus or vagina with a part of B’s body, or
- (d) penetration of A’s mouth with B’s penis.”

### *Criminalisation of sexual activities not involving physical contact*

40. The Lanzarote Convention requires Parties to criminalise all forms of sexual exploitation and sexual abuse, including offences that may be committed without any physical contact such as:

- participating in a “pornographic performance” (Article 21) which may also cover participation over webcams, as recalled by paragraph 148 of the Explanatory Report to the Lanzarote Convention. It should be noted that these offences should protect all children under 18.
- intentionally causing a child under the legal age for sexual activities to witness sexual activities (Article 22), and
- soliciting a child under the legal age for sexual activities for sexual purposes (Article 23). The Lanzarote Committee’s opinion on Article 23 encourages Parties to consider extending the criminalisation of online grooming to include cases where the sexual abuse is not the result of a meeting in person but is committed online.<sup>18</sup>

<sup>18</sup> Council of Europe (2015) Lanzarote Committee [Opinion on Article 23 of the Lanzarote Convention](#) – Solicitation of children for sexual purposes through information and communication technologies (Grooming).

41. At least 27/48 Parties have criminalised conduct concerning the participation of children in pornographic performances in line with Article 21.<sup>19</sup>

42. At least 39/48 Parties have criminalised conduct relating to “corruption of children” in line with Article 22.<sup>20</sup>

43. At least 43/48 Parties have criminalised conduct relating to solicitation of children for sexual purposes in line with Article 23.<sup>21</sup> Solicitation of a child where sexual abuse is committed online (without a proposal to meet followed by material acts) is not criminalised in: **Armenia, Greece, Iceland, Liechtenstein, Lithuania, Norway, Romania, Serbia, and Türkiye.**<sup>22</sup>

44. A legal reform entered into force in Denmark in July 2023 to expand provisions related to sexual activities to include sexual acts that the perpetrator coerces the victim into performing on themselves.

45. Offences related to solicitation will be examined in more detail in the on-going compliance procedure to assess Parties’ compliance with recommendations made in the second monitoring round.

### Promising practices

Several Parties have amended their law in relation to solicitation of children in line with the Lanzarote Committee’s opinion on Article 23 to extend criminalisation of solicitation to sexual offences committed online, even where there is no proposal to meet the child: **Denmark, Italy, and the Republic of Moldova.**

Several Parties expressly criminalise solicitation of a child for production of images and videos amounting to child sexual abuse materials: **Bulgaria, Cyprus, France, North Macedonia, Spain, Sweden, and Ukraine.**

Several Parties provide stricter sanctions where abuse is made of a position of trust, authority or influence to satisfy sexual needs in front of a child or make a child witness sexual activities: **Austria, Croatia, Estonia, Spain, Tunisia, and United Kingdom.**

Several Parties have extended protection against online solicitation for sexual purposes to all children under 18: **Azerbaijan, Croatia, Czechia, Denmark, Estonia, Finland, Georgia, Ireland, Republic of Moldova, Monaco, Netherlands, Norway, Portugal, Serbia, and Türkiye.**

**Republic of Moldova** makes a specific reference to the circle of trust in the criminal provisions on solicitation (luring a minor for sexual purposes).

<sup>19</sup> Cyprus, Denmark, Finland, France, Georgia, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Switzerland Türkiye, Ukraine, and United Kingdom.

<sup>20</sup> Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Cyprus, Estonia, Finland, France, Georgia, Greece, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom.

<sup>21</sup> Albania, Andorra, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden Switzerland, Türkiye, Ukraine, and United Kingdom.

<sup>22</sup> No information was available in respect of North Macedonia, Russian Federation, San Marino, and Tunisia.

**Malta** and **Spain** make specific reference to abuse of authority, trust or influence as aggravating factors to increase sanctions for each specific offence of sexual abuse.

In **Sweden** in 2015 the Supreme court convicted a man of sexual assault of a child for inducing a child to perform a sexual act on themselves via Skype. In 2021, the Supreme Court found two men guilty of rape of a child for acts committed from a distance. In 2022 Sweden amended the criminal code to widen the protection of children against sexual abuse committed from a distance. The offences of “rape of a child” and “sexual abuse of a child” apply the same sanctions to offences committed directly through physical contact by the perpetrator or without physical contact by a “person who, by improper means, induces the child to undertake or submit to such an act”.

The **United Kingdom** criminalises causing or inciting a child to engage in sexual activity, if the victim is under 13 then the offence is subject to the same sanction as if it had been committed with contact, for example causing or inciting a child to insert an object into their anus or vagina online is subject to the same sanction as an offence committed by penetration with the perpetrator’s penis. Similar offences committed against children under the legal age for sexual activities are also very strict, this clearly recognises the serious harm caused to children even where there is no contact between the child and the offender.

## Recommendations

### Recommendation 9

The Lanzarote Committee requests **Parties** to review their legislation to ensure that all forms of sexual abuse committed by a person in a recognised position of trust, authority or influence, as defined by Article 18 paragraph 1.b second indent, are covered by criminal provisions including offences committed by:

- penetration – regardless of whether there is a lack of consent or use of violence, threat, or force;<sup>23</sup>
- some physical contact without penetration – regardless of whether there is a lack of consent or use of violence, threat, or force;<sup>24</sup> and
- in specific cases without physical contact, facilitated by information and communication technologies, in accordance with the provisions of the Lanzarote Convention.

### Recommendation 10

The Lanzarote Committee requests **Parties that have not yet done so**,<sup>25</sup> to take the necessary legislative or other measures to ensure that the solicitation of children for sexual purposes (grooming) is criminalised even when there is no proposal to meet followed by material acts leading to such a meeting, in line with the Lanzarote Committee’s opinion on Article 23.

<sup>23</sup> Andorra, Armenia, Azerbaijan, Georgia, Latvia, Malta, Republic of Moldova, North Macedonia, Russian Federation, and Ukraine.

<sup>24</sup> Albania, Azerbaijan, Georgia, Malta, North Macedonia, and Russian Federation.

<sup>25</sup> Armenia, Greece, Iceland, Liechtenstein, Lithuania, Norway, Romania, Russian Federation, San Marino, Serbia, Tunisia, and Türkiye.

## 1.6 Criminalisation of sexual activities without discrimination based on sex or sexual orientation

### Article of the Convention

#### Article 2 – Non-discrimination Principle

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

46. Children must be protected against sexual exploitation and sexual abuse without discrimination, as clearly set out in Article 2. This means that children should receive the same protection regardless of their sex or the sex of the perpetrator. Therefore, Parties should not provide lighter or stricter sanctions if the sexual abuse was committed against a child of the same sex as the perpetrator. Using gender as a defining characteristic of an offender leaves some children without protection afforded by criminal law against sexual abuse by a person in a recognised position of trust, authority or influence and is therefore not in conformity with Article 18 paragraph 1.b second indent.

### Findings from the first monitoring round

47. In the first monitoring round, the Lanzarote Committee found that very few of the Parties made any distinction in defining sexual abuse of a child on the grounds of sex or sexual orientation. Specific issues were raised regarding criminal provisions in **Albania, Bulgaria and Republic of Moldova** that distinguished between offences committed against a child of the opposite or same sex as the perpetrator. In some instances, criminal codes referred to “homosexual” activities.

48. The Lanzarote Committee therefore:

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

### Findings from the current monitoring round

49. The vast majority of Parties (44/48) provide equal protection to children regardless of their sex or sexual orientation or that of the perpetrator in line with Article 2. Several Parties also indicated that it would be an aggravating factor if the sexual offence was motivated by the victim’s sexual orientation.

50. The **Republic of Moldova** amended the criminal code in 2022 to exclude reference to “homosexual activities” in line with the Lanzarote Committee recommendation.

51. 4/48 Parties continue to make a distinction in relation to the sex of the victim and the perpetrator:

- In **Albania** the criminal code provides for the same sanctions but continues to refer to “sexual or homosexual” relations when defining sexual offences against a child.

- In **Bulgaria** the criminal code continues to differentiate the definitions of criminal offences according to the age and sex of the child and provides different sanctions for some crimes of sexual abuse committed by a perpetrator against a child of the same sex when compared to sexual abuse of a child of the opposite sex.
- In **Serbia** there are legislative provisions criminalising sexual activity with a child above the legal age for sexual activities by a list of individuals referred to by their role instead of the gender, with one exception: the list includes a “stepfather” but not a “stepmother”.
- In the **Russian Federation** the legal age for sexual activities is 16, however the criminal code provides for stricter sanctions for “consensual” same sex sexual activities with a child aged 14-16 as opposed to the same activities with a child of the opposite sex.

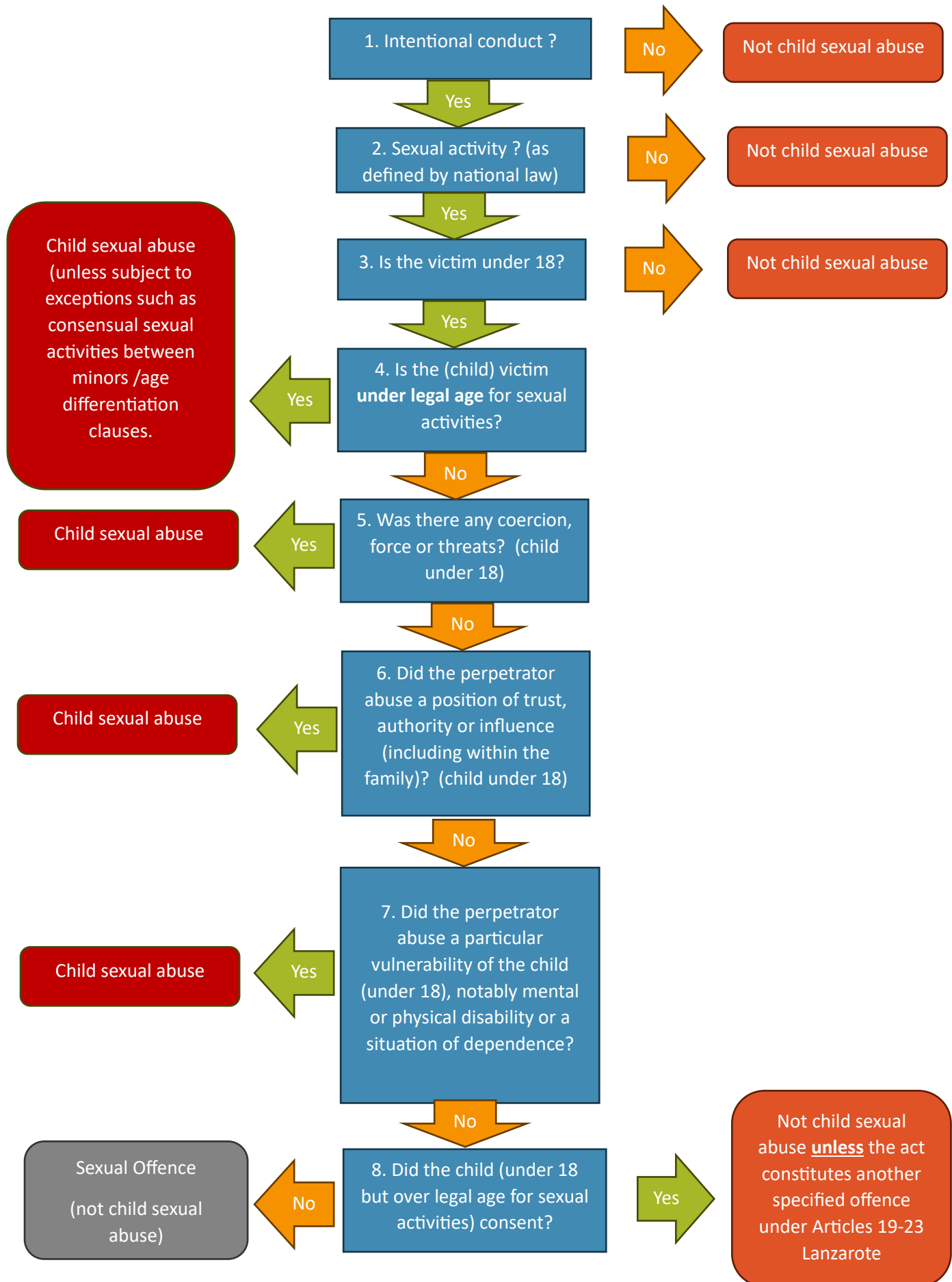
## Recommendation

### Recommendation 11

The Lanzarote Committee requires the following **Parties** to ensure, in accordance with Article 2, that all children are equally protected from sexual abuse without discrimination on the grounds of their sex or sexual orientation, in particular by:

- Albania reviewing the wording of its legislation to avoid stigmatisation of sexual activities based on sexual orientation by removing reference to “homosexual activities”;
- **Bulgaria** and the **Russian Federation** reviewing their legislation to ensure equal sanctions for all forms of sexual abuse committed against children or any sex or gender, irrespective of the sex or gender of the perpetrator;
- **North Macedonia**, and **Serbia** ensuring that step-parents of any gender are included as persons who may be considered as offenders in the legislative provision(s) criminalising sexual activity with a child above the legal age for sexual activities.

Chart 1: Constituent elements of sexual abuse Article 18 Lanzarote Convention



## 2 Protecting child victims of sexual abuse within the family

52. Sexual abuse within the family is one of the most prevalent and most psychologically damaging form of child sexual abuse with long-lasting consequences for the victim.<sup>26</sup> This chapter will examine the action taken by Parties in response to it. It will look at how Parties react to suspicions that a child has been sexually abused in the family, whether they provide for a removal of the perpetrator from the family home and consider the removal of the child victim as a last resort, as well as their approach to suspending and withdrawing parental rights or authority during a criminal investigation or following a criminal conviction on the charge of parental sexual abuse.

### 2.1 Exploratory interviews concerning possible sexual abuse in the family

#### Article of the Convention

##### Article 30 – Principles

(...)

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

(...)

#### Findings from the first monitoring round

53. The Committee did not make detailed findings in this regard but invited “Parties to provide for interviewing the child without informing in advance the parents/legal guardians or acquiring their prior consent in cases in which there is a reasonable suspicion of sexual abuse in the circle of trust and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse” (Recommendation 26).

#### Scope of the analysis

54. Parties were asked if their legal frameworks provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance, and/or without obtaining the prior consent of 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.

55. Exploratory, or inquisitory, interviews differ from formal forensic or evidentiary interviews. An exploratory interview is the first assessment interview conducted by social workers, child protection professionals or any other body or person granted similar powers (for example, a school psychologist). It can be conducted in the presence of alarming symptoms or signs exhibited by a child which may or may not be caused by sexual abuse or exploitation. The possibility of holding exploratory interviews is not required by the Lanzarote Convention.

---

<sup>26</sup> See the Explanatory Report to the Lanzarote Convention, paragraph 125.

## Findings from the current monitoring round

56. 15/48 Parties either indicated expressly that their legal frameworks did not make it possible to interview a child suspected of having been a victim of sexual abuse by anyone but the police or comparable bodies or did so implicitly by referring to the rules of criminal procedure or regulations pertaining to the conduct of the police.<sup>27</sup> It is considered that these Parties do not provide for exploratory interviews with a child exhibiting signs or symptoms which could be linked to sexual abuse.

57. In 22 out of the remaining 33 Parties it is possible to conduct an exploratory interview with a child without obtaining the prior consent of the child's parents or legal guardians and without informing them in advance if there is a reason to believe that they may prevent the child from disclosing sexual abuse.<sup>28</sup>

58. In **Ireland, Italy, and Poland**, consent of the parents or legal guardians is *a priori* required if a child is to be interviewed in their absence. **Ireland** specified additionally that a refusal to provide consent, if there is suspicion that the parent is the abuser, can be overcome by way of a court order and the child can still be interviewed.

59. In **Denmark** and **the Slovak Republic** prior consent of the parents or legal guardians is not required but they must be notified in advance of such an interview.

60. In **Albania** and **Norway**, child protection specialists carry out home visits, which do not require a prior consent but are notified in advance.

61. In the **United Kingdom** (England and Wales) prior consent is not required; the same is not clear in respect of advance notification. Exploratory interviews were not mentioned as a possibility in the other constituent parts of the **United Kingdom**.<sup>29</sup>

### Information submitted by civil society organisations and human rights institutions

**FEM.A** submitted that transparent, legally binding, nation-wide procedures governing the reaction of child and youth welfare organisations to suspicions of child sexual abuse were sometimes lacking.

### Recommendation

#### Recommendation 12

The Lanzarote Committee requests **Parties** that provide in their legal frameworks for exploratory interviews with children suspected of having been sexually abused, and that have not yet done so,<sup>30</sup> to ensure that such interviews can be conducted without informing in advance the child's parents or legal guardians or acquiring their prior consent in cases in which there is a reasonable suspicion of sexual abuse in the family and there is a reason to believe that parents or legal guardians may prevent the child from disclosing sexual abuse.

<sup>27</sup> Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Georgia, Greece, Latvia, Montenegro, Portugal, Romania, San Marino, Slovenia, Switzerland, Türkiye, and Ukraine.

<sup>28</sup> Andorra, Armenia, Austria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Hungary, Iceland, Lithuania, Liechtenstein, Luxembourg, Malta, Republic of Moldova, Monaco, Netherlands, North Macedonia, Serbia, Sweden, and Tunisia.

<sup>29</sup> The situation remained unclear in respect of **Germany** and the **Russian Federation** due to lack of information.

<sup>30</sup> Denmark, Germany, Ireland, Poland, Russian Federation, Slovak Republic, Spain, and United Kingdom (England and Wales).

## 2.2 Removal of the alleged perpetrator and the child victim from the family home

### Article of the Convention

#### Article 14 – Assistance to victims

(...)

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

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

(...)

### Findings from the first monitoring round

62. In the first monitoring round, the Committee considered that before resorting to the removal of the victim, the removal of the perpetrator should be preferred. The Committee held that generally this measure corresponds better to the child's best interest as children tend to perceive their removal from their family environment as a punishment for having disclosed their abuse. Additionally, the removal of the child involves extra difficulties for them (for example, having to change school), which may contribute to their secondary victimisation. The Committee "consider[ed] that, in the context of sexual abuse in the circle of trust, the removal of the victim from his or her family environment should be foreseen as a last resort procedure, which should be clearly defined, setting out the conditions for and duration of the removal" (R27).

63. No specific finding was made as to the number of Parties which provided for a possibility to remove a suspected perpetrator of child sexual abuse from the family environment.

### Findings from the current monitoring round

#### *Removal of the perpetrator*

64. 37/48 Parties provide for a legal possibility to remove a person from the family home who is alleged to have sexually abused a child living in the same home, outside the framework of criminal proceedings.<sup>31</sup> This measure is implemented in the form of protective orders and other similar measures issued, most frequently, on the basis of legislation against domestic violence and, sometimes, special laws for the protection of children. Where Parties referred to legislation against domestic violence, unless specified otherwise, they confirmed that it included an explicit reference to sexual abuse of a child. In **France** and **Germany**, a family court can also provisionally grant the use of the family home to one of the two parents, thus making the other parent leave.

65. In **Azerbaijan**, **Croatia**, **Lithuania**, and **Norway**, removal of an alleged perpetrator is only possible within the framework of criminal proceedings. Additionally, in **Azerbaijan** this can only be done by way of arrest or pre-trial detention which, according to the information submitted, is always imposed in criminal proceedings concerning child sexual abuse.

<sup>31</sup> Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, France, Germany, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, and United Kingdom.

66. In respect of several Parties, no conclusion could be drawn as the information provided lacked relevant details. Thus, information provided by **Albania, Denmark, and Monaco** concerned the removal of the child victim. It is unclear whether the legislation on domestic violence referred to by **North Macedonia, San Marino, and Tunisia** includes in its scope child victims of sexual abuse.<sup>32</sup>

#### Information submitted by civil society organisations and human rights institutions

The **Irish Human Rights and Equality Commission** indicated that at the time of its submission it was aware of only one application for an interim barring order made by the Irish Child and Family Agency (Tusla). The requirement that applicants for safety and protection orders are over the age of 18 was not in line with the rights and evolving capacities of children. The need for children to rely on a parent or child protection services to make an application on their behalf created a barrier [to accessing protection], including for victims and survivors of parental abuse and victims and survivors in care. Furthermore, the lack of integration between the 2018 Domestic Violence Act and family law on custody and visitation could result in circumstances where barring orders had to be violated to facilitate court-mandated custody visits. The Commission recommended that the 2018 Domestic Violence Act be amended to allow children to apply for safety and protection orders in their own right.

#### Recommendations

##### Recommendation 13

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>33</sup> to take the necessary legislative or other measures to ensure, in accordance with Article 14 paragraph 3 first indent, a possibility to remove an alleged perpetrator from the family home, including prior to initiation and outside the framework of any criminal proceedings.

##### Recommendation 14

The Lanzarote Committee invites **all Parties** to ensure that, if the alleged perpetrator is removed, safeguards are in place to ensure the socio-economic well-being of, and psycho-social support to, the remaining family members.

#### *Removal of the child victim*

67. **Armenia, Spain, and Monaco** indicated explicitly that a decision to remove a child is taken if judged to be in the best interest of the child but not necessarily as a measure of last resort.<sup>34</sup>

68. 25/48 Parties confirmed that they consider the removal of the child victim from the family environment as a measure of last resort. Several of them stated that while this is not anchored in any legislative or regulatory act, it is a matter of policy and practice. Of those 25 Parties, only **Cyprus and Lithuania** quoted legislative provisions stating explicitly that removing a child victim from their family

<sup>32</sup> No information is available in respect of the Russian Federation.

<sup>33</sup> Albania, Azerbaijan, Croatia, Denmark, Lithuania, Monaco, North Macedonia, Norway, Russian Federation, San Marino, and Tunisia.

<sup>34</sup> The situation in respect of the following 20/48 Parties is unclear: Albania, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Czechia, Denmark, Georgia, Greece, Hungary, Ireland, Montenegro, North Macedonia, Russian Federation, San Marino, Serbia, Slovenia, Tunisia, Ukraine, and United Kingdom.

home is a measure of last resort or can be applied only provided that any other measure against the offender would not ensure the best interest and protection of the child.

### Promising practices

In **Cyprus**, according to Article 32 of the Law on the prevention and combating of sexual abuse and sexual exploitation of children and child pornography (2014), a court may, during or after the trial of a case in relation to the offences provided for in this law, order the removal of the victim and his/her placing in a safe place ... for such a period as it considers appropriate, provided that it considers that this is necessary for the child's interest, and provided that any other measures against the offender would not ensure the interest and protection of the child.

In **Lithuania**, Article 4 (2) of the Law on Fundamentals of Protection of the Rights of the Child establishes the general rule that the child's removal from the family environment should always be considered as the last resort procedure: "...when making decisions or taking any actions related to the child, the natural right of the child to grow up in the biological family and preserve family ties must be taken into account, if this does not conflict with the child's interests. Separation of children and parents against their will is possible only as last resort procedure, when, taking into account the best interests of the child, it is unavoidable and necessary to protect the child from a real danger to his/her physical and mental safety, health or life, or significant damage to his/her health, and there are no opportunities to protect the child in other ways".

69. The Parties which submitted relevant information appear to provide for a clearly defined procedure for the removal of a child victim from the family environment in case of suspicion of sexual abuse, which sets out the conditions and duration of the removal. The statutory duration of such measures ranges from a provisional few days to indefinite.

### Information submitted by civil society organisations and human rights institutions

**FEM.A** submitted that court deadlines for reviewing decisions on the removal of a child were not binding, which in practice sometimes meant very long periods of waiting for parents contesting the measure.

### Recommendation

#### Recommendation 15

The Lanzarote Committee requests **Parties that have not yet done so**,<sup>35</sup> to ensure that removal of a child victim from the family environment is considered only if removal of the alleged perpetrator from the same environment, among other measures, will not be sufficient to protect the child or not possible in the specific circumstances of the case and that this is done in the best interests of the child.

---

<sup>35</sup> Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Czechia, Denmark, Georgia, Greece, Hungary, Ireland, Monaco, Montenegro, North Macedonia, Russian Federation, San Marino, Serbia, Slovenia, Spain, Tunisia, Ukraine, and United Kingdom.

## 2.3 Access to personal information by agencies involved in response to cases of child sexual abuse

### Article of the Convention

#### Article 10 – National measures of co-ordination and collaboration

1. Each Party shall take the necessary measures to ensure the co-ordination on a national or local level between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children, notably the education sector, the health sector, the social services and the law-enforcement and judicial authorities.

(...)

### Findings from the first monitoring round

70. The Committee invited Parties to ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate (R25). No other specific findings were made.

### Findings from the current monitoring round

71. In 37/48 Parties, data protection laws or data confidentiality rules do not appear to present an obstacle when agencies involved in a response to cases of child sexual abuse attempt to access or exchange information.<sup>36</sup>

72. **Cyprus** and **Denmark** refer specifically to their Children's Houses (multidisciplinary interagency structures of response to child sexual abuse) as providing the legal framework for appropriate information sharing between different agencies. In this context, it is appropriate to recall Standard 5 on interagency case management of the Barnahus Quality Standards of the European Barnahus Network (formerly PROMISE Network) setting out as follows:

"Interagency planning, case review and case tracking can be shaped by restrictions [on] sharing information in national legislation, or lack of legislation that enables and mandates services to share case specific information. A high level of integration requires a clear and careful approach to confidentiality obligations and may require a step-by-step approach to ensure the right exchange of information can take place. It may also be necessary to find solutions, such as interagency data protection protocols, to address legal restrictions and/or regulations imposed by professional organisations on the respective professionals to share case specific information."<sup>37</sup>

### Promising practices

In **Latvia**, an "Information system for the support of minors" for internal use includes information necessary for the protection of children's rights collected from State and local government institutions, medical information about children who need support and information about cases where preventive measures are taken to protect children's rights. The system ensures the exchange

<sup>36</sup> The situation remained unclear in respect of Albania, Azerbaijan, Luxembourg, Montenegro, North Macedonia, Poland, the Russian Federation, San Marino, Tunisia, Ukraine, and the United Kingdom (Scotland) due to lack of information.

<sup>37</sup> See [Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence](#), p. 66.

of information between different institutions to facilitate investigation and provision of social assistance to a child.

**Lithuania** has an agreement signed between the Ministry of Social Security and Labour, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, the Police Department, the General Prosecutor's Office of the Republic of Lithuania and the Office of the Child Rights Protection Ombudsman of the Republic of Lithuania. This agreement describes functions, actions and the modalities of exchange of information between these institutions in cases of violence against children, including sexual violence.

#### Information submitted by civil society organisations and human rights institutions

**FEM.A** submitted that in **Austria**, no mandatory data exchange between criminal courts and family courts is provided for. As a result, in proceedings concerning child custody or contact rights, it is up to the judge whether to retrieve information on ongoing criminal proceedings. Furthermore, by law courts are required to inform the child and youth welfare agencies if suspicions of child sexual abuse are mentioned in judicial proceedings. However, this is not always the case. **FEM.A** called for a mandatory data exchange between criminal courts, child and youth welfare organisations, police, public prosecutors, and family courts in those cases where child sexual abuse is suspected.

#### Recommendation

##### Recommendation 16

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>38</sup> to ensure in accordance with Article 10 paragraph 1, that agencies involved in response to cases of child sexual abuse are able to exchange information, in accordance with the best interests of the child and appropriate safeguards, without breaching data protection laws or data confidentiality rules.

## 2.4 Withdrawal and suspension of parental rights and authority

#### Article of the Convention

##### Article 27 – Sanctions and measures

(...)

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

73. The Explanatory Report to the Lanzarote Convention states that withdrawal of parental rights is a measure that could be taken, for instance, in relation to a person who was removed from the family environment as an assistance measure to the victim in accordance with Article 14 paragraph 3.<sup>39</sup>

<sup>38</sup> Albania, Azerbaijan, Luxembourg, Montenegro, North Macedonia, Poland, Russian Federation, San Marino, Tunisia, Ukraine, and United Kingdom (Scotland).

<sup>39</sup> See para. 191 of the Explanatory Report.

74. The purpose of the relevant part of the questionnaire was to clarify whether parental rights and responsibilities can be fully or partially suspended pending outcome of a criminal investigation or criminal proceedings for alleged sexual abuse of own child, in order to protect the child, as well as whether they can be withdrawn as a consequence of a criminal conviction for sexual abuse of own child. Furthermore, it was intended to find out whether any Parties applied automatic suspension or withdrawal of parental rights or authority on the basis of a criminal conviction for sexual abuse of own child or pending criminal proceedings initiated on the same charge.

#### Findings from the first monitoring round

75. The Committee noted in its analysis that Parties often confused withdrawal and suspension of parental rights in their law and practice. The withdrawal differed from one Party to another, especially with regard to length and to what this withdrawal covered overall. The Committee stressed that decisions on withdrawal of parental rights should be made on a case-by-case basis, based on risk assessment for recidivism, safety and best interests of the child. It cautioned that “automatic withdrawal of parental rights of the offender, including with respect to the siblings of the child victim, may have the adverse effect that the child victim may refrain from, delay disclosing or recant disclosure because of inevitable consequences”. The Committee also invited Parties to clearly distinguish in their legislation and practice cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and cases of withdrawal of parental rights once the court had convicted the said parent (R32).

#### Findings from the current monitoring round

76. In 21/48 Parties it is possible to fully suspend and withdraw parental rights or authority, however criminal proceedings or a criminal conviction for sexual abuse of own child are not formally listed as a possible ground for such a decision.<sup>40</sup>

77. In 13/48 Parties a criminal conviction for crimes related to sexual abuse of children or own child is included in the law as a formal or even mandatory reason for withdrawal of parental rights or authority, while full or partial suspension of parental rights and authority is possible but not formally linked to any criminal proceedings.<sup>41</sup>

78. In 9/48 Parties full or partial suspension of parental rights or authority is not provided for by law, whereas withdrawal of parental rights or authority, while possible, is not formally linked to any criminal conviction.<sup>42</sup>

79. **France, Hungary, Italy, Malta, San Marino, and Tunisia** provide for a possibility to fully or partially suspend and withdraw parental rights or authority on the basis of pending criminal proceedings or a criminal conviction for sexual abuse of own child.

80. As regards the automaticity of withdrawal and temporary suspension of parental rights or authority on the ground of, respectively, a criminal conviction for sexual abuse of the parents’ own child or pending criminal proceedings initiated on the same charge, **Tunisia** is the only Party where

---

<sup>40</sup> Albania, Andorra, Armenia, Austria, Bulgaria, Croatia, Czechia, Estonia, Finland, Georgia, Germany, Liechtenstein, Lithuania, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Slovak Republic, Slovenia, and Sweden.

<sup>41</sup> Azerbaijan, Belgium, Denmark, Greece, Luxembourg, Monaco, Portugal, Romania, Russian Federation, Serbia, Spain, Türkiye, and Ukraine.

<sup>42</sup> Bosnia and Herzegovina, Cyprus, Iceland, Ireland, Latvia, Liechtenstein, North Macedonia, Switzerland, and United Kingdom.

both measures are adopted automatically. **Monaco, San Marino, and Spain** provide for automatic withdrawal of parental rights or authority on the above ground but not for automatic suspension. Conversely, **France** provides for automatic suspension of parental authority during criminal proceedings but not for its automatic withdrawal following a criminal conviction (however, the latter issue is systematically examined by the courts).

#### Information submitted by civil society organisations and human rights institutions

According to **FEM.A**, in **Austria**, a child may have to see a parent against whom criminal proceedings for sexual abuse are pending until a court has ruled otherwise. After a criminal conviction, proceedings to withdraw parental rights have to be initiated by the other parent, if applicable, at their own cost.

**Equality Now** and **Stichting Justice Initiative** raised the issue of the lack of legal possibility in the **Russian Federation** to withdraw parental rights after a child has turned 18 even if the parent has been convicted of the child's sexual abuse, which in practice leads to the adult child's intact obligation to support their parent financially in case of the latter's inability to provide for themselves and the parent retaining the ability to inherit their adult child's property, visit the adult child during emergency hospitalisation and take medical decisions on behalf of the adult child in case of the latter's physical incapacitation.

81. The Lanzarote Committee considers that, while many State Parties provide for a range of measures designed to protect a child in cases where their parent is suspected of having sexually abused them, such as requiring the parent to leave the shared home and to avoid contacting or approaching the child, this may not always be sufficient. By retaining many of the legal decision-making rights in respect of a child, for instance in matters concerning health, education, physical movement, property and others, an accused parent can influence the child's testimony and impact negatively the child's well-being. In consequence, in addition to the protective measures listed above, a full temporary revocation of parental rights or authority may still be necessary to protect a child and safeguard the course of a criminal investigation and, possibly, a trial. This can be decided on the basis of a risk assessment carried out in every individual case.

82. As regards the withdrawal of parental rights or authority following a criminal conviction for sexual abuse or other sexual offences against an own child, the Lanzarote Committee acknowledges that withdrawal as such is a far-reaching measure which can only be justified if motivated by an overriding requirement pertaining to the child's best interests.<sup>43</sup> In the light of these considerations and the information provided by the Parties, the Lanzarote Committee considers it appropriate to assess, in every individual case, whether parental rights or authority should be withdrawn, in the best interest of the child concerned.

83. The above applies also to legal guardians as alternative holders of parental authority.

---

<sup>43</sup> See for example, the reasoning of the European Court of Human Rights in *M.D. and Others v. Malta*, no. 64791/10, judgment of 17 July 2012, para. 76. The circumstances of the case did not concern parental sexual abuse.

## Recommendation

### Recommendation 17

The Lanzarote Committee invites **all Parties** to ensure that:

- in order to guarantee the protection of a child and safeguard criminal proceedings, an automatic risk assessment, based on the best interests of the child, is made in every case where a parent or legal guardian is suspected or accused of sexual abuse of own child with a view to deciding whether parental or guardianship rights or authority should be suspended or temporarily withdrawn.
- an automatic assessment of risk and the best interest of the child is made in every case where a parent or legal guardian is convicted of sexual abuse of their own child, with a view to deciding on a continued suspension or withdrawal of parental or guardianship rights or authority.

## Additional guidance for State Parties

### Strengthen the protection of children against sexual abuse in the family by:

- Implementing publicly transparent nation-wide protocols for assessing and addressing suspicions of child sexual abuse in the family by child protection agencies, including a risk assessment methodology;
- Reviewing and harmonising the legislative and regulatory framework to avoid potential conflict between different simultaneously existing rights and obligations, for example the right of hosting a child and an obligation to avoid contacting or approaching the child based on a protection order;
- Ensuring publicly transparent, clearly defined procedures for removal of child victims from the family environment and that such removal is subject to judicial review organised as a matter of priority within clearly defined and implemented time-limits;
- Organising mandatory data exchange between courts dealing with criminal and family matters, as well as between courts and child protection agencies;
- Improving co-ordination and collaboration between various agencies involved in response to child sexual abuse to avoid delays and inconsistencies;
- Considering a review of legislation providing for parental rights and privileges vis-à-vis adult children who were victims of parental sexual abuse;
- Providing access to legal aid to the child victim and/or the non-offending parent in the context of proceedings concerning the suspension or withdrawal of the parental rights or authority of a parent who has been convicted of sexual abuse or ensuring that relevant proceedings are brought *ex officio* by child protection authorities.

## 2.5 Special representatives

### Article of the Convention

#### Article 31 – General measures of protection

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

84. Child victims have special needs that should be considered in their journey through the criminal justice system, from the moment the abuse has been reported. In the investigation phase and in criminal proceedings, the principle of the best interest of the child must be taken into account at all times, in relation to the special needs of the victim. In the case of intra-familial abuse, the Lanzarote Convention provides for the possibility of the judicial authorities to appoint a special representative for the victim because it considers that there is a “conflict of interest”. As recalled in the first implementation report and in line with guideline 42 of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice,<sup>44</sup> the function of a guardian *ad litem* or other special representative differs from the functions of a legal counsel and indeed, serves to help a court assess and determine what is in the best interests of the child.

#### Findings from the first monitoring round

85. In the first monitoring round, most of the Parties assessed provided for the possibility of appointing a special representative for a child victim in case of a conflict of interest with the holder of parental authority, although the Committee found variation in the practices among Parties. Furthermore, not all Parties ensured the appropriate legal knowledge and training of special representatives and only 5/26 Parties guaranteed the appointment of a special representative free of charge to the child.<sup>45</sup> Considering these findings, the Committee urged **Malta** to appoint a special representative or a guardian *ad litem* when there is a conflict of interest with the child, specifying that this person should be allowed to be present throughout the criminal proceedings (R34). It also invited Parties to ensure that special representatives and guardians *ad litem* receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings (R35), to avoid combining the functions of a lawyer and a guardian *ad litem* in one person (R36), and to provide a special representative or guardian *ad litem* free of charge for the child victim (R37).

#### Findings from the current monitoring round

86. There has been very significant progress concerning the provisions within national regulatory frameworks on the appointment and organisation of special representatives and guardians *ad litem* since the first monitoring round, and Parties’ practices are better harmonised. An additional 23 Parties (to those assessed in the first monitoring round)<sup>46</sup> now provide for the possibility of appointing a special representative for a child in case of conflict of interest with the holder of parental authority; and, out of these, in 17 Parties the special representative or guardian *ad litem* is allowed to be present throughout the criminal proceedings.<sup>47</sup> In **Malta**, specifically, the law was changed to implement Recommendation 34 from the first monitoring round: it is now possible for a support person to be appointed under the Victims of Crime Act in addition to a special curator or a children’s advocate. In **Liechtenstein**, there is no additional support for children other than legal counsel, the **Russian Federation** has not replied to the questionnaire. In total, 46/48 Parties provide for the possibility of appointing a special representative.

---

<sup>44</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#) (2010)

<sup>45</sup> Austria, Denmark, Iceland, Luxembourg, and San Marino

<sup>46</sup> Andorra, Armenia, Austria, Azerbaijan, Cyprus, Czechia, Estonia, Finland, Georgia, Germany, Greece, Hungary, Ireland, Latvia, Malta, Monaco, Norway, Poland, Slovak Republic, Slovenia, Sweden, Switzerland, and United Kingdom.

<sup>47</sup> Andorra, Armenia, Austria, Azerbaijan, Czechia, Cyprus, Estonia, Georgia, Germany, Hungary, Ireland, Malta, Norway, Poland, Slovak Republic, Slovenia, Sweden, and Switzerland.

### Promising practices

In **Croatia**, there is a Centre for Special Custody which, based on public authority, represents children before the courts and other bodies in accordance with the law governing family relations through an appointed guardian.

In **Ireland**, legislation was enacted in 2022 to regulate the guardian *ad litem* profession and to allow a new national service to be set up. Before opening, regulations will be published regarding the required education and experience to be eligible to be hired as a guardian *ad litem*. The new service will provide training and legal advice/representation as necessary.

87. 36/48 Parties ensure that special representatives and guardians *ad litem* who are appointed receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings.<sup>48</sup> This may involve appointing persons holding undergraduate and graduate academic degrees relevant to child protection, including social sciences, law and psychology, and a minimum of relevant work experience. In some Parties, special representatives are selected from among guardianship authorities or other State agencies working for child protection or welfare. Several specific provisions existing in different Parties are included below as promising practices.

88. There also seems to be an overall trend to adopt guidance and criteria to support special representatives and guardians *ad litem* and ensure that they carry out their functions in an appropriate manner. For example, in **Türkiye**, the national legal framework provides that “if the interests of the person under guardianship are at stake due to incompetence of the guardian in fulfilling his/her duties, the guardianship board may relieve the guardian of duty even if he/she is not at fault.”

89. **Belgium, Czechia, Denmark, Germany, Liechtenstein, Lithuania, San Marino, Slovenia, and Ukraine** do not have provisions in place to ensure that special representatives and guardians *ad litem* who are appointed receive appropriate training and legal knowledge.<sup>49</sup>

### Children’s views

Children consulted in **Bosnia and Herzegovina** said they expect representatives of the authorities to take a sensitive, respectful approach in their interactions and to use nonviolent communication when addressing them.

### Promising practices

In **Albania**, the child protection unit at municipality level develops and updates, on an annual basis, a list of the procedural representatives for children in conflict with the law, child victims and witnesses in criminal proceedings and sends it to the local structures of the State Police, the Prosecution office and to the respective judicial district court and appeal court. The criteria and procedures for the selection of procedural representatives are defined by joint instruction of the minister coordinating matters of child rights and protection and the Minister of Justice.

<sup>48</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Georgia, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, Tunisia, Türkiye, and United Kingdom.

<sup>49</sup> No information is available in respect of **Serbia** and the **Russian Federation**.

In **Armenia**, according to the constitution of the guardianship and trusteeship bodies, established by Government Decision N 631-Ն of 2 June 2016, guardianship and trusteeship bodies are provided with comprehensive assistance, guidance, and information concerning state policies, legal provisions, and documents designed to safeguard the well-being of children; and benefit from methodological clarifications and directives provided by the Ministry of Labour and Social Affairs.

In **Bulgaria**, Article 28, paragraph (1), of the Advocates' Act provides that the Supreme Bar Council shall organise a training centre for advocates to maintain and improve the qualifications of advocates and advocates of the European Union.

In **Finland**, a study was published in 2022 on the current state of child guardianship in criminal and child protection cases in the country. The study formulated legislative proposals and resulted in the development of national quality criteria for the supervision of children in criminal and child protection cases, as well as guidelines on good practice in the field of child protection to ensure that the best interests of the child are considered.

In **Iceland**, a legal rights protector shall be nominated in all cases where the injured party has not reached the age of 18 years at the time when the investigation is begun. In the National Action Plan for the treatment of sexual assault for the years 2023-2025 emphasis is placed on training and education for legal rights protectors.

In **Switzerland**, the Conference on the Protection of Children and Adults (COPMA) issued in 2021 [recommendations on the organisation of professional guardianship services](#), which also address the professional profile required depending on the task entrusted to the curator.

90. In 23/48 Parties, the national legal framework includes provisions to avoid combining the functions of a lawyer and guardian *ad litem* in one person.<sup>50</sup> 21/48 Parties do not have such a provision in place.<sup>51</sup> In addition to paragraph 42 of the Committee of Ministers' Child-friendly Justice Guidelines cited above, paragraph 105 of the Explanatory Memorandum to the Guidelines specifies that "combining the functions of a lawyer and a guardian *ad litem* in one person should be avoided, because of the potential conflict of interests that may arise". The potential conflict of interest comes from the different functions of a lawyer and a guardian *ad litem* or special representative: while a lawyer is supposed to follow the instructions of a client, a guardian is there to advise on the best interests of the child, which may not necessarily correspond to the client's wishes and may thus come into conflict with the ethical requirements inherent in a lawyer's role. In **Sweden**, for example, these two functions are combined in one person who, according to the instructions of the Swedish Bar Association, must act in the best interest of the child and does not have to follow precisely the child's instructions. Legal counsel can be retained separately by the child, but their work would not be paid for from the State budget. A child victim's right to effective legal representation may be affected in this case.<sup>52</sup>

<sup>50</sup> Armenia, Azerbaijan, Belgium, Croatia, Cyprus, Czechia, Finland, France, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Monaco, Netherlands, San Marino, Slovak Republic, Slovenia, and Spain.

<sup>51</sup> Albania, Andorra, Austria, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Georgia, Germany, Liechtenstein, Luxembourg, Montenegro, North Macedonia, Norway, Poland, Portugal, Sweden, Switzerland, Tunisia, Türkiye, and Ukraine.

<sup>52</sup> No information is available in respect of **Romania**, the **Russian Federation**, **Serbia**, and the **United Kingdom**.

91. In 41/48 Parties, the national legal framework includes guarantees to ensure that special representatives and guardians *ad litem* are appointed free of charge (this includes the Parties where the functions of a lawyer and a special representative or guardian *ad litem* are combined in one person). Out of these 41, in **Norway** and **Türkiye**, free services are provided to children who live below a certain economic threshold.

92. **Italy, Liechtenstein, and Ukraine** do not have such a provision in place.<sup>53</sup>

93. Appendix 3 presents a more detailed summary of findings, with a list of provisions adopted per individual Party and total of Parties.

## Recommendations

### Recommendation 18

The Lanzarote Committee requires **Liechtenstein** and the **Russian Federation** to ensure, in accordance with Article 31 paragraph 4, that special representatives and guardians *ad litem* are appointed when there is a conflict of interest between the holders of parental authority and a child victim.

### Recommendation 19

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>54</sup> to take legislative and other measures to ensure, in accordance with Article 5 paragraph 2, that special representatives and guardians *ad litem* have adequate knowledge of sexual exploitation and sexual abuse of children.

### Recommendation 20

The Lanzarote Committee requests **Parties that have not yet done so**, to take the necessary legislative or other measures to:

- Avoid combining the functions of a lawyer and guardian *ad litem* in one person;<sup>55</sup> and
- Provide special representatives and guardians *ad litem* free of charge for the child victim.<sup>56</sup>

## Additional guidance for State Parties

### Strengthen the national legal framework by:

- Adopting specific criteria for the nomination of special representatives and guardians *ad litem*, including description of their tasks, minimum training requirements or protective measures where special representatives are not able to fulfil their task;
- Guaranteeing the possibility for the appointment of special representatives to all child victims automatically, even where there is no case of conflict of interests with the holders of parental authority.

### Ensure that all special representatives and guardians *ad litem* receive appropriate training by:

- Guaranteeing accessible training courses to all nominated special representatives;
- Providing for continuous training;

<sup>53</sup> No information is available in respect of **Belgium, Serbia**, the **Russian Federation**, and the **United Kingdom**.

<sup>54</sup> Belgium, Czechia, Denmark, Germany, Greece, Liechtenstein, Lithuania, Russian Federation, San Marino, Serbia, Slovenia, Ukraine.

<sup>55</sup> Albania, Andorra, Austria, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Georgia, Germany, Liechtenstein, Luxembourg, Montenegro, North Macedonia, Norway, Poland, Portugal, Sweden, Switzerland, Tunisia, Türkiye, and Ukraine.

<sup>56</sup> Belgium, Italy, Liechtenstein, Russian Federation, Serbia, Ukraine, and United Kingdom.

- Including child rights, communication with children and child-friendly justice principles in essential training for special representatives.

**Monitor the quality of the tasks carried out by special representatives by:**

- Overseeing the work of special representatives;
- Consulting children on their experience of the support provided by special representatives;
- Carrying out studies at national level to assess the availability and quality of services provided by special representatives and provide recommendations for improvement, where necessary.

### 3 Addressing harmful sexual behaviours by children

#### Article of the Convention

##### Article 16 – Recipients of intervention programmes and measures

...

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

94. The Lanzarote Convention requires Parties to protect all children under 18 from sexual abuse by persons in a position of trust, authority or influence, including within the family (Article 18, paragraph 1.b second indent). This covers a wide range of persons, including other children, but does not cover “consensual sexual activities between minors” (Article 18 paragraph 3).

95. Recognising that some children display risky or harmful sexual behaviours, including towards other children, Article 16 paragraph 3 requires Parties to provide intervention programmes or measures that are adapted to the developmental needs of these children. This paragraph specifically recalls that appropriate interventions must also be provided to all children who display such behaviours, including those below the age of criminal responsibility.

96. As regards sexual materials depicting a child engaged in real or simulated sexually explicit conduct or depictions of a child’s sexual organs, Article 20 paragraph 3 provides the possibility for Parties to exclude the production and possession of such material involving children who have reached the legal age for sexual activities from the scope of offences relating to “child pornography” (child sexual abuse material) when this is done with their consent and for their own private use.

97. The 2019 Lanzarote Committee’s opinion on this topic provides guidance to Parties as to when sexual materials generated by children should and should not be considered as falling within the scope of offences under Article 20.<sup>57</sup> The Committee takes a clear position in this opinion that children should only be prosecuted for such behaviour as a last resort and that priority should be given to more appropriate methods of dealing with their harmful behaviour, such as educational measures and therapeutic assistance.

98. The European Court of Human Rights (hereafter the Court) has confirmed that States are bound to carry out effective investigations into child sexual abuse under Article 3 of the European Convention on Human Rights. In this respect the Court recalled that such investigations may lead to the adoption of appropriate measures in respect of children who sexually offend but are not criminally liable due to their age.<sup>58</sup>

99. The Council of Europe Guidelines on Child-Friendly Justice recall that the best interests of the child must be a primary consideration in judicial proceedings concerning a child, and confirm that any measure of deprivation of liberty should be a measure of last resort.<sup>59</sup> The UN Committee for the Rights of the Child also consistently calls for States to promote non-judicial measures such as diversion and

<sup>57</sup> Lanzarote Committee Opinion on [Child sexually suggestive or explicit images and/or videos generated, shared and received by children](#), adopted on 6 June 2019.

<sup>58</sup> *X and Others v. Bulgaria* [GC], no. 22457/16, judgment of 2 February 2021, §§202 and 220, and *A.P. v. Republic of Moldova*, no. 41086/12, judgment of 26 October 2021, §32.

<sup>59</sup> Council of Europe (2010), [Guidelines of the Committee of Ministers on Child-friendly Justice](#).

counselling for children accused of criminal offences, and to ensure that detention is a measure of last resort.<sup>60</sup>

100. The study on sexual violence and harmful sexual behaviour displayed by children, published by the Committee of experts on the Prevention of Violence,<sup>61</sup> highlights that children must always be treated first and foremost as children. This means taking a holistic multi-system approach to such behaviours, including engaging with parents, carers and families of children who have shown harmful sexual behaviours. This study suggests that policy makers should prioritise rehabilitative approaches, including community-based and welfare-oriented responses, and use criminal justice responses as a last resort.

### Findings from the first monitoring round

101. In the first monitoring round, the Lanzarote Committee invited Parties to review legislation to include other children in the notion of the circle of trust (R6). In its second implementation report, the Lanzarote Committee focused on strategies to protect children against sexual abuse in the circle of trust and found that only 12/26 Parties reported that some measures for children were in place. The Lanzarote Committee therefore urged Parties who had not yet done so to put in place an offer dedicated to meet the developmental needs of children who sexually offend, including those who are below the age of criminal responsibility with a view to providing them adapted programmes or measures so that they can be helped (R28).

### Findings from the current monitoring round

#### 3.1 Age of criminal responsibility in State Parties

102. The age of criminal responsibility varies across Parties, ranging from 10 to 18 years old. In 36/48 of Parties the age of criminal responsibility is the same for all crimes.<sup>62</sup>

103. In **Czechia, France, and Tunisia**, although the age of criminal responsibility is fixed in principle, criminal responsibility is subject to the level of understanding and maturity of the child in each case. In **Poland** a child below the age of criminal responsibility (17) can only be held liable for certain offences if the circumstances of the case and the degree of development of the child with consideration of their personal characteristics support this, and other previous educational or correctional measures have proved ineffective. This decision is made by the court. Examination of the criteria used to undertake this assessment was beyond the scope of this exercise.

104. In **Albania, Armenia, Belgium, Ireland, Lithuania, the Republic of Moldova, Poland, and the Russian Federation**, the age of criminal responsibility is set at a lower age for more serious crimes such as rape or sexual offences. It is worth noting that the UN Committee for the Rights of the Child has found that the existence in legislation of a variety of minimum ages at which children may enter the criminal justice system is in breach of Article 40 (3) (a) of the Convention for the Rights of the Child on

---

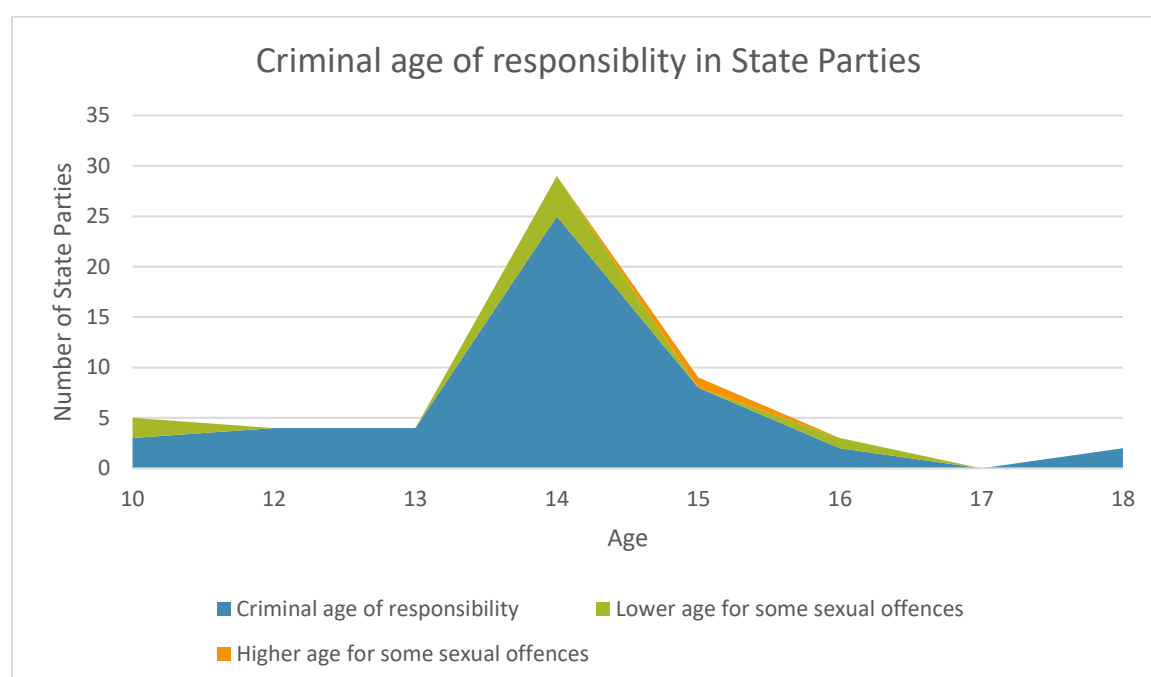
<sup>60</sup> See for example: UN Committee for the Rights of the Child: Concluding observations in respect of [Ireland](#), [Lithuania](#), the [Republic of Moldova](#), and [Poland](#).

<sup>61</sup> Council of Europe, Committee of experts on the Prevention of Violence (ENF-VAE), Study on [Sexual violence and harmful sexual behaviour displayed by children: Nature, causes, consequences and response](#), October 2024.

<sup>62</sup> Andorra, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Malta, Monaco, Montenegro, North Macedonia, Netherlands, Norway, Romania, San Marino, Serbia, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom.

the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.<sup>63</sup>

105. The legal age for engaging in sexual activities is set between 14 and 16 in at least 43/48 Parties.<sup>64</sup> In practice, this means that in 21/48 Parties the age of criminal responsibility for sexual offences is lower than the legal age for engaging in sexual activities.<sup>65</sup> In 19/48 Parties the age of criminal responsibility for sexual offences and the legal age for engaging in sexual activities are the same.<sup>66</sup> In **Azerbaijan, Belgium, and Luxembourg**, the age of criminal responsibility for sexual offences is higher than the legal age for engaging in sexual activities. In **France**, there is no set legal age for sexual activities, however sexual activities by an adult with a child under 15 would constitute rape or sexual assault if the difference in age is at least 5 years or if the sexual act was in exchange for payment, promise of payment or any other material benefit. See Chart 2 for a breakdown per country.



<sup>63</sup> UN Committee for the Rights of the Child: [Concluding observations](#) CRC/C/POL/CO/5-6, 06 Dec 2021.

<sup>64</sup> Council of Europe (2023), [Comparative study of the legal age for sexual activities in State Parties to the Lanzarote Convention](#).

<sup>65</sup> Andorra, Armenia, Croatia, Cyprus, Finland, Georgia, Hungary, Ireland, Latvia, Lithuania, Malta, Monaco, Netherlands, Norway, Republic of Moldova, Slovak Republic, Slovenia, Spain, Switzerland, Türkiye, and United Kingdom.

<sup>66</sup> Albania, Austria, Bosnia Herzegovina, Bulgaria, Czechia, Denmark, Germany, Greece, Iceland, Liechtenstein, Montenegro, North Macedonia, Poland, Romania, San Marino, Serbia, Sweden, and Ukraine.

### 3.2 Children below the age of criminal responsibility

106. In at least 38/48 Parties, where a child below the age of criminal responsibility engages in harmful sexual behaviour with another child this would result in an intervention by child welfare services and/or a range of safeguarding measures.<sup>67</sup> Some Parties also indicated that other interventions were available such as multi-disciplinary risk assessment, counselling or educational support for children and their parents, educational measures and medical or therapeutic intervention. Some Parties referred to separation of the child from other children at risk, placement in care or specific educational settings.

107. **Czechia**, and **Poland** referred to the use of mediation in the form of requiring the child to apologise to the victim. **Belgium, Czechia, Monaco, Poland**, and **Portugal** stated that the child could be subject to a reprimand or admonition.<sup>68</sup> **Cyprus** has adopted a specific law which aims to prevent children from committing offences and establish a child-friendly criminal justice system. **Hungary** indicates that victim-offender mediation is generally excluded in cases of sexual crimes, but that a restorative justice approach can be taken. **Italy** refers to the provision of educational intervention projects wither-educative and restorative purposes under the direction and supervision of social services.

#### Promising practices

Children under the age of criminal responsibility who engage in sexual activities undergo a multi-disciplinary risk assessment in: **Belgium, Croatia, Cyprus, Georgia, Hungary, the Republic of Moldova**, and the **Netherlands**.

In **Estonia** support is provided through Barnahus to children under the age of criminal responsibility who engage in sexual activities with other children.

**Romania, Slovenia, Sweden**, and **Tunisia** indicated that the child is treated as a “child at risk” and referred to social services without criminal justice intervention.

In addition to providing support to the child displaying harmful sexual behaviours, several Parties indicated that they also provide support to the child’s parents and family members: **Austria, Denmark, Estonia, Georgia, Ireland, Luxembourg, Poland, Portugal, Romania, San Marino**, and **Türkiye**.

18 Parties emphasise the importance of providing educational measures to children under the age of criminal responsibility.<sup>69</sup>

In **Malta**, children are provided with support and therapeutic interventions and may be subject to a protection order.

<sup>67</sup> Andorra, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Netherlands, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, and United Kingdom.

<sup>68</sup> In the case of Poland admonition, the obligation to repair damage and supervision by a probation officer is used in the context of family and juvenile proceedings which are not linked to any criminal proceedings.

<sup>69</sup> Austria, Bulgaria, Czechia, France, Georgia, Italy, Lithuania, Luxembourg, Monaco, Netherlands, Poland, Portugal, Romania, Slovak Republic, Spain, Switzerland, Türkiye, and Ukraine.

Several parties also indicated that they provide medical or therapeutic intervention where appropriate: **Austria, Croatia, Cyprus, Czechia, Georgia, Norway, Serbia, Switzerland and Türkiye.**

108. **Andorra, Cyprus, Finland, Monaco, Poland, and Portugal** indicated that the parents would be notified, and in some instances, they would have to pay compensation or damages. These appear to be general provisions not specific to children under the age of criminal responsibility who engage in sexual activities with another child.

109. The Committee notes that in **Czechia, Denmark, Hungary, Italy, Portugal** and the **United Kingdom**, children under the age of criminal responsibility may still be subject to supervision measures overseen by youth offending services, correctional units or probation services, even if they do not go through the criminal justice system. **Armenia, Finland, the Netherlands, and Poland** (only with parental presence) indicated that the child, even under the age of criminal responsibility, could be interrogated by the police. **Azerbaijan** referred to placement of the child in closed training and educational facilities. In **Greece**, rehabilitative or therapeutic measures may be imposed in cases where minors under the age of criminal responsibility engage in sexual acts and there is an age difference of more than three years between them.

110. In **Belgium**, the age of criminal responsibility is 18 years, but in exceptional very serious cases (such as rape or sexual assault with use of violence, threat or force) and under specific conditions a judge specialised in juvenile matters can decide that a child aged 16 and over, provided they have a sufficient degree of maturity, may be treated as an adult. Before reaching such a decision the tribunal must take into account an individual social and medico-psychological examination. These judges are specially trained. If the child is convicted they are placed in a specific juvenile detention facility.

#### Information submitted by civil society organisations and human rights institutions

The **Equality Now** and **Stichting Justice Initiative** informed the Lanzarote Committee that in the Russian Federation the age of criminal responsibility is 16 but children under 16 may be sentenced to up to six years' imprisonment, and that juveniles that have committed "extremely grievous crimes" may serve this sentence in juvenile correctional facilities.

111. The Committee notes that in the **Netherlands** children under 12 years of age cannot be subject to criminal prosecution, but they may nevertheless be subject to some police investigation and limited coercive measures to establish the truth. In this context, the authorities indicated that because these children cannot be prosecuted, they would not be entitled to a legal aid lawyer and instead the police should invite a trusted person to be present during the interrogation and that a report would be made to the child protection system. These children may also be able to receive some form of free legal assistance even though they do not fall under the regular criminal legal aid system given that there is no formal criminal prosecution. The Lanzarote Committee is concerned that children under the age of criminal responsibility may not be able to access legal aid in other Parties and emphasises that whenever a child interacts with the police their rights, including their right to legal advice should be upheld, no matter their age.<sup>70</sup>

112. A table summarising the measures applicable is available in Appendix 1.

<sup>70</sup> It was not possible to analyse measures to children below the age of criminal responsibility for **Albania, North Macedonia**, and the **Russian Federation** due to lack of information on this specific question.

### 3.3 Children above the age of criminal responsibility

113. The majority of Parties take a distinct approach when it comes to sanctioning children above the age of criminal responsibility. These range from disciplinary measures such as warnings and admonition (**Andorra, Cyprus, Estonia, Georgia, Ireland, Latvia, Lithuania, the Republic of Moldova, and Monaco**), educational measures or community service,<sup>71</sup> security measures or probation,<sup>72</sup> and bespoke criminal sanctions for children including detention or other forms of deprivation of liberty.<sup>73</sup> In **Iceland** a child aged 15 to 18 can only be placed in prison if there are special circumstances and it is in the best interests of the child, and not for the interests or convenience of the authorities. Some Parties provide for alternatives to criminal justice intervention.

114. In 16/48 Parties children are subject to reduced criminal sanctions foreseen for adults.<sup>74</sup> In some Parties this only concerns children above a specific age of “criminal majority”.

115. Several Parties take an approach based on child-friendly justice principles: taking into account the age, maturity and understanding of the child when determining the sanction. In **Greece**, a child who has committed a criminal offence and has reached the age of fifteen shall be subject to rehabilitation or therapeutic measures, unless it is deemed necessary to impose confinement in a special youth detention facility. The Lanzarote Committee emphasises the importance of complying with child-friendly justice principles when dealing with children in conflict with the law and therefore recognises these approaches as promising practices.

#### Promising practices

In **Belgium**, the age of criminal responsibility is 18 therefore children aged 16-18 will only face criminal liability in exceptional circumstances.

In **Iceland**, the execution of sentences involving children falls under the authority of the child protection services either in a specialised facility or therapeutic intervention.

Several countries provide for an individual assessment of the level of understanding and maturity before criminal proceedings can be brought against the child: **Austria, Czechia, Finland, Georgia, Italy, and Tunisia**.

In **Austria, Croatia, Czechia, Estonia, Finland, and Switzerland**, the judge and/or prosecutor has discretion to waive or stop criminal proceedings and not to impose a sanction, if the investigation or criminal proceedings is considered to be sufficient to preventive re-offending. In **Finland** a court may also waive punishment of children under 18 if the act is deemed to be the result of a lack of understanding.

A restorative justice approach is taken in: **Austria, Czechia, Georgia, Germany, Ireland, Italy, Slovenia, and Switzerland**.

<sup>71</sup> Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Czechia, Estonia, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Republic of Moldova, Monaco, Montenegro, Romania, Serbia, Slovenia, Spain, Sweden, Switzerland, Ukraine, and United Kingdom.

<sup>72</sup> Andorra, Austria, Croatia, Georgia, Italy, Latvia, Monaco, Montenegro, Netherlands, Romania, Serbia, and Spain.

<sup>73</sup> Andorra, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Italy, Ireland, Latvia, Lithuania, Montenegro, Netherlands, Romania, Russian Federation, Serbia, Slovenia, Spain, Sweden, Switzerland, Tunisia, Ukraine, and United Kingdom.

<sup>74</sup> Austria, Azerbaijan, Bulgaria, Czechia, Finland, France, Georgia, Hungary, Italy, Latvia, Liechtenstein, Malta, Monaco, San Marino, Slovak Republic, and Türkiye.

Prosecution and criminal sanctions are taken as a last resort in: **Austria, Bosnia and Herzegovina, Czechia, Ireland, Liechtenstein, Poland (only in respect of misdemeanours), and Slovenia.**

The United **Kingdom** (Scotland) emphasises the importance of multi-agency intervention.

116. **Denmark, San Marino, the Slovak Republic** do not provide for differentiated sanctions.

117. The age of criminal responsibility in **Luxembourg** was 18 at the time of reporting. **Luxembourg** indicated that a law reform was underway to reduce this age to below 18.

118. **Iceland** indicated that sexual relations between siblings can be punished by up to 4 years in prison but that this sentence can be cancelled if one or both of the siblings were under 18 at the time of commission.

119. As indicated above, in the **Russian Federation** children can be sentenced to imprisonment which they can serve in juvenile correctional facilities.

120. No replies explicitly refer to screening children who display risky or harmful sexual behaviours to see if they themselves have been a victim of some form of child sexual exploitation or sexual abuse.<sup>75</sup>

121. A table summarising the variety of measures applicable is available in Appendix 2.

## Recommendations

### Recommendation 21

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>76</sup> to provide, in accordance with Article 16 paragraph 3, intervention programmes or measures that are adapted to the developmental needs of children who sexually offend, including for children below the age of criminal responsibility.

### Recommendation 22

The Lanzarote Committee requires **all Parties** to provide, in accordance with Article 6, all children with comprehensive education to empower them to recognise harmful sexual activities, avoid engaging in harmful sexual behaviours, and access support if they are a victim of sexual abuse or sexual exploitation.

### Recommendation 23

The Lanzarote Committee invites **all Parties**, wherever possible, to take a restorative justice approach and to uphold child-friendly justice principles when dealing with children above the age of criminal responsibility who display or engage in harmful sexual behaviours or sexual offences, in line with the Council of Europe Guidelines on Child-friendly Justice.

### Recommendation 24

The Lanzarote Committee invites **all Parties** to ensure that detention of children is a last resort, in line with the Council of Europe Guidelines on Child-friendly Justice.

<sup>75</sup> It was not possible to assess the types of measures applicable in **Albania**, and **North Macedonia**, due to lack of information in relation to this question.

<sup>76</sup> Albania, Bulgaria, Denmark, North Macedonia, San Marino, and the Slovak Republic.

## Additional guidance for State Parties

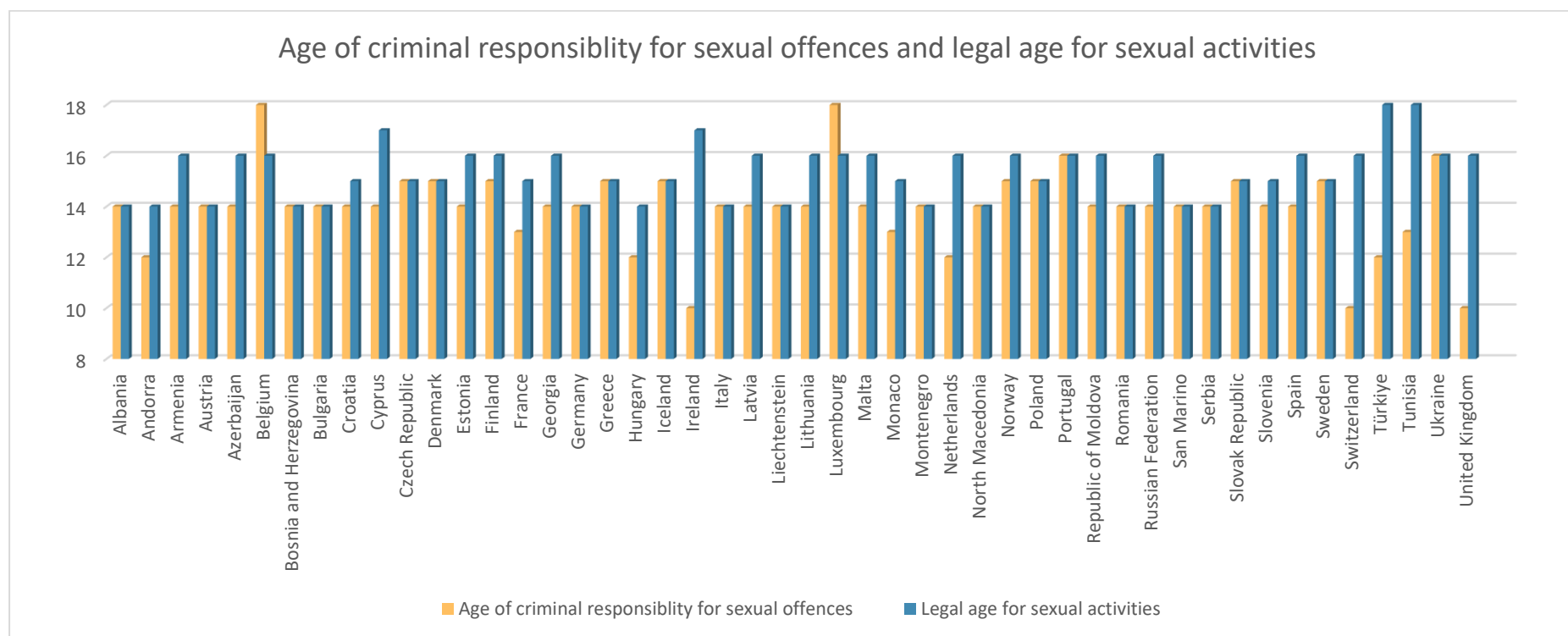
**Where children below the age of criminal responsibility are concerned, taking a child-friendly and restorative justice approach may include the following actions:**

- ensuring that children below the age for sexual activities who engage in sexual activities are referred to appropriate safeguarding measures and undergo a risk assessment to screen them in case they themselves have been a victim of sexual exploitation or sexual abuse;
- providing therapeutic support through Barnahus and other multi-disciplinary and inter-agency mechanisms;
- providing educational measures and support to the child's parents;
- avoiding using the term "offender" when referring to these children.

**Where children above the age of criminal responsibility are concerned, taking a child-friendly and restorative justice approach may include the following actions:**

- multi-disciplinary risk assessment to identify any risks that the child has themselves been a victim of sexual exploitation or sexual abuse;
- taking into account the child's level of understanding and maturity before deciding to bring criminal proceedings against the child;
- considering prosecution and criminal sanctions as a last resort;
- when deciding on a sanction following conviction, ensuring that detention is a last resort.

Chart 2: Age of criminal responsibility for sexual offences and legal age for sexual activities



## 4 Initiating investigations and prosecution

### Children's views

Children consulted in Bosnia and Herzegovina expressed at times feeling blamed rather than supported by teachers who are responsible for providing assistance and support. They recommended the implementation of anonymous reporting boxes within schools to address all forms of violence. Boys emphasized the need for workshops focused on addressing the specific forms of violence affecting boys.

122. Investigation of offences may be initiated as a result of pro-action – where the relevant authorities conduct pro-active investigations to detect unreported cases of sexual exploitation and sexual abuse, or re-action – where the relevant authorities act on information received from a victim or a third party. The following sections provide an overview of the implementation of Article 32 on initiation of proceedings and Article 12 on reporting suspicion of sexual exploitation and sexual abuse.

### 4.1 Initiation and continuation of investigations and proceedings: in the absence of a complaint or in cases of withdrawal of a complaint

#### Article of the Convention

##### Article 32 – Initiation of proceedings

Each Party shall take the necessary legislative or other measures to ensure that investigations or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, and that the proceedings may continue even if the victim has withdrawn his or her statements.

123. Article 32 requires Parties to ensure that offences can be investigated and prosecuted, regardless of whether or not a victim has filed a complaint or subsequently withdrawn a complaint. This requires Parties to undertake both pro-active and reactive investigations and to act on information received from third parties. This is an essential safeguard given that child victims often do not disclose and report what happened to them until they become adults.<sup>77</sup> Paragraph 230 of the Explanatory Report to the Lanzarote Convention clarifies that this article “is designed to enable the public authorities to prosecute offences established in accordance with the Convention without the victim having to file a complaint. The purpose of this provision is to facilitate prosecution, in particular by ensuring that victims do not withdraw their complaints because of pressure or threats by the perpetrators of offences.”

124. This section focuses on how Parties ensure that investigations and prosecutions can be initiated in the absence of a complaint by a victim and may continue even if such a complaint was initially made but subsequently withdrawn.

---

<sup>77</sup> Lanzarote Committee Opinion on Article 33 of the Lanzarote Convention and its explanatory note on [Requirements of the provision on statute of limitations and recommendations on its implementation](#), adopted on 11 June 2024.

125. The Lanzarote Convention clearly states that the provisions are not intended to govern consensual sexual activities between minors (Article 18 paragraph 3) and the Lanzarote Committee has provided further guidance in its opinion on child sexually suggestive or explicit images and/or videos generated, shared and received by children.<sup>78</sup>

#### Findings from the first monitoring round

126. In the first monitoring round, 21/26 Parties reported that it was possible to initiate proceedings *ex officio* without the prior lodging of a complaint by the victim.<sup>79</sup> This was also possible in some cases in **Albania** and **Portugal**. In 13/26 Parties it was also possible for proceedings to continue even if a victim had withdrawn their complaint.<sup>80</sup> Additionally, 5/26 Parties indicated that the withdrawal of a complaint by the victim had no impact on proceedings that had been initiated *ex officio*.<sup>81</sup>

127. In view of this, the Lanzarote Committee urged **Albania** and **Portugal** to review their legislation to ensure that proceedings could be brought *ex officio* in all cases (R55 and 56). Additionally, the Lanzarote Committee urged Parties, where appropriate, to bring their legislation in line with the requirements of the Lanzarote Convention in light of these findings (R57).

#### Findings from the current monitoring round

##### Initiation of investigations and prosecutions *ex officio*

128. In most Parties the initiation of investigations depends on the classification of the crime type in the criminal code. Some classes of crime may give rise to an investigation and prosecution only following a complaint by a victim, whereas other classes of crime may give rise to an investigation and prosecution *ex officio*, even in the absence of a complaint by the victim.

129. In 41/48 Parties, sexual offences against children generally fall into the category of offences for which a complaint by the victim or their legal representative is not required to initiate investigations and prosecutions.<sup>82</sup> This indicates that progress has been made in **Albania** and **Ukraine** since the first monitoring round.

130. In addition, some Parties indicate that reports received from the public or relevant professions may serve as grounds to open an investigation. This is explored further in the next section.

131. In **Andorra** and **Italy**, the general rule for sexual offences requires a complaint to be lodged by the victim but this general rule is subject to an exception in cases of child sexual exploitation and sexual abuse.

---

<sup>78</sup> Lanzarote Committee Opinion on [Child sexually suggestive or explicit images and/or videos generated, shared and received by children](#), adopted on 6 June 2019.

<sup>79</sup> Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Romania, Serbia, Spain, and Türkiye.

<sup>80</sup> Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Malta, Republic of Moldova, Türkiye, and Ukraine.

<sup>81</sup> Austria, Bulgaria, Luxembourg, Montenegro, Serbia.

<sup>82</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Ukraine, and United Kingdom.

132. Where Parties have such exceptions, the Lanzarote Committee recalls that relevant personnel must receive appropriate training to ensure that they are aware of this exception and do not fail to initiate an investigation or prosecution in the absence of a complaint.

133. In the following Parties some sexual offences against a child cannot be investigated or prosecuted in the absence of a complaint by the victim:<sup>83</sup>

- In **Hungary**, the initiation of investigations or prosecutions of most sexual offences against a child are not subject to a complaint with the exception of sexual touching which does require the victim to lodge a complaint for the investigation or prosecution to begin.
- In **Portugal**, the general rule is that a complaint is not required to initiate investigations or prosecutions of sexual offences against a child. There is however a specific offence relating to sexual activities between an adult and a child aged 14-16 years old (bearing in mind that the legal age for sexual activities is 16 but it has been interpreted by jurisprudence as 14). Investigation or prosecution of this specific offence requires a complaint to be lodged by the victim unless it results in the suicide or death of the victim. In the first monitoring round the Lanzarote Committee addressed a specific recommendation (R56) to Portugal to remove this exception. No progress has been made in respect of this recommendation.
- In **San Marino**, investigations and prosecutions of sexual offences against children generally require a complaint by the victim the only exceptions being a) where these were committed by an “*ascendant, guardian or adopter or person with care or custody of the victim*”, and b) offences related to child sexual abuse material.
- In **Türkiye**, all sexual offences against a child are subject to *ex officio* investigation with the exception of sexual molestation by another child (minor) in which case the investigation can only be initiated following a complaint by the victim or their parent or guardian.

#### Promising practices

Several Parties have explicit wording indicating that investigation and prosecution is not dependent on submission of a complaint by the victim or their representative and that proceedings may continue even in a person withdrew their testimony. This was particularly the case in **Austria, Cyprus and Ireland**.

**Denmark, Latvia**, and the **Slovak Republic** made explicit reference to the fact that authorities are required to conduct pro-active investigations.

#### Information submitted by civil society organisations and human rights institutions

The foundation **Stichting Misbruikt!** informed the Lanzarote Committee that in the **Netherlands** cases of an “extraordinary nature”, such as those involving sexual abuse with ritual aspects, recovered memories, or a child under the age of three or following divorce of the parents, are subject to a special procedure. Where such cases are reported to the police, they are referred to a “multidisciplinary group of experts who can be called in by the public prosecutor to assess the veracity of certain operational sexual offense cases at a relatively early stage.”

<sup>83</sup> No information was available in respect of North Macedonia.

134. The replies submitted by several Parties indicated that when filing a complaint about sexual exploitation or sexual abuse, children aged 14 and over and adults are warned of potential criminal liability for false denunciation.<sup>84</sup> The Lanzarote Committee is concerned that practices such as this may have a chilling effect and intimidate victims when lodging a complaint.

#### Continuation of investigations or proceedings following withdrawal of a complaint

135. 45/48 Parties allow for investigations and prosecutions to continue even if a victim withdraws their complaint. At the same time, these Parties make provision for investigations and criminal proceedings to cease at the discretion of the prosecution authorities if, in their assessment, it is no longer in the public interest to proceed, for example due to lack of sufficient evidence to establish the facts. In such cases, a decision may be taken of “no further action” or “non-lieu”.<sup>85</sup> Most Parties did not indicate whether the best interests of the child are taken into account in the decision to continue or cease investigations or proceedings.

#### Promising practices

In **Malta**, the criminal code expressly states that where the victim withdraws their complaint the court may direct that proceedings be continued, giving particular consideration to the best interests of the child, any other person under the age of 16 involved, and any other relevant third party.

**Poland** indicated that victims and witnesses have the right to refuse to testify against a family member but that this refusal did not release the authorities from their obligations to investigate and potentially prosecute offences.

**Ukraine** also indicated that specific provisions were in place to avoid the termination of the proceedings in the absence of a statement by the victim or their parent or guardian.

In the **United Kingdom**, the Crown Prosecution Service provides clear guidance on how to react if a victim withdraws of support for the prosecution or indicates that they do not want to give evidence in court.<sup>86</sup> This includes ensuring that victims understand all of the special measures and protections available to them such as providing evidence via video-link and reporting restrictions to protect their identity. If the victim still decides to withdraw their support for the prosecution and does not want to give evidence, a specialist prosecutor will consider whether it is possible to proceed without the victim’s testimony.

136. In **Denmark** and the **United Kingdom**, the court may be able to summon a victim as a witness, even if they have withdrawn their complaint. In the **United Kingdom** extensive safeguards are in place to ensure that the prosecution take a trauma-informed approach and seek to rely on video-recorded evidence instead of compelling a child to appear to give evidence in court. In **Germany**, it is not

---

<sup>84</sup> Georgia and Netherlands.

<sup>85</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom.

<sup>86</sup> See [Child Sexual Abuse: Guidelines on Prosecuting Cases of Child Sexual Abuse | The Crown Prosecution Service](#).

possible for a victim to revoke a criminal complaint: this rule is in place to protect victims and witnesses against intimidation.

137. In **Serbia**, the legal age for sexual activities is 14 and it is a specific offence for an adult to cohabit with a minor (defined as a child aged 14-16). If an adult cohabiting with a child aged 14-16 marries them then the prosecution for the offence of cohabitation shall not be brought or shall cease. **Serbia** clarified that the decision not to prosecute or to cease the proceedings would require the permission of social services and the court.<sup>87</sup>

## Recommendations

### Recommendation 25

The Lanzarote Committee requires **Hungary, North Macedonia, San Marino and Türkiye**, to ensure, in accordance with Article 32, that all forms of sexual exploitation and sexual abuse, as defined in the Lanzarote Convention, may be investigated and / or prosecuted in the absence of a complaint from the victim.

### Recommendation 26

The Lanzarote Committee requests **Portugal** to take the necessary legislative or other measures to simplify the provisions and clarify that all offences of child sexual exploitation and sexual abuse can be investigated and prosecuted in the absence of a complaint by the victim.

### Recommendation 27

The Lanzarote Committee requires **North Macedonia**, the **Russian Federation** and **Serbia**, to ensure in accordance with Article 32, that the proceedings may continue even if the victim withdraws their statement.

### Recommendation 28

The Lanzarote Committee invites **Parties**, in particular **Andorra**, to ensure that front desk officers receive appropriate training to ensure that they register cases of sexual abuse of children even in the absence of a complaint by the victim.

### Recommendation 29

The Lanzarote Committee invites **Parties**, in particular **Denmark**, to ensure safeguards are in place to protect victims and avoid re-traumatisation where a victim is summoned as a witness even after having withdrawn a complaint.

### Recommendation 30

The Lanzarote Committee invites **all Parties** to ensure that the best interests of the child are taken into consideration when deciding whether to continue or cease proceedings for sexual offences against a child following the withdrawal of a complaint by the victim.

### Recommendation 31

The Lanzarote Committee invites **Serbia** to ensure that children concerned by potential offences of “cohabiting with a minor” are systematically screened for potential offences related to sexual abuse or sexual exploitation and that the best interests of the child are taken into account when taking a decision not to prosecute or cease proceedings of this specific offence.

---

<sup>87</sup> No information was available in respect of **North Macedonia**.

## 4.2 Initiating investigations and prosecutions: Reporting in good faith

### Article of the Convention

#### Article 12 – Reporting suspicion of sexual exploitation or sexual abuse

1. Each Party shall take the necessary legislative or other measures to ensure that the confidentiality rules imposed by internal law on certain professionals called upon to work in contact with children do not constitute an obstacle to the possibility, for those professionals, of their reporting to the services responsible for child protection any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse.

2. Each Party shall take the necessary legislative or other measures to encourage any person who knows about or suspects, in good faith, sexual exploitation or sexual abuse of children to report these facts to the competent services.

138. One of the factors that may discourage a person from reporting sexual offences against children is the risk that they may face judicial or administrative proceedings for defamation, libel or similar offences. If the person reporting is a professional working in contact with children, they may also risk breaching confidentiality rules. Article 12 requires Parties to mitigate such risks by granting professionals working in contact with children the possibility of reporting suspicion of sexual offences against children without risk of breaching confidentiality or professional secrecy rules. Additionally, Article 12, paragraph 2, requires Parties to encourage any person who has knowledge or suspicion of sexual exploitation or abuse of a child to report to the competent services.

139. Professionals in all sectors should be encouraged to report, in good faith, if they are aware of or suspect sexual abuse of a child, in accordance with Article 12. In the context of out-of-home care, the Lanzarote Committee has called on Parties to “ensure that professionals working in the public, private or voluntary sectors either committing or failing to report offences occurring in out-of-home care settings are held liable.”<sup>88</sup>

140. This section focuses on how Parties ensure that professionals working in contact with children can report suspicion of sexual offences against children without risk of breaching confidentiality rules, as well as how they encourage “any person” to report suspicion of sexual offences against children. Information was lacking in relation to **North Macedonia**.

### Case law of the European Court of Human Rights

The case *Juppala v. Finland* concerns the applicant’s conviction for defamation against her son-in-law, after the applicant had voiced her suspicion to a doctor that her three-year-old grandson might have been hit by his father. The Court held unanimously that there had been a violation of the applicant’s right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR). The Court held that the possibility to voice suspicion of child abuse, formed in good faith, should be available to anyone “without the potential ‘chilling effect’ of a criminal conviction” or an obligation to pay compensation for harm suffered or costs incurred. The Court also ruled that it is only in “exceptional cases that restriction of this right to freedom of expression in this sphere can be accepted as necessary in a democratic society”. In this case, the Court failed to find any “pressing social need” to restrict the applicant’s right to freedom of expression.<sup>89</sup>

These principles established in *Juppala v. Finland* was affirmed in the subsequent case of *M.P. v Finland*, which concerned child sexual abuse. The applicant was convicted for defamation against the child’s father for

<sup>88</sup> Lanzarote Committee Declaration on [Protecting children in out-of-home care from sexual exploitation and sexual abuse](#), adopted on 15-18 October 2019.

<sup>89</sup> *Juppala v. Finland*, no. 18620/03, judgment of 2 March 2009, §§43 and 45.

expressing concerns to a social worker that her daughter might have been sexually abused by the child's father. Citing *Juppala v. Finland*, the Court found a violation of ECHR Article 10. The Court refused to accept that there was any "pressing social need" to interfere with the applicant's freedom of expression through imposing a criminal sanction.<sup>90</sup>

## Findings from the first monitoring round

141. In the first monitoring round, most of the Parties required professionals working with children, such as medical professionals and psychologists, to comply with confidentiality rules and professional secrecy rules. However, only 8/26 Parties had explicit waivers from such rules to allow for reporting in good faith (**Austria, Belgium, Croatia, Luxembourg, Malta, the Netherlands, San Marino, and Türkiye**). To improve the effective implementation of the Lanzarote Convention, the Committee urged Parties to ensure that confidentiality rules on certain professionals in contact with children do not constitute an obstacle to reporting where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse (R16).

142. In relation to Article 12 paragraph 2, only 4/26 Parties had specific provisions to encourage "any person" to report suspicions of child sexual abuse (**Albania, Croatia, Iceland and Portugal**). Some Parties (**Austria, Bosnia and Herzegovina, Croatia, and Spain**) have established exceptions to reporting obligations, including where general reporting obligations did not apply to the perpetrator's closest relatives or family members, or if reporting would impair an official activity which requires a personal bond of trust to be effective. The Committee underlined that article 12 paragraph 2 calls for any person, with no exceptions, to report sexual offences against children. The Committee considered that Parties should introduce the necessary measures, such as awareness raising campaigns, to encourage any person who knows about or suspects in good faith that a child is a victim of sexual exploitation or sexual abuse to report to competent services (R18).

## Findings from the current monitoring round

### Who is required to report?

143. While the Lanzarote Convention stops short of requiring Parties to impose a general reporting obligation,<sup>91</sup> 35/48 Parties have imposed certain obligations to report suspected sexual offences against children, either on specific professionals or everyone.<sup>92</sup>

---

<sup>90</sup> *M.P. v Finland*, no.36487/12, judgment of 15 March 2017, §56.

<sup>91</sup> *Explanatory Report to the Lanzarote Convention*, para. 89.

<sup>92</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Spain, Switzerland, Tunisia, and Türkiye.

| Legal obligations applicable to everyone                                              |                             |
|---------------------------------------------------------------------------------------|-----------------------------|
| Legal obligation for everyone to report suspicion of sexual offences against children | 35/48 Parties <sup>93</sup> |
| Extent of reporting obligation limited to crimes prosecuted <i>ex officio</i>         | 7/48 Parties <sup>94</sup>  |
| Criminalisation for anyone who fails to report a criminal offence                     | 5/48 Parties <sup>95</sup>  |
| Exceptions to criminal liability for failing to report a family member                | 4/48 Parties <sup>96</sup>  |

| Legal obligations applicable to professionals                                                                                        |                             |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Legal obligation for certain professionals to report suspicion of sexual offences against children                                   | 26/48 Parties <sup>97</sup> |
| Legislation indicates specifically which professionals have reporting obligations through a list of authorities and/or professionals | 17/48 Parties <sup>98</sup> |
| Certain professionals may face criminal or administrative sanctions if they fail to report sexual offences against children          | 7/48 Parties <sup>99</sup>  |

144. As seen from the table above, Parties have varying practices regarding reporting obligations required of professionals. Out of the 26/48 Parties which impose a legal obligation for certain professionals to report suspicion of sexual offences against children, only 17 Parties provide in their legislation specifically which professionals have reporting obligations, through a list of authorities and/or professionals. Such Parties include: **Finland**, which provides that professionals and persons in position of trust in sectors such as social, healthcare and education services have an obligation to report; **Bosnia and Herzegovina**, where the reporting duty covers adults responsible for providing care, assistance and protection to children; and **Italy**, where all persons who exercise public legislative, judicial or administrative functions or are in charge of a public service are under a general reporting duty.

145. Out of these 17 Parties, 14 Parties have included certain reporting obligations for public institutions and civil servants.<sup>100</sup> Such reporting obligations also differ between Parties: for example, in **France**, a general reporting duty covers all public official and civil servants (to the exclusion of private persons), in **Montenegro** the obligation only applies to persons acting in an official capacity and responsible persons in government and state authorities, while **Finland** specifies the government agencies to which the obligation is applicable, such as enforcement authorities, the Social Insurance Institution and the Criminal Sanctions Agency.

<sup>93</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Greece, Hungary, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Spain, Switzerland, Tunisia, and Türkiye.

<sup>94</sup> Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, and Croatia.

<sup>95</sup> Cyprus, Luxembourg, Montenegro, Romania, and Türkiye.

<sup>96</sup> Estonia, Georgia, Lithuania, and Poland.

<sup>97</sup> Albania, Andorra, Armenia, Austria, Bosnia and Herzegovina, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Iceland, Ireland Italy, Latvia, Luxembourg, Montenegro, Netherlands, Poland, Portugal, Slovak Republic, Spain, Switzerland, Tunisia and Türkiye.

<sup>98</sup> Albania, Andorra, Armenia, Austria, Bosnia and Herzegovina, Estonia, Finland, France, Greece, Ireland, Latvia, Luxembourg, Montenegro, Switzerland, Tunisia, and Türkiye.

<sup>99</sup> Austria (medical professionals, public institutions), Croatia (medical personnel), Georgia (professionals working in childcare referral entities), Italy (any public official or public service employee), Latvia, Malta, and Switzerland.

<sup>100</sup> Albania, Bosnia and Herzegovina, Andorra, Armenia, Estonia, Finland, France, Italy, Latvia, Luxembourg, Montenegro, Portugal, Slovak Republic, and Türkiye.

## Liability for professionals failing to report child sexual exploitation or sexual abuse in out-of-home care settings

146. **Croatia, Finland, Iceland, Monaco, and Slovenia** indicated that confidentiality rules are not an excuse where a professional fails to report child sexual abuse. In Ireland, if professionals fail to report child sexual abuse to social services, they may face administrative sanctions related to licencing and fitness to practice. In **Monaco**, any exceptions to allow family members not to report a crime do not apply where the victim is a child under 16. In **Montenegro**, professionals may be liable to up to 5 years imprisonment for failing to report child sexual abuse.

147. In **Germany**, there is no general reporting duty in place. However, failure to report a preventable offence could give rise to liability for failing to protect a child, and this failure can be committed by negligence. Parents or guardians may be subject to criminal liability as an accessory to an offence if they fail to report suspicion of child sexual exploitation or sexual abuse. In **Switzerland** failure to report a preventable crime may give rise to liability for complicity.

148. In the **United Kingdom**, following recommendations made by the Independent Inquiry into Child Sexual Abuse, the government announced in 2025 that it will introduce mandatory reporting of child sexual abuse in **England**, the relevant amendment was still in progress at the time of adoption of this report. Under the current regime, professionals may be liable for the offence of concealment of an arrestable offence if they fail to report child sexual abuse.

### Promising practices

**Finland** emphasised the importance of training persons who are obliged to report on how to comply with this duty.

**Lithuania** has set out clear procedures that must be followed by institutions that receive reports from professionals including safeguards to protect the identity of the person that filed the report particularly during the pre-trial investigation period.

**Luxembourg** has developed an awareness raising leaflet for professionals explaining how the duty applies and the relevant reporting procedure.

### Recommendation

#### Recommendation 32

The Lanzarote Committee requests **all Parties**, to take the necessary legislative or other measures in line with the Declaration protecting children in out-of-home care from sexual exploitation and sexual abuse, to ensure that professionals working in the public, private or voluntary sectors are held liable if they commit sexual offences against a child or fail to report to the competent authorities any such offences that occur in out-of-home care settings.

### Additional guidance for State Parties

**States can strengthen the protection of children against sexual exploitation and sexual abuse in out-of-home care settings by:**

- Raising awareness about child sexual exploitation and sexual abuse in general among the professionals and volunteers intervening in these settings;

- Providing training to professionals and volunteers on how to keep children safe, how to recognise and report suspected cases of sexual exploitation and sexual abuse against a child; and
- Developing guidance and referral protocols to empower professionals and volunteers to report such cases to the competent authorities.

#### Protections for professionals reporting in good faith

149. A number of Parties grant explicit waivers from confidentiality and professional secrecy rules for professionals reporting suspicion of sexual offences against children in good faith. This has increased from 8/26 in the first monitoring round to 18/48 in the current monitoring round.<sup>101</sup> This shows that progress has been made in **Finland, France, Iceland** and **Romania** where this was not the case in the first monitoring round.

#### Promising practices

In **Austria** and **Greece**, professionals reporting sexual offences against a child in good faith are provided with special protection, including protecting them against professional or employment sanctions.

150. In **Austria** professionals are not obliged to inform the parent or care giver before reporting suspicion of sexual abuse of a child if the suspected perpetrator is a relative and it would be contrary to the child's best interests and the child and youth welfare providers have been informed. In **Germany**, there is a general obligation for certain professionals called upon to work in contact with children to inform the child/parent/caregiver before reporting and/or encourage them to report. It is possible to withhold such notification if the reporting professional considers that such notification would put the child, parent, caregiver or himself/herself at risk. In **Andorra**, a similar measure is in place, where professionals must inform parents before reporting unless there is a risk for the child or it is against the child's best interests. In **Latvia** professionals are required to report suspicions of sexual abuse and may be held liable for failing to report.

151. In **Liechtenstein** and **Luxembourg**, reporting duties appear to be subject to professional confidentiality / secrecy exemptions. In **Ireland**, there is specific protection against civil liability for persons reporting child abuse to the appropriate authorities.

<sup>101</sup> Austria, Belgium, Croatia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Romania, San Marino, Switzerland, Tunisia, and Türkiye.

## Recommendations

### Recommendation 33

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>102</sup> to ensure in accordance with Article 12 paragraph 1, that the confidentiality rules imposed by internal law on certain professionals working in contact with children do not hinder the possibility to report to competent services any situation where they have reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse.

### Recommendation 34

The Lanzarote Committee invites **all Parties** to ensure that professionals do not have to inform the child/parents/caregivers before making a report if the reporting professional considers that such notification would put the child/parents/caregivers or themselves at risk.

### Recommendation 35

The Lanzarote Committee invites **all Parties** to offer special protection to professionals reporting sexual offences against children in good faith, including protecting them against professional or employment sanctions.

## Additional guidance for State Parties

**Parties can further protect professionals against unjustified sanctions or reprisals for reporting by:**

- protecting them against negative consequences such as civil or criminal liability or professional sanctions;
- issuing guidance to professional bodies and councils to recall the legal framework applicable and clarify that the use of professional sanctions would be inappropriate where a professional has reported suspicion of sexual offences against children in good faith;
- extending witness protection measures where appropriate; and
- safeguarding the identity of the reporting professional against unjustified disclosure.

### 4.3 Protections for any person reporting suspicion of sexual abuse

152. A number of Parties have put in place various measures to protect all categories of persons from being liable in criminal, civil or administrative proceedings. Notably, in 21/48 Parties persons who report suspicion of sexual offences against children in good faith cannot be held liable under legal provisions on defamation, libel or similar offences which require intentional commission in the knowledge that the person denounced has not abused or exploited a child.<sup>103</sup> This means that persons cannot be liable for reporting suspicion of sexual offences against children in good faith.

<sup>102</sup> Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Czechia, Denmark, Estonia, Germany, Greece, Liechtenstein, Lithuania, Luxembourg, Republic of Moldova, Monaco, Montenegro, North Macedonia, Norway, Poland, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Ukraine, and United Kingdom.

<sup>103</sup> Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Estonia, Finland, Georgia, Liechtenstein, Lithuania, Monaco, Netherlands, Poland, Romania, Serbia, Slovak Republic, Slovenia, Switzerland, Türkiye, and Ukraine.

153. In addition, in Parties where reporting is regulated as a right or a legal obligation, the defences of execution of a right or an order of the law may be used as a legal defence to protect the person reporting from being held liable for defamation, libel, or similar offences.

154. Persons who report suspicion of child sexual abuse cannot be held liable in **Italy** if the report is supported by a legitimate suspicion. In **Armenia**, laws on defamation or libel are applied to statements made in public and not to reports made to the police. In **Hungary**, criminal proceedings for the offence of false accusation may be initiated before the conclusion of the main proceedings only if a criminal complaint is filed by the authority conducting the main proceedings. In **Spain**, the crime of false reporting can be prosecuted only after a final judgement. For the victim to be held liable for false allegations, the victim must present an accusation that is independent of the position adopted by the Public Prosecutor's Office. According to the Spanish Supreme Court judgment of SSC 262/2016, the mere filing of a criminal complaint does not constitute an act of defamation, and much less when it is not well-supported and not made in good faith.

155. The legal defences of legitimate public or private interest and honest opinion are in place in certain Parties to protect the reporting person from liability for defamation, libel or similar offences.

156. The **Netherlands** is in the process of introducing reporting obligations for professionals working in the education sector which focuses on offences committed by an employee or a student of the institution. For cases outside the childcare or school environment professionals are generally required to report and may face disciplinary action, a civil claim or criminal liability for failing to report without a valid reason. In addition, professionals are required to report any instances of violence by employees of care providers to the Health and Youth Care inspectorate. Failure to comply may result in an administrative fine and may also constitute criminal offence, which can result in a fine or detention.

157. In **Germany**, reporting suspected child sexual abuse does not entail criminal liability if the person reporting was safeguarding legitimate interests. In the **United Kingdom** reporting suspected child sexual abuse can be justified under the honest opinion defence (in England and Wales) or under public interest (in Scotland). In **Croatia** and **Liechtenstein**, the reporting may also be justified by the defences of public interest or legitimate private interest.

158. Limitations may exist in the framework of reporting obligations. While **Slovenia** indicated that a general reporting duty was in place, specified categories of persons such as blood relatives and spouse of the accused person are exempt from this reporting duty.

#### Promising practices

Certain Parties have in place measures to encourage reporting knowledge or suspicion of sexual offences against children to competent authorities and to protect persons reporting from bearing liabilities which may have deterring effects.

In the **Republic of Moldova**, legislation provides a clear reference to categories of children who are victims or potential victims, and the registration and examination of cases reported by anyone regarding suspected abuse and exploitation. This classification ensures that reporting persons are explicitly excluded from bearing the responsibility of bringing sufficient evidence of sexual offences against children, as the role of collecting evidence in such cases is further carried out by the police and the prosecutor.

In **Spain**, witness protection may be extended to persons reporting knowledge or suspicion of sexual offences against children.

In 7/48 Parties (**Croatia, Hungary, San Marino, Slovak Republic, Spain, Switzerland** and **Tunisia**), there is the possibility to remain anonymous while reporting, with the exception of reports by public authorities.

In **Ireland**, the **Republic of Moldova** and **Spain**, there are also special protective measures against penalisation of professionals by their employers.

#### Information submitted by civil society organisations and human rights institutions

Certain Parties have introduced measures to protect persons from liability for reporting sexual offences against a child in good faith. However, responses from civil society in **Austria (FEM.A)** and the **Netherlands (Stichting Misbruikt!)** have indicated that in their view people may still hesitate to report concerns in specific cases that may be subject to additional scrutiny.

#### Recommendations

##### Recommendation 36

The Lanzarote Committee invites **all Parties** to strengthen the protection of persons who report child sexual exploitation or sexual abuse in good faith and to keep the threshold for reporting suspicions as low as possible.

## 4.4 Precautionary measures in respect of professionals and volunteers

#### Article of the Convention

##### Article 30 – Principles

1. Each Party shall take the necessary legislative or other measures to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child.
2. Each Party shall adopt a protective approach towards victims, ensuring that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate.
3. Each Party shall ensure that the investigations and criminal proceedings are treated as priority and carried out without any unjustified delay.
4. Each Party shall ensure that the measures applicable under the current chapter are not prejudicial to the rights of the defence and the requirements of a fair and impartial trial, in conformity with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

159. The Lanzarote Convention requires States to ensure that investigations are carried out in the best interests of the child and to take a protective approach towards victims by ensuring that investigations do not aggravate the trauma experienced by the child. At the same time, Parties must strike a balance to ensure respect of the rights of the defence and the requirements of a fair and impartial trial.

160. Article 31 paragraph 1.g requires Parties to ensure that contact between victims and perpetrators is avoided within court and law enforcement agency premises. This article is considered in more detail in chapter 5.3. While not an explicit requirement of the Lanzarote Convention, consideration should also be given to avoid contact between the victim and the perpetrator in other environments. This is of particular relevance if the suspected perpetrator carries out professional or voluntary activities in a context that would put them in a position of trust, authority or influence over children, for example if they work in a school, sports club or out-of-home care setting.

161. In the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse, the Lanzarote Committee called on Parties to put procedures in place to “allow for the possibility of removing the alleged perpetrator from the out of home care setting from the onset of the investigation”.<sup>104</sup>

162. This section seeks to examine any steps available to suspend or remove a suspected perpetrator as a precaution during the investigation separate to any outcome following conviction. Sanctions and measures following conviction are a separate matter. Article 27 paragraph 3.b requires Parties to make provision “to deny the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed.

#### Findings from the current monitoring round

163. There is a variety of practice among Parties regarding the precautionary suspension or removal of professionals or volunteers under investigation for child sexual abuse.<sup>105</sup> Several Parties indicated that it is possible for some action to be taken under employment law to temporarily suspend or remove the suspected perpetrator from their professional or voluntary functions pending the outcome of the criminal investigation or proceedings.<sup>106</sup> In **Ireland**, this would be justified if it was not possible for the employer to introduce adequate supervision to prevent risk of possible future offences. **Iceland** indicated that a teacher, coach or other professional “in a position of trust” is placed on leave for the duration of the criminal investigation. In **Luxembourg**, this applies only to persons employed in public functions (fonctionnaires). In **Norway** and **Slovenia**, professionals may be suspended if they are no longer considered fit for practice. In **Romania**, an employment contract can be suspended if a person is arrested or summoned to court for offences that are incompatible with their office.

164. In some Parties, the criminal procedural law provides for suspension from duty or prohibition of carrying out certain activities pending criminal conviction in order to safeguard children.<sup>107</sup> **Bosnia and Herzegovina** indicated that special measures may be imposed when the sexual offence was

---

<sup>104</sup> Lanzarote Committee Declaration on [Protecting children in out-of-home care from sexual exploitation and sexual abuse](#), adopted on 15-18 October 2019.

<sup>105</sup> Insufficient information to allow for analysis was received from Luxembourg, and Malta, and no information was received in respect of Denmark, Iceland, North Macedonia, Russian Federation, and Serbia.

<sup>106</sup> Andorra, Armenia, Austria, Azerbaijan, Germany, Hungary, Ireland, Italy, Latvia, Liechtenstein, Monaco, Norway, Romania, Slovak Republic, Spain, Sweden, Switzerland, Tunisia, Türkiye, and United Kingdom.

<sup>107</sup> Austria, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Finland, Georgia, Latvia, Netherlands, Poland, San Marino, Slovenia, and Ukraine.

committed in the course of duty. **Croatia** and **Montenegro** indicated that the suspected perpetrator is suspended from duty de facto due to pre-trial detention.

#### Promising practices

In **Ireland**, social services can insist on the imposition of preventive measures such as supervision of a worker who is suspected of child sexual exploitation or sexual abuse, for the duration of the investigation. An employer may decide to suspend the employee if it is not possible to implement adequate supervision.

In **Austria**, the prosecution authorities are under a duty to notify the regulatory bodies of certain professionals suspected of committing offences including sexual abuse of a child in order to impose professional suspension to avoid the suspected perpetrator from coming into contact with the victim. This includes doctors, music therapists and other healthcare, nursing and dentistry professionals, clergy, authorised teachers and trainers, medical masseurs and massage therapists, psychologists, psychotherapists, and paramedics.

165. 6/48 Parties indicated that mere suspicion of an offence would be insufficient grounds to suspend a professional but that a prohibition on professional activities would apply upon conviction.<sup>108</sup> **Switzerland** indicated that the termination of an employment contract is only possible after criminal conviction. In **Belgium**, the judge may transmit information about the criminal conviction to the employer. In **France**, following a reform in 2024, it is possible for an employer to suspend a professional that is under criminal investigation or subject to a provisional sentence. Measures to monitor or supervise convicted persons are considered in more detail in chapter 7.1.

#### Recommendations

##### Recommendation 37

The Lanzarote Committee requests **all Parties** to allow for the possibility of removing the alleged perpetrator from the out of home care setting from the onset of the investigation.

##### Recommendation 38

The Lanzarote Committee invites **all Parties** to consider introducing precautionary measures to suspend suspected perpetrators from professional or voluntary activities involving contact with children during criminal investigations and proceedings in relation to offences established in accordance with the Lanzarote Convention.

## 4.5 Corporate liability

#### Article of the Convention

##### Article 26 – Corporate liability

1. Each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable for an offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:
  - a. power of representation of the legal person;

<sup>108</sup> Albania, Czechia, Finland, Georgia, Italy, and Lithuania.

- b. an authority to take decisions on behalf of the legal person;
- c. an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Party shall take the necessary legislative or other measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of an offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.
3. Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.
4. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

166. Article 26 sets out the circumstances in which legal persons should be held liable for sexual abuse of a child, paragraph 3 clarifies that liability for legal persons may be criminal, civil or administrative.

#### Findings from the first monitoring round

167. In the first monitoring round, the Lanzarote Committee found that all Parties except **Ukraine** had implemented legislation to ensure that legal persons could be held liable for acts of sexual exploitation and sexual abuse of a child in accordance with Article 26. It also indicated that **Malta** had not provided information in relation to this issue. The Lanzarote Committee also noted that there was a lack of evidence of legal persons having been held liable in practice.

168. The Lanzarote Committee therefore:

- urged **Ukraine** to implement legislation on the basis of which legal persons can be held liable for acts of child sexual exploitation and abuse (R62);
- invited **Malta** to examine its national situation in the light of the foregoing considerations, and urged it where appropriate to bring it into line with the requirements of the Convention (R64).

#### Findings from the current monitoring round

169. In 45/48 Parties, legal persons can be held liable for sexual offences in accordance with Article 26 Lanzarote Convention.<sup>109</sup> Some Parties indicated that applicable sanctions include administrative fines,<sup>110</sup> revocation of licences and/or closure of the establishment.<sup>111</sup>

---

<sup>109</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom. Information was missing in respect of Andorra, North Macedonia, and Russian Federation.

<sup>110</sup> Croatia, Estonia, Georgia, Germany, Italy, Liechtenstein, Lithuania, Portugal, Slovak Republic, Sweden, and Ukraine.

<sup>111</sup> Bulgaria, Italy, Liechtenstein, Portugal, Slovak Republic, Sweden, Switzerland, Tunisia, and Ukraine.

170. **Austria** and **Germany** indicated that legal persons can be held liable for offences committed by omission or negligence. In 2023, **Croatia** significantly increased the financial sanctions applicable to legal persons including for offences related to child sexual exploitation and sexual abuse, in addition to a fine, liquidation of the legal person is also prescribed. **Bulgaria** and **Sweden** indicated that sanctions against legal persons for child sexual abuse offences include revocation of the licence. **Liechtenstein** indicated that failure to report sexual abuse is generally an administrative offence in respect of legal persons, unless the failure to report can amount to abetting in which case the legal entity can also be held liable under criminal law.

171. In **Portugal**, penalties for legal persons vary from fines, to winding up including a ban on carrying out certain activities, contracts or agreements and deprivation of the right to receive subsidies, grants or incentives. In addition, the conviction may be published, and the judge may impose on the individual responsible a ban on exercising certain functions in contact with children. In **Spain**, there is a presumption of criminal responsibility against legal persons involved in offences related to child sexual abuse material or child exploitation through prostitution.

172. **Tunisia** indicated that the judge may take administrative sanctions against the corporation such as closure of the institution.

173. **Türkiye** indicated that legal persons are subject to administrative liability for certain offences but that they cannot be held criminally liable for failing to protect children under their care from sexual exploitation or sexual abuse. This exemption from criminal liability appears to apply to legal entities established under private law only.

#### Promising practices

In **Austria**, if a public school is held liable, this may result in state liability for failing to protect children against sexual exploitation or sexual abuse.

**Finland** has explicitly included child sexual abuse material and solicitation offences within the scope of offences for which a legal person may be held liable.

**Germany** ensures that the prosecution of the legal person is possible even if the physical perpetrator cannot be identified.

**Ireland** and the **United Kingdom** subject legal persons to similar reporting duties and administrative sanctions by regulatory bodies as natural persons.

In **Italy** the disqualification on legal persons from carrying out specific activities can be definitive.

In **Switzerland** legal persons can be held liable if offences were made possible due to lack of supervision or due diligence in recruitment, training, and supervision of employees. The legal person can be liable to pay damages under civil law, their licence may be revoked, and the establishment may be closed.

174. In **Georgia**, the liability of legal persons is limited to those involved in the child referral system.

## Recommendation

### Recommendation 39

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>112</sup> to take the necessary legislative or other measures in accordance with Article 26, to ensure that legal persons can be held liable for child sexual exploitation and sexual abuse.

---

<sup>112</sup> Andorra, North Macedonia, and Russian Federation.

## 5 Protecting child victims during investigations and criminal court proceedings

### 5.1 Support for child victims in the investigation phase

#### Article of the Convention

##### Article 30 paragraph 2 - Principles

Each Party shall adopt a protective approach towards victims, ensuring that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate.

175. Article 30, paragraph 2, aims to ensure the availability of procedural rules and safeguards during the collection of the child's testimony, guaranteeing the best interests and rights of the child to avoid exacerbating the trauma that child victims have already suffered. These special conditions are in line with the principles of Child-Friendly Justice and have been addressed by the Committee during the 1st monitoring round, as well as, in the Special Report on the Protection of children affected by the refugee crisis from sexual exploitation and sexual abuse.<sup>113</sup> In 2023, the Steering Committee for the Rights of the Child (CDENF) adopted the Mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states: a European Journey<sup>114</sup> (hereafter Barnahus Mapping Study). The information submitted by Parties to the Convention at the time was assessed to complement the replies provided by Parties to the present monitoring round.

#### Findings from the first monitoring round

176. In its first implementation report, the Committee stressed that the Convention requires Parties to adopt a protective approach starting from the time of the lodging of the complaint, whilst leaving at their discretion the means to adopt and implement such measures. At the time, the Committee assessed existing practices in the countries that were Parties to the Convention and highlighted some measures, which formed the basis for its recommendations. Additionally, it identified the Barnahus, which at the time had been set up in Denmark and Iceland, as a promising practice to implement such protective measures. Since then, the Barnahus model has expanded across Council of Europe member States and has otherwise served to inform the adoption of multidisciplinary and integrated child-friendly services for children, avoiding the secondary victimisation of child victims and ensuring the implementation of child-friendly justice principles.

#### Findings from the current monitoring round

177. There has been very significant progress in the 26 Parties that had been monitored at the time of the first monitoring round. The current monitoring round also shows the harmonisation of practices and standards across 46 out of the current 48 State Parties to the Lanzarote Convention. All Parties have taken measures to ensure that interviews of child victims are arranged in a child-friendly

<sup>113</sup> Lanzarote Committee [Special Report on the Protection of children affected by the refugee crisis from sexual exploitation and sexual abuse](#), adopted on 3 March 2017.

<sup>114</sup> Council of Europe (2023) Mapping study on [multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states: a European Journey](#)

setting;<sup>115</sup> and there are clear requirements, standards and criteria concerning interviews with children across State Parties. As mentioned in the previous paragraph, at the time of adoption of the 1st Implementation Report, two Barnahus had been established in Denmark and Iceland. The Barnahus Mapping Study showed that by January 2023, 28 Council of Europe member States have Barnahus and/or Barnahus-type services in place, i.e. 61% (See map below<sup>116</sup>). In addition, five are in the process of setting up such services, and 11 Parties have at least some other multidisciplinary and interagency services for child victims in place.

#### Barnahus Study: Key findings

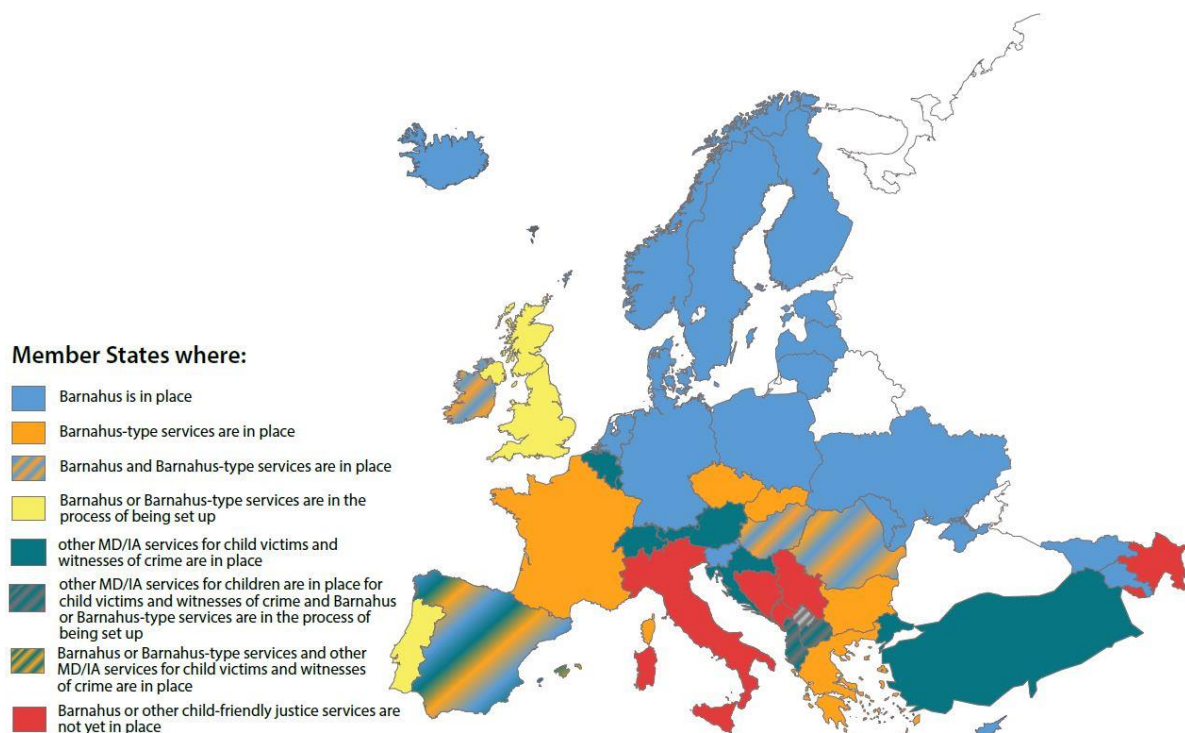
The Barnahus Mapping Study demonstrates that member States where Barnahus or Barnahus-type services are in place are able to implement child-friendly justice standards more reliably and systematically than member States where these services do not exist. The Study confirms this for specific standards concerning the right of child victims of violence and crime to be heard in criminal investigations and proceedings, such as:

- the hearing of a child victim taking place in a child-friendly environment,
- by a specially trained professional,
- using an evidence-based interviewing protocol,
- to ensure a high probative value of the child's statement,
- conducting video-recorded child interviews,
- admitting videorecording as evidence in the related proceedings, and
- ensuring due process standards are upheld during the child interview.

Based on these findings, the Study concludes that the establishment and continued strengthening of Barnahus or Barnahus-type services is a sensible investment for member States to enhance compliance with their investigative duties and procedural obligations towards child victims and witnesses of crime.

<sup>115</sup> The Russian Federation did not reply to the questionnaire of the present monitoring round. In the case of the Russian Federation, the information submitted by the CSOs Equality Now and Stichting Justice Initiative was included.

<sup>116</sup> The Netherlands has indicated subsequently that they consider having in place Barnahus-type services, not the full-fledged Barnahus model. In addition, the multidisciplinary centre (MDCK) referred to in the Mapping study does not exist anymore.



*The map is for illustration only and does not reflect a position of the authors or the Council of Europe on the legal status of any country or territory or the delimitation of any frontiers. Source: Data and analysis by Council of Europe, Children's Rights Division, Barnahus Mapping Study, 2023.*

\*All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo.

### Illustration: Implementation of the *Barnahus* model in England and Wales

Building on the learning from Barnahus and the UK's own '[Lighthouse](#)' pilot, the Government [published guidance](#) in late 2021 for local partnerships seeking to adopt a Child House model approach to support children and their primary care givers following experiences of child sexual abuse and exploitation.

All multi-agency staff are advised to contribute their knowledge, experience and expertise towards a co-ordinated, compassionate and professional response to the needs of the child. Investigating officers and prosecutors carry out enquiries in accordance with [Achieving Best Evidence](#) (ABE) guidance, for example by limiting the number of occasions that the child is asked to provide an account of what happened to them or by reducing the frequency of agency visits to the child. Depending on who is able to develop better rapport with the child, it's possible for a police officer to cede interviewing of child witnesses to an adequately trained social worker, in accordance with the ABE framework.

The [Youth Justice and Criminal Evidence Act 1999](#) and Child House model guidance ask local authorities to consider a [visually recorded interview](#) (VRI) suite and 'live link' rooms with audio-visual recording equipment to enable the child to [testify](#) and respond to [video-recorded cross examination](#), as well as space to accommodate the child, parents/carers, interviewer, [intermediary](#) and interpreter.

Key consideration is given to providing a safe, neutral and child-friendly environment. A central and accessible space where children and their primary care givers are able to access all or the majority of services, they may need can reduce anxiety and prevent re-traumatisation caused by the investigatory process.

178. All Parties have taken measures to ensure that interviews of child victims are arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted or in a separate room, within the police, court or other usual setting, that takes into account the principles of child-friendly procedures.

179. There seems to be a recognition of the need to make available services (i.e. such as Barnahus, Barnahus-type services or other facilities used) to all children throughout the territory. At least 24 Parties have already set up services across the country or are in the process of expansion.<sup>117</sup> In **Norway**, the new main rule is that Children's Houses should be used for facilitated investigative interviews with children under the age of 16.

#### Promising practices

In **Bosnia and Herzegovina**, the High Judicial and Prosecutorial Council adopted minimum standards for equipping and using rooms for hearing child witnesses, and continued to provide support to UNICEF Country Office, with the aim of equipping rooms in judicial institutions for hearing children in contact with the law. As a result of this activity, all prosecutor's offices in the country are equipped with special rooms for hearing children.

In the **Netherlands**, there are different procedures for interviewing children under 12 years of age and children aged 12-18. The location and conditions of the interviews of sex offenders aged between 12 and 18 is also considered.

In **Scotland**, new standards for the further development of the *Bairns' Hoose* initiative were adopted in 2023. A [version of the standards for children and young people](#) has been prepared.

In **Sweden**, the *Inquiry report A childhood free from violence – A national strategy to prevent and combat violence against children* (SOU 2022:70) was handed over to the Government in January 2023. One proposal out of many in the Inquiry report is to make Barnahus available for all children throughout the country. The proposals are being prepared within the Government Offices of Sweden.

180. In 43/48 Parties all staff responsible for interviewing child victims are required to undergo suitable qualifying training.<sup>118</sup> In **Armenia, Slovak Republic, and Tunisia**, even where there is no legal requirement, in practice, children are interviewed by qualified professionals. For example, in the **Slovak Republic**, the Police Force, in cooperation with the Academy of the Police Force, implements specialised training for police officers who interrogate children and other particularly vulnerable victims. In the **Russian Federation**, the law does not provide for mandatory training for investigators, judges, lawyers and psychologists on how to interact with children victims of sexual violence. In addition to basic training requirements, in 15 Parties, there are requirements and/or measures in place for the continuous training of professionals, and in **Norway** the multidisciplinary trained teams, include interpreters, which have been made available as a response to the country becoming more multi-cultural.<sup>119</sup>

<sup>117</sup> Armenia, Bosnia and Herzegovina, Croatia, Denmark, Estonia, France, Georgia, Germany, Iceland, Ireland, Italy, Latvia, Lithuania, Republic of Moldova, Netherlands, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Türkiye, Ukraine, and United Kingdom

<sup>118</sup> Albania, Andorra, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovenia, Spain, Sweden, Switzerland, Türkiye, and United Kingdom.

<sup>119</sup> Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Finland, Republic of Moldova, the Netherlands, Norway, Poland, Portugal, Slovenia, Spain, and Türkiye.

181. In the responses to the current monitoring round, 6 Parties mention specific training on protocols for interviewing children.<sup>120</sup> Information gathered in the context of the Barnahus Mapping Study shows that in 50% of Council of Europe member States that have Barnahus or Barnahus-type services (13 out of 26 Parties), an evidence-based interviewing protocol is used in every case when a child is interviewed in these services. In countries that do not have Barnahus or Barnahus-type services, the use of evidence-based interviewing protocols in child interviews is less regulated. **Belgium** and **Luxembourg** mention the consistent use of the internationally recognised US National Institute of Child Health and Human Development (NICHD) Protocol in every case.

### Promising practices

In **Albania**, Article 25 of the Code of Criminal Justice for Children concerns the Training and Specialisation of Competent Bodies in Criminal Justice Process Involving Children. It clearly provides for the **issues that the training should address**, including child rights and ethical principles, skills related to the technique of cross-examination of children, child psychology and communication with the child in a language convenient to the child; and techniques and special measures for the support and protection of the child victim and witness, among others. The article further specifies that the training topics should be specific depending on the tasks of the professionals of the competent bodies and the position of the child in criminal justice for children. The training is mandatory and continuous.

In **Austria**, children are entitled to be questioned by a person of the same gender during the investigation as well as during the main trial (Art. 66a Para. 2 CCP). The Austrian judicial training providers offer (voluntary) training activities on a regular basis and the participation in training activities is taken into consideration when judges and public prosecutors apply for new positions.

In **Belgium**, professionals interviewing children receive specific training on interviewing, regularly receive ongoing training in this area and should meet the minimum standard of expertise each year.

In **Croatia**, in 2021, in cooperation with the UNICEF Country Office, the Judicial Academy developed a comprehensive curriculum for the training of judges, prosecutors and judicial advisors, as well as non-legal professionals working with children in the judiciary.

In **Ireland**, a training gap analysis was undertaken as part of the Joint EU-Council of Europe project - Support the implementation of the Barnahus project in Ireland. This analysis has been completed and endorsed by the Barnahus Interdepartmental Group and is published and available on Council of Europe's Website.

In **Norway**, all police officers are required to take a 3-year bachelor's degree in Policing. On top of that, those undertaking forensic interviews with child and vulnerable witnesses are subject to intensive training for six months before becoming qualified to conduct interviews. They are subject to face-to-face tuition, on-the-job training and coaching and rigorous examination.

---

<sup>120</sup> Croatia, Ireland, Luxembourg, Monaco, Switzerland, and Türkiye.

182. In 39/48 Parties, the national legal framework requires interviews with child victims to be conducted as soon as possible after the offence.<sup>121</sup> In **Liechtenstein**, there is no legal basis for requiring interviews with child victims to be conducted as soon as possible after the offence, but the principle of acceleration applies. In **San Marino**, although the procedure regarding interrogations involving child victims is not regulated by Law, as a general rule, interrogations should always be conducted as soon as possible after the crime has been reported, according to the rules established by the Code of Criminal Procedure. In the **Russian Federation**, a complaint must be considered within 3 days (Article 144(1) of the Code of Criminal Procedure). This period may be extended to 10, and in some cases - up to 30 days (Article 144(3)), after that, an investigator decides whether to institute criminal proceedings or not. A child may not be interviewed immediately within this consideration process. This depends, among other things, on the availability of a psychologist whose participation can be mandatory.

183. In 34/48 Parties, national law or practice directives require that the duration and/or number of interviews are limited,<sup>122</sup> and in 30/48 Parties, they require that the organisation of interviews takes into account the child's age and attention span (or other needs particularly concerning the child victim's vulnerability).<sup>123</sup>

#### Case law of the European Court of Human Rights

In February 2023, the European Court of Human Rights delivered its judgement in the case **B v. Russia**,<sup>124</sup> which showed that in total, in the course of the investigation, the victim had to recount the circumstances of her sexual abuse 12 times to four female and male individuals. Confrontations took place, where the victim had to give detailed accounts of her sexual abuse in the presence of the alleged perpetrators and had to answer questions. The Court found a violation of Article 3 (prohibition of inhuman or degrading treatment).

#### Promising practices

In **Belgium**, the hearing takes place as soon as possible, taking into account the need to protect the person to be interviewed and the seriousness of the facts. It is recommended that the hearing be of reasonable duration. In assessing the length of the hearing, particular account should be taken of the person's age or mental and cognitive capacity, the state of stress or fatigue, pace and concentration of the person being interviewed.

In **Bosnia and Herzegovina**, legislation on the protection and treatment of children and juveniles in criminal proceedings stipulate that, when conducting procedural actions, special care should be taken towards the child or juvenile victim, taking into account the age, personality traits, education

<sup>121</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and Türkiye.

<sup>122</sup> Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Finland, Georgia, Germany, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Poland, Romania, Russian Federation, Serbia, Slovak Republic, Spain, Sweden, Switzerland, Tunisia, Türkiye, and United Kingdom.

<sup>123</sup> Albania, Armenia, Belgium, Bosnia and Herzegovina, Croatia, Czechia, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Sweden, Türkiye, and United Kingdom.

<sup>124</sup> *B. v Russia*, no. 36328/20, judgment of 7 February 2023.

and the circumstances in which the child lives in order to avoid possible harmful consequences for their future life, upbringing and development.

In **Finland**, in the criminal investigation, a person under the age of 18 years shall be treated in the manner adapted to their age and level of development (chapter 4, section 7 of the Criminal Investigation Act). When interviewing a child, this requires taking into account the child's age, level of mental development as well as the best interests of the child.

In **Serbia**, according to the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, criminal proceedings for offences against children are urgent. Furthermore, if a juvenile is questioned as a witness in a case where they are a victim of a criminal act against sexual freedom, the child may be questioned twice at the most, and exceptionally more if necessary to achieve the purposes of the criminal proceedings. Additionally, if the juvenile is questioned more than twice, the public prosecutor shall particularly have regard for the protection of personality and development of the juvenile. When a juvenile has been questioned by using technical devices for transmitting of image and sound, the record of the testimony shall be read at the main hearing, or a recording of the questioning heard in order to avoid the victim's presence.

184. In 31/48 Parties, where it is indispensable to interview the child victim more than once, the national legal framework requires that interviews, if possible and where appropriate, be conducted by the same person and under the same material conditions and with the same child-friendly procedural safeguards, as the first interview.<sup>125</sup> In **Finland**, a victim's request is required in order to implement this. In **Czechia**, the same requirement applies to translators. In some Parties, while the national legal framework does not provide for this, when this situation has arisen, the subsequent hearings can be conducted by the same person who conducted the first one (**Andorra, Armenia, Bosnia and Herzegovina, Iceland, Italy, North Macedonia, and Switzerland**).

185. In 45/48 Parties, the national legal framework offers criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings.<sup>126</sup>

186. **Georgia** and **North Macedonia** do not have such provisions in place. Most Parties mention safeguards in place (provided by the national legal framework) to guarantee the protection of the child victim, whilst giving the defence the possibility to contest the child's disclosure during the interview.

187. The table below summarises the provisions available in national regulatory frameworks and other measures, per total number of Parties that have adopted them.

---

<sup>125</sup> Albania, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Tunisia, Türkiye.

<sup>126</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, United Kingdom.

| Summary of provisions in national regulatory frameworks                                                                                                                                                                                               |                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| Interviews of child victims are arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted                                                                                               | <b>48 Parties</b>                |
| Staff responsible for interviewing child victims undergo suitable qualifying training                                                                                                                                                                 | <b>46 Parties</b> <sup>127</sup> |
| The national legal framework requires that interviews with child victims are conducted as soon as possible after the offence                                                                                                                          | <b>41 Parties</b> <sup>128</sup> |
| Where it is indispensable to interview the child victim more than once, the national legal framework requires that interviews, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first | <b>38 Parties</b> <sup>129</sup> |
| National legal framework offers 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                 | <b>45 Parties</b> <sup>130</sup> |

## Recommendations

### Recommendation 40

The Lanzarote Committee continues to recognise the “children’s house” or “Barnahus” model as a promising practice and invites **Parties** that have not yet done so to make similar multidisciplinary and inter-agency services for the protection of victims of child sexual exploitation and abuse available throughout their national territory.

### Recommendation 41

The Lanzarote Committee invites **Norway** and **any other Parties where this may not yet be the case**, to enable access to all children up to 18 years of age to the services provided by the Children’s Houses or other similar multi-disciplinary and inter-agency services established in the country.

### Recommendation 42

The Lanzarote Committee requires the **Russian Federation** to ensure in accordance with Article 35 paragraph 1.c, that all staff responsible for interviewing child victims are required to undergo suitable training.

<sup>127</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, United Kingdom.

<sup>128</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye.

<sup>129</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Italy, Ireland, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye.

<sup>130</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, United Kingdom.

#### **Recommendation 43**

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>131</sup> take the necessary legislative or other measures, in accordance with Article 35 paragraph 1.a, to ensure that interviews with child victims are conducted as soon as possible after the offence.

#### **Recommendation 44**

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>132</sup> to take the necessary legislative or other measures in accordance with Article 35 paragraph 1.d, to ensure that, where it is indispensable to interview the victim more than once, if possible and where appropriate interviews are conducted by the same person and under the same material conditions, upholding the same child-friendly procedural safeguards, as the first.

#### **Recommendation 45**

The Lanzarote Committee invites **Georgia, North Macedonia, and the Russian Federation** to take the legislative or other measures necessary to ensure that the criminal defence can 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.

### **Additional guidance for State Parties**

#### **Strengthen the national legal framework by:**

- Providing guarantees to ensure that the organisation of interviews takes into account the child's age and attention span (or other needs particularly concerning the child victim's vulnerability; and that the duration and/or number of interviews are limited.

#### **Ensure that quality services are in place and accessed by all child victims in need by:**

- Developing national quality standards to ensure the harmonisation, effectiveness and quality of all services provided to victims of sexual violence;
- Ensuring all professionals working directly with children in investigations have the necessary knowledge and skills, in accordance with their role and in respect for children's needs, rights and whether they are a victim or an offender. Training should be mandatory and provided on a continuous basis to all staff working directly with children;
- Disseminating available standards to professionals, children and families;
- Adopting evidence-based protocols for the interviewing of child victims;
- Making services available throughout the territory;
- Guaranteeing that all children up to 18 years of age have the right to access the available child-friendly settings or other services/facilities.

#### **Improve existing services provided to child victims by:**

- Setting up a monitoring and evaluating system;
- Ensuring that children's views inform the design, development, and improvement of services.

---

<sup>131</sup> Bulgaria, France, Greece, Russian Federation, Tunisia, Ukraine, United Kingdom.

<sup>132</sup> Bulgaria, France, Greece, Luxembourg, Malta, North Macedonia, Poland, Russian Federation, Ukraine, United Kingdom.

## 5.2 Use of video recording and /or live link technology to facilitate pre-constituted evidence, remote hearings

### Children's views

"I think it's crucial to establish trust between the judicial system and those who have survived violence because many of them [victims] don't even want to tell/report their stories knowing that the system will fail them. That's why I believe that every person who has committed sexual violence should be punished, and that after release from prison, people in the community should be informed about the kind of person living in their vicinity."

### Articles of the Convention

#### Article 35 paragraph 2 – Interviews with the child

Each Party shall take the necessary legislative or other measures to ensure that all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and that these videotaped interviews may be accepted as evidence during the court proceedings, according to the rules provided by its internal law.

#### Article 36 paragraph 2 – Criminal court proceedings

Each Party shall take the necessary legislative or other measures to ensure, according to the rules provided by its internal law, that:

...

- b) the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies.

188. The Lanzarote Convention requires Parties to enable child victims to be heard in the courtroom without being physically present. Parties are required to facilitate the participation of children in judicial proceedings in a way that would ensure they are not re-victimised or re-traumatised. It is understood that facilitating the hearing or testimony of the child remotely or via pre-constituted video-recorded evidence is generally in the interests of the child. It should be noted that this is a right of the child victim and not an outright prohibition on their presence or participation in court proceedings. Children should be able to waive this right if it would not be in their best interests to be video recorded or heard via video link. This may exceptionally be the case where the child finds the use of video recording devices re-traumatising, for example if the sexual abuse they were subjected to was filmed. It is best practice to conduct an assessment early on in the investigation / proceedings to ensure that the procedure is adapted as far as possible to the best interests of the individual child concerned.

### Findings from first monitoring round

189. In the first monitoring round the Lanzarote Committee found that it was possible:

- for a child to testify in a courtroom without being present in 20/26 Parties;<sup>133</sup>
- for a child to be questioned without the physical presence of the presumed offender / for offender to observe without being physically present in 6/26 Parties;<sup>134</sup> and

<sup>133</sup> Albania, Austria, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Greece, Iceland, Lithuania, Luxembourg, Republic of Moldova, Montenegro, North Macedonia, Portugal, Serbia, Spain, Türkiye, and Ukraine

<sup>134</sup> Austria, Denmark, Finland, Iceland, Lithuania, and Spain.

- to video record interviews in 22/26 Parties.<sup>135</sup>

190. The Lanzarote Committee therefore invited Parties to:

- make systematic use of video equipment to record the interview of the child victim or enable him or her to testify remotely during the proceedings (R46);
- make every effort to obviate the need for child victims to be physically present during the proceedings, including when they are giving evidence, by deploying appropriate communication technologies to enable them to be heard in the courtroom without being present (R59);
- ensure to all child victims, regardless of age, the right to be heard in the courtroom without being present as well as being present in the courtroom (R60);
- regard the video recording of the interview of the child victim as admissible evidence (R47).

## Findings from the current monitoring round

### *Use of video recording and remote testimony*

#### Possibility for the child to be heard during court proceedings without being physically present

191. In all 48 Parties it is possible for child victims of sexual exploitation and sexual abuse to testify without being physically present. This shows that progress has been made in at least six Parties where this was not the case in the first monitoring round.<sup>136</sup> The modalities and extent to which this facility is used appears to vary across Parties.

192. **Armenia, Estonia, Germany, and Georgia** indicated that hearing the child remotely is possible at the discretion of the court or following a motion of the interested party.

193. **Armenia, Iceland, Slovenia, Spain and Sweden** specified that there is a difference in treatment according to the age of the child. In these Parties, hearing the child remotely is automatic for children below a specific age ranging from 14-16, while children above that age can testify remotely subject to the discretion of the court. In **Norway** use of video-recorded interviews with children in general is systematic for children under 16, and also for children over 16 if they have been a victim of sexual abuse by a family member or close relative.

194. Additionally, all Parties indicated that facilities to hear the child without their physical presence also allow for the child to be questioned without the presence of the presumed offender. Parties provided for a variety of methods to uphold the rights of the defence, including the possibility for the presumed offender and their legal advisor to either view the interview remotely, or to view a recording after the fact and to ask questions or clarifications via an intermediary (judge, prosecutor or specialist interviewer).

---

<sup>135</sup> Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Spain, Türkiye, and Ukraine.

<sup>136</sup> Bulgaria, Italy, Malta, Netherlands, Romania, and San Marino.

## Use of video recording

195. Video recording is available in all 48 Parties. However, only 31/48 Parties confirmed that video recording was used systematically or as a general rule for all children.<sup>137</sup> This shows that progress has been made in at least 4 Parties where this was not the case in the first round (**Albania, Bosnia and Herzegovina, Italy and Serbia**).

196. **Latvia** and **Monaco** indicated that video recording is used as a general rule unless it is contrary to the best interests of the child. **Ireland** indicated that interviews with children are recorded in Barnahus West and there are intentions to roll this out on a national scale. Other Parties did not specify to what extent video recording facilities were available in all areas under their jurisdiction.

197. **Denmark, Finland, Iceland, Slovenia, Spain** and **Sweden** indicated that video recording is used as a general rule for children under the age of 14/15 years. It was not always evident if video recording is available for older children.

| Country         | Age below which video recording is used as a general rule | Conditions to use video recording for children above that age                                                                                                                                                                                                                       |
|-----------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Denmark</b>  | 15                                                        | In cases of rape and “rape associated with other sexual offences”                                                                                                                                                                                                                   |
| <b>Finland</b>  | 15                                                        | Children in need of special protection, child victims of sexual offences who do not want to attend the proceedings to be heard, and victims who have reached the age of 18 if requiring them to be physically present in court would damage their health or cause significant harm. |
| <b>Iceland</b>  | 15                                                        | -                                                                                                                                                                                                                                                                                   |
| <b>Slovenia</b> | 15                                                        | -                                                                                                                                                                                                                                                                                   |
| <b>Spain</b>    | 14                                                        | -                                                                                                                                                                                                                                                                                   |
| <b>Sweden</b>   | 15                                                        | -                                                                                                                                                                                                                                                                                   |

198. In 10/48 Parties use of video recording is subject to discretion of either the court (**Armenia, Bosnia and Herzegovina, Estonia, Georgia, Germany, Malta and Serbia**), the prosecutor (**Luxembourg**), or police officers (**Denmark and Ireland**). In **Azerbaijan**, video recording is used “if possible”.

199. It should be noted that the use of video recording does not necessarily mean that the child is not required to testify during criminal court proceedings. Indeed, in several Parties it was apparent from the responses that the interview of the child was recorded during the investigation and added to the court file, but the child was nevertheless required to testify during the criminal court proceedings, usually remotely from a child-friendly room in the court building.

<sup>137</sup> Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, France, Greece, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Monaco, Montenegro, North Macedonia, Poland, Portugal, Romania, Russian Federation, San Marino, Slovak Republic, Slovenia, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom.

200. In 27/48 Parties pre-recorded /pre-constituted evidence is used in court,<sup>138</sup> thus removing the need for the child to participate live (either in person or remotely) in the criminal court hearing unless the court deems it necessary to hear the child. The Lanzarote Committee emphasises that this is a strong safeguard against re-traumatisation and re-victimisation of the child which may occur if they are required to repeatedly recount the abuse they have suffered.

#### Other differences in treatment according to the age of the child

201. As can be seen above, some Parties apply a difference in treatment according to the age of the child victim. In addition to the differences in treatment in access to remote hearing or video recording, some Parties reserve other procedural safeguards to children of specific ages.

202. 33/48 Parties confirmed that there are no differences in treatment according to the age of the child.<sup>139</sup> This shows that progress has been made in at least one Party where this was not the case in the first round, namely the **Republic of Moldova**, where in 2022 procedural safeguards formerly in place for children under 14 were extended to apply to all children under 18.

#### Promising practices

In **Portugal** and the **Slovak Republic**, an assessment of the child's maturity is made when determining the appropriate safeguards to put in place in relation to their participation in criminal proceedings.

203. 14/48 Parties do not provide the same level of protective measures to all children under 18 and appear to give different treatment to children of different ages.<sup>140</sup> In some Parties this consists of providing additional protection when using video conferencing or video recording with younger children.<sup>141</sup>

204. **Albania, Austria, Georgia, and Hungary** specified that protective measures apply to all children and that additional protections apply to younger children, as follows:

- **Albania:** The consent of a legal representative is required for cross-examination of a child under 14, and they are not subject to criminal liability for failing to testify or giving false testimony;
- **Austria:** Child victims undergo a needs assessment which takes into account their age, psychological and health conditions as well as the type and specific circumstances of the criminal offence.

<sup>138</sup> Albania, Andorra, Austria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Republic of Moldova, Montenegro (children under 14), Norway, Poland, Portugal, Romania, Russian Federation, Slovenia (children under 15), Spain and Sweden (children under 15).

<sup>139</sup> Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Czechia, Finland, France, Germany, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Poland, Portugal, Romania, Russian Federation, San Marino, Switzerland, Tunisia, Türkiye and United Kingdom.

<sup>140</sup> No information was available regarding **Greece** and **Ukraine**.

<sup>141</sup> Albania, Austria, Croatia, Denmark, Estonia, Georgia, Hungary, Iceland, Norway, Serbia, Slovak Republic, Slovenia, Spain, Sweden.

- **Georgia:** Children under 14 may only be interviewed with the consent and in presence of their legal representative and they are not subject to criminal liability for refusing to testify or giving false testimony.
- **Hungary:** Children under 14 are only interviewed if there is no alternative means of obtaining evidence; they are interviewed by the same person, and it is recorded using audio-visual recording.

205. While in some circumstances it may be justified to implement additional safeguards in respect of younger children, the Lanzarote Committee is concerned that in some Parties the general level procedural safeguards for children above that age may not be sufficient. In 3 Parties the use of video recording / video conferencing is not available as a general rule for older children.<sup>142</sup> Several Parties also indicated the following additional difference in treatment according to age:

- In **Estonia**, it is generally avoided to summon a child victim of sexual abuse under 14 years old and video recording of their evidence is used instead. Adversarial examination is not used for children under 14 but the accused may put questions to the child through the defence counsel. There do not seem to be specific safeguards in place for children over 14.
- In **Norway**, children over 16 can be required to testify live in court if this is considered necessary for rights of the defence. The response specifies that in general children over 16 are not required to testify in court if the perpetrator is a close family member.
- In **Serbia**, older children are more likely to be called to give evidence in person and to be questioned several times.

#### Admissibility of video evidence

206. In all 48 Parties video recording of a child's testimony is admissible as evidence in court.

207. However, as indicated above, the fact that video recorded evidence may be admissible in court does not necessarily mean that the child will not be required to testify live during the court proceedings.

208. Most Parties indicated that the admissibility of video evidence was subject to a condition that procedural safeguards were respected when the recording was made and that the court retained discretion to rule a video recording inadmissible if there were any procedural irregularities such as lack of informed consent or lack of opportunity for the defence to ask questions (including indirectly) to the child.

209. The Lanzarote Committee commends those States that have taken steps to strengthen their criminal procedural code in line with the Convention and the recommendations made, in particular in the following Parties that have implemented law reform since the adoption of the first monitoring round report in 2015:

- In 2017, **Albania** introduced many amendments to the criminal code and criminal procedural code in line with recommendations made in the first monitoring round implementation report.
- **Norway** amended the criminal procedural code in 2015 to introduce new regulations on facilitated interviews for children under 16 and other vulnerable victims / witnesses.

---

<sup>142</sup> Denmark, Iceland, Slovenia and Spain.

- **Türkiye** amended the law in 2019 to introduce mandatory use of video recording of a child victim's testimony and also indicated extensive use of "child monitoring centres" to facilitate child-friendly evidence gathering.

## Recommendations

### Recommendation 46

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>143</sup> to ensure that all child victims of sexual exploitation or sexual abuse, under the age of 18, can benefit from the procedural safeguards set out in the Lanzarote Convention.

### Recommendation 47

The Lanzarote Committee invites **all Parties** to ensure that as a general rule child victims under 18 can be heard without being physically present in court unless this would be contrary to their best interests.

## Additional guidance for State Parties

### Strengthen the national legal framework by:

- Ensuring that the forensic interview of the child is audio-visual recorded and made available to relevant professionals involved in the case to avoid repetitive questioning.
- Where it is necessary for the rights of the defence, to ask the child additional questions after their initial interview, ensuring that this is done in similar conditions and upholding the same safeguards as the initial interview.
- Where the interview of the child has been recorded, ensuring that it is used as the child's evidence in court without the need for the child to provide evidence live.
- Where the child is required to give evidence in court, ensuring that this can be done without the child being physically present (for example via live video-link).

## 5.3 Avoiding contact between the victim and the accused during criminal proceedings

### Article of the Convention

#### Article 31 - General measures of protection

1. Each Party shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and criminal proceedings, in particular by:

...

g) ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided, unless the competent authorities establish otherwise in the best interests of the child or when the investigations or proceedings require such contact.

...

210. The Lanzarote Convention contains a non-exhaustive list of child-friendly procedures designed to protect children during proceedings, which should be applied both during the investigations and during trial proceedings. As provided for in the Explanatory Report, Article 31 Paragraph 1, subparagraph g, is designed to protect children who are victims of sexual exploitation or sexual abuse, in

<sup>143</sup> Armenia, Azerbaijan, Denmark, Estonia, Iceland, Norway, Russian Federation, Serbia, Slovenia and Spain.

particular by preventing their being further traumatised through contact, on the premises of the investigation services and in court, with the alleged perpetrator of the offence.

#### *Findings from first monitoring round*

211. In the first monitoring round a total ban on confrontation was mentioned by: **Croatia** and **Montenegro** in respect of children under 14. The possibility to question a child victim without the presumed offender being present was mentioned in respect of **Austria, Denmark, Finland** and **Lithuania**. Only **Iceland** and **Spain** were indicated as providing the possibility for the presumed offender to observe the child's interview without being present. At the time, the Lanzarote Committee invited Parties "to take all appropriate measures to guard against any further contact between the child victim of sexual abuse in his or her circle of trust and the presumed offender during the criminal proceedings, particularly by taking the child's testimony without the presumed offender being present and ensure that face-to-face confrontation with the defendant during the proceedings does not take place" (R48).

#### *Findings from the current monitoring round*

##### *Avoiding contact between victims and perpetrators during investigations and criminal proceedings*

212. 39/48 Parties have measures in place to prevent contact between the child victim and the suspected perpetrator during criminal proceedings.<sup>144</sup> In all of these Parties it appears that these include safeguards to prevent contact between victims and offenders during proceedings, taking evidence in the absence of the presumed offender, as well as avoiding face-to-face confrontations.

213. This is also the case in the following 5/48 Parties, with some exceptions:

- **Azerbaijan:** the investigation body must prevent contact between the perpetrator and the victim in general, however confrontations are possible by decision of the court if this is not considered contrary to the best interests of the child;
- **Hungary:** Confrontations are prohibited for children under 14, and avoided as a general rule for children over 14 who may face confrontation with the suspect, subject to their consent.
- **Montenegro:** Confrontations are avoided for children under 14; they are also avoided concerning children over 14 unless necessary in interests of justice.
- **Slovenia:** Measures are taken to avoid contact unless this is considered absolutely necessary for the implementation of pre-trial proceedings.
- **Switzerland:** Confrontations are avoided unless it is considered necessary in interests of justice.

214. **Luxembourg, Monaco** and the **Russian Federation** allow for confrontation between the child victim and the suspected perpetrator under certain conditions, as follows:

- **Luxembourg:** Confrontations may be authorised at the discretion of the judge.

---

<sup>144</sup> Albania, Andorra, Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Republic of Moldova, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Spain, Sweden, Tunisia, Türkiye, Ukraine, and United Kingdom.

- **Monaco:** Confrontations can be requested by the child or the suspect, but they depend on the discretion of the prosecutor or judge taking into account age of child and an expert psychologist opinion.
- **Russian Federation:** According to information received, it is not standard practice for the suspected perpetrator to be absent during the child victim's testimony and there is no legal prohibition on the suspected perpetrator being present during the interview of the child victim.

#### Information submitted by civil society organisations and human rights institutions

The Austrian association **FEM.A** and the **Irish Human Rights and Equality Commission** indicated that in some cases a child victim may come into contact with the suspected offender due to a lack of co-ordination between parallel criminal law and family law proceedings and lack of safeguards foreseen in the context of family court procedures.

#### Promising practices

The Victim Act in **Spain** sets out a comprehensive set of rights. There is also a protocol for law enforcement authorities on how to protect child victims of violence, notably as regards avoiding contact with suspected perpetrator.

In **France** parental visitation / and contact rights are suspended pending criminal court proceedings.

215. The Lanzarote Committee is concerned that this may be the case in many Parties where criminal court and family court proceedings may run in parallel without any mechanism to co-ordinate or articulate procedural safeguards in both jurisdictions.

#### Recommendations

##### Recommendation 48

The Lanzarote Committee requires **Parties, which have not yet done so**, to ensure in accordance with Article 31 paragraph 1.g, that as a general rule children are not subject to confrontation with the suspected perpetrator,<sup>145</sup> and requests that if any exceptions are foreseen in national law that these are in compliance with the principle of the best interests of the child and subject to an independent expert opinion.<sup>146</sup>

##### Recommendation 49

The Lanzarote Committee invites **all Parties** to take the necessary legislative or other measures to also protect child victims from coming into contact with suspected perpetrators in the context of family court or care proceedings that run in parallel to the criminal investigation or judicial proceedings.

<sup>145</sup> Luxembourg, Monaco, and Russian Federation.

<sup>146</sup> Azerbaijan, Greece, Hungary, Luxembourg, Monaco, Montenegro, Russian Federation, Slovenia and Switzerland.

## Additional guidance for State Parties

### National legal framework can be further strengthened by:

- Carrying out a best interests' assessment with child victims to determine how that child wishes to be heard, to give evidence and for their views, needs and concerns to be presented.
- Reviewing legislation in the light of Article 31 to ensure that children are protected against re-victimisation in the context of investigations and judicial proceedings.
- Ensuring that victims of child sexual exploitation or sexual abuse who interact with the criminal justice system as adults, can have access to appropriate safeguards, such as:
  - o avoiding contact between the victim and the suspect within court and law enforcement premises; and
  - o providing special measures to allow the victim to provide evidence either remotely or from behind a screen.
- Reviewing legislation in the light of Article 31 to ensure that children are protected against re-victimisation in the context of investigations and judicial proceedings.

## 5.4 Protecting the child's right to privacy and personal data from disclosure in the media

### Children's views

Children consulted in Bosnia and Herzegovina said:

"The problem is that after going for a talk in the school's counselling service, confidential information becomes known to all students in the school, so children mock us."

### Articles of the Convention

#### Article 31 paragraph 1 – General measures of protection

Each Party shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and criminal proceedings, in particular by:

...

e) protecting their privacy, their identity and their image and by taking measures in accordance with internal law to prevent the public dissemination of any information that could lead to their identification;

#### Article 36 paragraph 2 – Criminal court proceedings

Each Party shall take the necessary legislative or other measures to ensure, according to the rules provided by its internal law, that:

a) the judge may order the hearing to take place without the presence of the public;

## Findings from the first monitoring round

216. In the first monitoring round, the following trends were noted:

- Access to information about the child victim was restricted in **Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, Iceland and Portugal**;

- Criminal offence to disclose the identity of a child victim in the media existed in **Croatia, Denmark, France, Greece, Lithuania, and Luxembourg**;
- Dissemination in media of child's personal data and photos was limited in **Belgium, Italy and Portugal**.

217. The Lanzarote Committee invited Parties "to prevent, through legislative measures or verification of self-regulation mechanisms, the child victim's rights relating to privacy from being violated by the media by disclosure or publication of personal information or data capable of directly or indirectly revealing the child's identity, notably images, detailed descriptions of the child or of his or her family, names and addresses, audio and video recordings" (R49).

## Findings from the current monitoring round

### Protecting the child victim's privacy and identity against dissemination in the media

218. 47/48 Parties provide for the possibility to hold hearings in private without the presence of the public.<sup>147</sup> In many Parties the judge can decide to exclude the public *ex officio* in the interests of protecting one of the parties. Exclusion of the public can usually also be requested by the prosecution or one of the parties to the proceedings. In general court documents in relation to cases heard without the public present are also kept confidential thus increasing the protection of the privacy of the victim.

219. 34/48 Parties have general legal provisions to prevent disclosure of the child victim's identity in the media.<sup>148</sup> Some Parties cited potential exceptions to the general prohibition on reporting in the media, including on the basis of:

- consent of the child victim (**Azerbaijan**);
- If the child expresses the desire to openly disclose what has happened and their parents or other legal representative consents to it. If a criminal procedure is underway then the permission of the person conducting the procedure is also required (**Latvia**);
- parental consent and where this is in the best interests of the child (**Republic of Moldova**);
- For victims aged 14-16: with the written consent of the victim, their parent or guardian, assistance by a parent or legal representative and the elimination of identifiable information. For victims aged 16-18 explicit written or recorded consent and elimination of any elements that may lead to the identification of the minor, at the request of the minor, the parents or the legal representative (**Romania**); and
- to investigate crime, identify those involved, or trace a missing child (**Russian Federation**).

<sup>147</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, and United Kingdom. No information about this possibility was provided in respect of **North Macedonia**.

<sup>148</sup> Albania, Andorra, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovenia, Spain, Tunisia, Türkiye, Ukraine, and United Kingdom.

220. **Armenia, Bosnia and Herzegovina, Estonia, Germany, Iceland, Monaco, Netherlands, Norway, Poland, Slovak Republic, Sweden and Switzerland** do not have a blanket legal protection to prohibit disclosure of the identity and information related to child victims by the media. However, these Parties indicate that victims are protected to some extent by general rules on the protection of privacy and image and that it is possible for the court to take additional steps to protect the identity of the victim such as anonymisation of the court files. For example, in **Iceland** judgments are not published when the case falls under the Child Protection Act or the Children's Act.

221. **Germany** specified that the Press Code, which is not binding, states that the identity of victims, especially children, must be protected in crime reporting. **Monaco** and **Norway** specified that strong general rules are in place to prevent disclosure of any details linked to a criminal trial that takes place without the presence of the public. The **Netherlands** specified that general rules are in place to prevent disclosure of identifiable information by the public prosecution service and also to exclude specific information relating to the victim's identity from court documents. **Hungary** indicated that unlawful disclosure or publication of identifiable information or data about a child victim amounts to a criminal offence punishable by up to two years imprisonment.<sup>149</sup>

#### Promising practices

Several Parties have introduced media guidance or guidance in the journalist code of ethics on reporting cases of child sexual exploitation and sexual abuse: These include: **Andorra, Estonia, Finland, Germany, Portugal, Sweden and Switzerland**. Similar guidance is under development in Tunisia.

In **Andorra**, the law on media reporting requires the media to uphold dignity and respect private life. This is enforced by the authorities who also try to ensure media diffuse relevant information about victim support and helplines.

**Finland** has introduced the possibility for the court to issue a redacted decision to protect the victim's identity.

In **Ireland**, in all cases involving sexual offences against a child, the judge will issue a general warning to recall the media reporting restrictions applicable to protect child victims.

In the **United Kingdom**, restrictions on media reporting of cases involving sexual offences against a child are lifelong and can even last beyond the death of the victim.

#### Information submitted by civil society organisations and human rights institutions

**Equality Now** and **Stichting Justice Initiative** indicated that in the Russian Federation information is sometimes disseminated in the media for the purposes of investigating the crime, identifying persons involved, or tracing missing children. This can potentially lead inadvertently to publication of identifiable information about the child victim.

<sup>149</sup> The situation seems to be somewhat unclear in the following Parties: **Liechtenstein** and **North Macedonia**.

## Recommendations

### Recommendation 50

The Lanzarote Committee requires **Parties, that have not yet done so**,<sup>150</sup> to take the necessary legislative or other measures in accordance with Article 31 paragraph 1, to prevent the public dissemination of any information, notably by the media, that could lead to the identification of any child victim of sexual exploitation or sexual abuse.

### Recommendation 51

The Lanzarote Committee requires **North Macedonia** to ensure, in accordance with Article 36 paragraph 2, that criminal proceedings concerning child sexual exploitation and sexual abuse can be conducted without the presence of the public.

## 5.5 Access to legal advice and legal representation

### Article of the Convention

#### Article 31 paragraph 3 – General measures of protection

...

Each Party shall ensure that victims have access, provided free of charge where warranted, to legal aid when it is possible for them to have the status of parties to criminal proceedings.

222. In cases where victims can be parties to criminal proceedings, the Lanzarote Convention refers to the provision of free legal aid. It is left to the discretion of the Parties whether to grant victims the right to be a party to criminal proceedings. This does not require States to create a blanket right to free legal aid as the Convention refers to the need to provide free legal aid “where warranted”.

223. In the third monitoring round the Lanzarote Committee sought to examine two aspects:

- whether a victim of sexual abuse by a person in a position of trust, authority or influence has the right to be represented in their own name by a trained lawyer; and
- the conditions to access legal advice and assistance for such victims.

### Findings from first monitoring round

224. During the first monitoring round, the Lanzarote Committee found that legal assistance was available at various stages of the proceedings, through a representative in 16/26 Parties.<sup>151</sup> The Lanzarote Committee also found that children could receive free legal aid or assistance in 22/26 Parties.<sup>152</sup> In some Parties access to legal aid was subject to the child’s level of income.

<sup>150</sup> Armenia, Azerbaijan, Bosnia and Herzegovina, Estonia, Germany, Iceland, Latvia, Liechtenstein, Republic of Moldova, Monaco, Netherlands, North Macedonia, Norway, Poland, Romania (in respect of children aged 14 and above), Russian Federation, Slovak Republic, Sweden, and Switzerland.

<sup>151</sup> Albania, Austria, Belgium, Croatia, Denmark, Finland, France, Iceland, Lithuania, Luxembourg, Republic of Moldova, Montenegro, North Macedonia, San Marino, Serbia, and Türkiye.

<sup>152</sup> Albania, Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, North Macedonia Portugal, Romania, San Marino, Serbia, Spain, and Türkiye.

225. The Lanzarote Committee therefore invited Parties:

- to grant free legal aid to child victims of sexual abuse in their circle of trust under the same conditions as, or more lenient conditions than, adults (R50);
- to grant child victims of sexual abuse in their circle of trust the right to be represented in their own name by a lawyer trained in these questions (R51).

## Findings from the current monitoring round

### *Legal advice and legal representation*

226. Responses to the 3rd monitoring round indicate that in all 48/48 Parties it is possible for a child victim to access some form of legal advice free of charge. It varies whether this is provided by an association, a victim support office, or through representation by a legal aid lawyer or attorney. 37/48 Parties allow for the possibility for the child victim to be represented by an attorney at law in their own right.<sup>153</sup> In some Parties this was as a civil party to the criminal proceedings, whereas in other Parties this would take place in separate proceedings related to compensation. 10/48 Parties indicated that victims have access to legal advice without specifying if this was provided by an attorney or an alternative source.<sup>154</sup> **Italy** referred to the provision of legal advice by a special curator who can apply for legal aid for the child. **Liechtenstein, Slovak Republic, and Switzerland** indicated that they provide legal assistance through a victim's assistance office in addition to legal representation.

#### Promising practices

**Latvia, Luxembourg, Montenegro, the Netherlands, North Macedonia, Romania, San Marino, and Sweden** made specific reference to the fact that attorneys representing child victims were specially trained. In **Latvia** the lawyers must renew their training every 2 years.

The **Republic of Moldova** specified that the State-guaranteed legal assistance office has issued a guide for lawyers acting for child victims and witnesses in criminal proceedings.

227. North Macedonia refers only to the provision of legal advice by associations.

### *Regarding access to legal aid*

228. 35/48 Parties provide a "legal aid lawyer" or attorney either free of charge or under more lenient conditions than for adults.<sup>155</sup> In **Armenia**, the Public Defender's Office provides free legal assistance to child victims under 16 as well as to children left without parental care. In **Estonia** access

<sup>153</sup> Andorra, Armenia, Austria, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia (attorney or L.L.M. Graduate), Finland, France, Georgia, Germany, Hungary (when appointed as guardian ad litem), Ireland, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Poland, Portugal, Romania, Russian Federation (children under 16), San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Türkiye, UK (England and Wales).

<sup>154</sup> Albania, Azerbaijan, Belgium, Bosnia and Herzegovina, Greece, Iceland, Liechtenstein, North Macedonia, Norway, and Ukraine.

<sup>155</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Czechia, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Tunisia, and Türkiye.

to legal aid for child victims is subject to more lenient conditions if the child's interests would not be protected without it. In **Ireland** legal aid is available for specific offences only. In the **Russian Federation** legal aid is available to children under 16 under more lenient conditions than for adults.

229. In **Bosnia and Herzegovina, Cyprus, Liechtenstein, Monaco, Poland, Serbia, Ukraine**, and the **United Kingdom** access to legal aid is generally subject to financial resources, under the same conditions applicable to adults.<sup>156</sup>

### *Promising practices*

**Austria** and **Denmark** provide for the victim to have an early consultation with a lawyer before reporting the offence to the police. In **Austria** the victim can also have a free consultation with a psychological consultant that accompanies them throughout the procedure, including by accompanying them to report at the police station. In **Denmark**, the lawyer can accompany the victim to report the abuse at the police station and the victim also has the right to a free consultation with a lawyer after conclusion of the case.

In **Estonia** a lawyer is appointed under state funded legal aid if there is a conflict of interest between the victim and their statutory representative.

In **Spain** a child can file a complaint without being accompanied by an adult. The prosecutor can request the judge / court to appoint a judicial defender where there is a conflict of interest.

In the **United Kingdom** (England and Wales) since 2005 "Child and Young Persons Independent Sexual Violence Advisers" support child victims and survivors. This support includes risk and needs assessments, development of a support plan, information and advice, as well as emotional and practical support.

### *Information submitted by civil society organisations and human rights institutions*

The **Irish Human Rights and Equality Commission**, in their submission concerning **Ireland**, and **Equality Now** and **Stichting Justice Initiative**, in their submission concerning the **Russian Federation**, indicated that in practice child victims may face barriers in accessing legal advice or representation due to lack of information about their rights.

In the specific case of children in the care of social services, the **Irish Human Rights and Equality Commission** indicated that social services were not required to seek legal advice on behalf of the child victim, which may give rise to an additional barrier in access to legal advice, and that some sexual offences do not fall within the scope of legal aid.

230. **Armenia** referred to access to legal advice in the context of domestic violence services. In the first monitoring round the Lanzarote Committee held with reference to such cases that Parties should ensure that "a specific reference is included to child sexual abuse. Where this is not the case, children might not sufficiently be guaranteed against sexual abuse in the circle of trust. The Committee therefore recommends that where this is not the case, legislation be reviewed to include an explicit reference to sexual abuse within the context of domestic violence."

<sup>156</sup> Information about the conditions to access legal advice and representation was missing in respect of **Norway**.

## Recommendations

### Recommendation 52

The Lanzarote Committee invites **all Parties** to ensure that, when a child is in the care of a guardian or social services due to a suspicion that an offence under this Convention has been committed against the child, and the child can have the status of a party to criminal proceedings, those services are required to seek legal advice on behalf of the child.

### Recommendation 53

The Lanzarote Committee invites **all Parties** to ensure that, where legal advice and legal aid is available to child victims of sexual offences, that they receive information to empower them to access these services.

### Recommendation 54

The Lanzarote Committee invites **all Parties** to grant free legal aid to child victims of sexual exploitation or sexual abuse, especially in cases of abuse of a position of trust, authority or influence.

## 5.6 Psychological assistance to child victims in investigative and judicial proceedings

### Children's views

Children consulted in Bosnia and Herzegovina said:

"Adults support children who are victims of violence in three ways: they take them to a psychologist, a pedagogue, and a psychiatrist, and they don't deal with the problem any further."

### Article of the Convention

#### Article 30 – Principles

(...)

2. Each Party shall adopt a protective approach towards victims, ensuring that the investigations and criminal proceedings do not aggravate the trauma experienced by the child...

231. Chapter VII of the Convention on investigation, prosecution and procedural law aims to protect children as victims or witnesses with specific regard to their vulnerability to avoid exacerbating the trauma which they have already suffered. This may include psychological assistance to child victims in investigative and judicial proceedings to ensure that they do not suffer from secondary victimisation. In the case of *N.Ç. v. Türkiye*, the Court concluded that the applicant had not been cared for adequately during the proceedings in question due to the lack of support provided, which amounted to a serious case of secondary victimisation.<sup>157</sup> The issue of psychological support was not examined in the first monitoring round, however due to developments in practice since then, the Committee has looked at this issue in the context of the current monitoring round.

<sup>157</sup> *N.Ç. v. Türkiye*, no. 40591/11, judgment of 9 February 2021.

## Findings from the current monitoring round

232. Most Parties provided information demonstrating the involvement of professionals working with children in criminal proceedings where the victim is a child. However, it is not always clear whether the professionals providing such support have received specialised psychological training with a focus on child victims of sexual offences. In some cases, the provision of such support is discretionary or limited to a certain age of the victim. In some of these Parties, a professional can be substituted by a family member or simply an official. Furthermore, the Lanzarote Committee considers that a mere presence of a psychologist, a social worker, an education professional or a child protection specialist during questioning or a hearing may not be sufficient as their main role may not be to provide psychological support to the child but, for example, to ensure the procedures used are child-friendly.

233. The following modalities have been described by the Parties: 20/48 Parties provide for a professional to accompany child victims throughout the proceedings, including both the investigative and trial stage.<sup>158</sup> **Armenia, Bulgaria, and Poland** refer to the presence of a psychologist or another similar professional during investigative but not trial proceedings, while in **San Marino and Romania** a psychologist or another similar professional appears to be present during trial proceedings but not during investigations. As stated above, in some of these Parties, the provision of services is limited, for example, in some Parties services are only available in certain geographic areas or for child victims up to a specific age. In some Parties, such as **France**, the prosecution authorities can enlist the help of victim support associations to prepare a child to participate in proceedings, for example by visiting the courtroom in advance of the hearings.

234. Apart from or in addition to professional assistance, **Czechia, Estonia, Latvia, and the Netherlands** provide for the possibility for a child to be accompanied by a “trusted person” throughout criminal proceedings, whereas the **United Kingdom** (Northern Ireland) allows a child to bring “someone of choice” to an investigative interview.

235. Several Parties refer to the availability of Barnahus and other similar multidisciplinary inter-agency structures but given the lack of uniform standards applicable to such structures, it is difficult to establish the scope of psychological support provided in that context. It can be presumed that psychological accompaniment is available to child victims followed at such structures during the investigative stage, however it is not always clear if, where a child has to attend a court hearing, they would be accompanied there as well. In addition, in numerous Parties the Barnahus and similar structures follow children only below a specific age or are not available throughout the national territory.<sup>159</sup>

### Information submitted by civil society organisations and human rights institutions

**FEM.A** submitted that professionals intervening in family courts in **Austria** do not require a specific training and therefore cannot automatically safeguard the psychological well-being of the child victim. Cases have been reported in which children were re-traumatised in the course of court-commissioned psychological evaluations. Forensic psychologists are also not required to have formal training on child sexual abuse, trauma, or post-traumatic stress syndrome.

<sup>158</sup> Austria, Belgium, Croatia, Czechia, Georgia, Germany, Hungary, Italy, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Portugal, Serbia, Slovak Republic, Slovenia, Switzerland, Tunisia and Türkiye.

<sup>159</sup> Council of Europe (2023) [Barnahus: a European journey, mapping study on multidisciplinary and interagency child-friendly justice models responding to violence against children in Council of Europe member states](#), pp. 45-46.

## Recommendation

### Recommendation 55

The Lanzarote Committee invites **all Parties** to make psychological support by a trained professional available to child victims of all ages involved in investigative and judicial proceedings and not dependent on the authorities' discretion or a request by a victim or their representative.

## Additional guidance for State Parties

### Strengthen the protection of children in civil proceedings by:

Ensuring that professionals working with children in civil proceedings, including forensic psychologists, are trained to work with child victims of sexual exploitation and sexual abuse

## 6 Other safeguards for victims and third parties

### Children's views

Children consulted in Bosnia and Herzegovina said:

"Children and young people in Bosnia and Herzegovina need to be provided with a safe circle of trust, which they can seek from both state institutions and organizations. We young people do not feel safe and protected, as they respond to our issues with silence and new brochures."

### Article of the Convention

#### Article 14 – Assistance to victims

1. Each Party shall take the necessary legislative or other measures to assist victims, in the short and long term, in their physical and psycho-social recovery. Measures taken pursuant to this paragraph shall take due account of the child's views, needs and concerns.

...

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

236. The Lanzarote Convention requires Parties to take a protective approach towards victims and those close to them. The explanatory report to the Lanzarote Convention recognises that in certain particularly serious cases it would be justified for those close to the victim, for example family members, friends and classmates, to benefit from emergency psychological assistance. These measures are not meant to apply to the perpetrator who may benefit from measures under Chapter V Lanzarote Convention.<sup>160</sup>

237. The term "victim" is to be understood as set out at Article 3, paragraph c, as meaning "any child subject to sexual exploitation or sexual abuse." As recalled throughout this report, the Lanzarote Convention requires Parties to take a protective approach towards children, the explanatory report recalls that "the facts of the sexual exploitation or abuse do not have to be established before a child is to be considered a victim."<sup>161</sup>

238. Additionally, if a child's disclosure is not handled appropriately, there is a risk that the child will face unintended adverse consequences and secondary victimisation. In general, parents and caregivers have the right to access information about their child. This may, however, give rise to a conflict of interest, for example if the child has identified their parent or caregiver as the perpetrator in their disclosure. There may also be other safeguarding concerns if the child is afraid of the reaction or consequences of their parent or caregiver finding out about the sexual exploitation or sexual abuse they have suffered.<sup>162</sup>

<sup>160</sup> [Explanatory Report to the Lanzarote Convention](#), para. 100.

<sup>161</sup> [Explanatory Report to the Lanzarote Convention](#), para. 51.

<sup>162</sup> Rules relating to suspension of parental authority and taking a child into care are examined in chapter 2.4.

239. The consequences of childhood sexual exploitation or abuse may well last into adulthood, which means that victims may need therapeutic recovery for an undetermined period, including after the criminal proceedings are over. This is provided for in Article 14.1 of the Lanzarote Convention, which requires Parties to provide for assistance for victims, in the short and long term.

240. This section seeks to analyse the following themes:

1. the protection afforded to persons close to the victim who may need therapeutic assistance, including emergency psychological care;
2. the safeguards in place outside of investigations and criminal proceedings to ensure that the child's disclosure does not worsen their situation or that of their non-offending family members,<sup>163</sup> and
3. the long-term assistance available to victims even after the investigation and criminal proceedings have ended.

#### Findings from the first monitoring round

241. In the first monitoring round, 7/26 Parties had a legal framework in place to provide support to persons close to the victim.<sup>164</sup> The Committee took note that in many Parties such assistance may be provided through national social and health services but that a specific legal framework for the provision of services to persons close to the victim was lacking. In addition, the Committee noted that provision for assistance to child victims once the criminal justice decision had been taken was lacking.

242. The Lanzarote Committee therefore:

- urged Parties that had not yet done so to take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30);
- invited Parties, when determining the support required to the victim and the persons close to him or her, to take into account the fact that child's disclosure should not worsen his or her situation and that of the other non-offending members of the family; (R31) and
- invited Parties to provide assistance intended for child victims of sexual abuse in their circle of trust, once the criminal justice decision has been taken (R52).

#### Findings from the current monitoring round

### 6.1 Provision of therapeutic assistance to persons close to the victim

#### Children's views

Children consulted in Bosnia and Herzegovina said:

"When I tell my parents about some minor things to which they react strongly, I don't know how they would accept more significant things, because they interpret everything in their own way."

<sup>163</sup> The procedural safeguards to protect children against re-traumatisation and re-victimisation throughout investigations and proceedings are examined in chapter 5.

<sup>164</sup> Bosnia and Herzegovina, Croatia, Denmark, Iceland, Italy, Portugal, San Marino.

243. Significant progress has been made since the first monitoring round. Legal frameworks to provide some form of support to family members of child victims are now in place in 41/48 Parties.<sup>165</sup> In addition, **Andorra, Cyprus, Denmark, Ireland, Monaco**, and the **Russian Federation** provide support to third parties by other means not set out in law.<sup>166</sup>

244. The service responsible for providing support varies across Parties. In 22/48 Parties such support is provided through children's houses (Barnahus),<sup>167</sup> whereas 17/48 Parties indicated that this is provided through other types of support centres.<sup>168</sup>

245. The persons eligible to receive such aid also varies across Parties. In some Parties access to support is open to those close to the victim without other apparent conditions,<sup>169</sup> others provide assistance to persons acting as witnesses,<sup>170</sup> or restrict it to persons that are considered as also having suffered harm or loss.<sup>171</sup> In **Norway** access to assistance is restricted to citizens.

### Promising practices

Several Parties made specific reference to emergency support provided to persons close to the victim: **Bosnia and Herzegovina, Germany, Lithuania, Liechtenstein, Montenegro, Romania, San Marino**, and **Switzerland**.

In 21 Parties with Barnahus or Barnahus-type services in place, non-offending family members of the child victim can also access assistance, including crisis intervention, through these services.<sup>172</sup>

In **Bosnia and Herzegovina**, Mental Health Centres within Health Centres across the territory ensure that staff are trained to work with child victims of all forms of violence.

In **Germany**, relatives of a victim can make use of rapid assistance (Schnelle Hilfen) which comprises case management services and trauma outpatient clinic services that are included in the German Social Code Book XIV. The case management supports eligible claimants for the entire process, from submitting their application through to receiving benefits and services. In trauma outpatient clinics, eligible claimants receive rapid, psychotherapeutic support. Children and adolescents can receive up to 18 counselling sessions in a trauma outpatient clinic, while adults can receive up to 15 sessions. It is sufficient for the application to be submitted no later than after the second counselling session in a trauma outpatient clinic. A prerequisite for receiving counselling in a trauma

<sup>165</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, and United Kingdom.

<sup>166</sup> Information was lacking in respect of **Tunisia**.

<sup>167</sup> Bulgaria, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Ireland, Latvia, Lithuania, Republic of Moldova, Netherlands, Norway, Poland, Slovak Republic, Slovenia, Spain, Sweden and Ukraine.

<sup>168</sup> Armenia, Bosnia and Herzegovina, Croatia, Germany, Georgia, Greece, Hungary, Republic of Moldova, Netherlands, Poland, Russian Federation, Slovak Republic, Slovenia, Sweden, Switzerland, Türkiye, and United Kingdom.

<sup>169</sup> Austria, Bosnia and Herzegovina, Azerbaijan, Croatia, Cyprus, Germany, Italy, Malta, Republic of Moldova, Norway, Romania, Serbia, Switzerland.

<sup>170</sup> Azerbaijan, and Bosnia and Herzegovina.

<sup>171</sup> Cyprus, Czechia, Slovenia, and Türkiye.

<sup>172</sup> Bulgaria, Cyprus, Czechia, Denmark, Estonia, Finland, Georgia, Germany, Hungary, Iceland, Ireland, Latvia, Republic of Moldova, Netherlands, Norway, Poland, Slovak Republic, Slovenia, Spain, Sweden and Ukraine.

outpatient clinic is that the injured person seeks the counselling within 12 months of experiencing or acquiring knowledge of the harmful event.

246. The type of support mentioned in responses from Parties varies greatly. 20/48 Parties referred specifically to psychological support,<sup>173</sup> and 9/28 Parties (**Croatia, Estonia, Germany, Hungary, Luxembourg, Montenegro, the Netherlands, Poland and Spain**) referred specifically to psychotherapy.<sup>174</sup> Parties also mentioned access to other types of support including: social assistance, legal advice, medical assistance, financial support, emergency housing, information, and mediation.

247. When responding to this question, **Armenia** and **Ukraine** referred to frameworks that have been established to provide assistance to victims of domestic violence. The Committee has previously indicated that if domestic violence interventions or measures are utilised to also provide services to child victims of sexual exploitation or sexual abuse, this should be clear and specific reference should be made to these victims.<sup>175</sup>

#### Information submitted by civil society organisations and human rights institutions

The association **FEM.A** indicated that in some places, lack of funding for victim support services means that in practice many victims and those close to them must wait for long periods (sometimes over two years) to access psychological assistance.

The **Irish Human Rights and Equality Commission** raised concerns that due to changes in legal definitions some child victims of sexual exploitation with a trafficking element may not be identified as a victim of trafficking in human beings, and vice-versa, which can mean that they do not access appropriate support services.

**Equality Now** and **Stichting Justice Initiative** also raised concerns about the lack of funding to NGO-run centres, which provide emergency psychological assistance in crisis centres to victims, with the result that not all victims or persons close to them can effectively access assistance.

<sup>173</sup> Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, Georgia, Germany, Italy, Latvia, Luxembourg, Malta, Monaco, Netherlands, Portugal, San Marino, Slovak Republic, Spain, and United Kingdom.

<sup>174</sup> Croatia, Estonia, Germany, Hungary, Luxembourg, Montenegro, Netherlands, Poland, and Spain.

<sup>175</sup> Lanzarote Committee 1<sup>st</sup> round Implementation Report on [Protection of children in the circle of trust: The framework](#), adopted on 4 December 2015, R28.

## Recommendations

### Recommendation 56

The Lanzarote Committee requires **Norway** to ensure, in accordance with Article 2, that victims and those close to them can access support without discrimination on any grounds.

### Recommendation 57

The Lanzarote Committee invite **Parties, that have not yet done so**,<sup>176</sup> to ensure that victims and those close to them can access appropriate support even if they are not acting as witnesses in court.

### Recommendation 58

The Lanzarote Committee requests that **Armenia, Ukraine and any other Parties**, which provide support to child victims in the context of interventions designed for victims of domestic violence or trafficking in human beings, to make explicit reference to child victims of sexual exploitation or sexual abuse in those frameworks.

### Recommendation 59

The Lanzarote Committee invites all **Parties** to ensure that adequate funding is allocated to services providing support, including emergency psychological support, to victims and those close to them.

## 6.2 Preventing secondary victimisation

### Children's views

Children consulted in Bosnia and Herzegovina, and girls particularly, noted instances where they felt compelled to inform their parents about situations involving physical touch with boys, following which they were "attacked and blamed for putting themselves in those situations".

"It is necessary to work on protecting individuals who report violence, which will make others who notice such violence become helpers and voices for the victims."

248. This section looks at the legal safeguards in place to protect a child, and those close to them, against the risks of adverse consequences or secondary victimisation arising as a result of a child victim's disclosure of sexual exploitation or sexual abuse, in particular by ensuring that professionals are equipped to receive a child's disclosure even before any investigations or proceedings are underway.

249. The replies received identified a wide variety of mechanisms and safeguards. **France, Georgia, Italy and Luxembourg** referred to safeguards such as the possibility for courts to issue emergency orders to safeguard the child, or to suspend contact rights of parents. 25/48 Parties also indicated that the use of child-friendly procedures in general ensured against such risks.<sup>177</sup> These aspects are considered in more detail in various sections of this report.

<sup>176</sup> Azerbaijan, Bosnia and Herzegovina.

<sup>177</sup> Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czechia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Republic of Moldova, Netherlands, Romania, Slovak Republic, Slovenia, Spain, Switzerland, Türkiye, Ukraine, and United Kingdom.

250. The following essential safeguards were referred to by various Parties:

- Taking the best interests of the child into consideration through an individual risk assessment;<sup>178</sup>
- Ensuring rules are in place to ensure confidentiality and data protection;<sup>179, 180</sup>
- Case management rules governing data sharing between professionals to ensure multi-disciplinary and interagency co-ordination and confidentiality of information;<sup>181</sup>
- Specific rules to limit a parent's right to access data about their child if there is a potential conflict of interest.<sup>182</sup>

#### Promising practices

In **Croatia**, educational staff are provided with guidance on how to react following a disclosure from a child, such as confidentiality, referral procedures, and the importance of not interrogating the child to try to establish the facts.

In **Denmark**, provisions are in place to allow medical professionals to withhold certain information from parents in the interests of safeguarding the child, preventing harm or in the context of an investigation or prosecution of an offence. Examples of information that may be withheld include information about an abortion, birth control, or treatment for a sexually transmitted infection or disease.

In **Finland**, after having been informed about their rights, the child is asked for permission to share their details with relevant support services.

In **Iceland**, children are provided with support via the Barnahus: An individual plan is established, following a needs assessment, to provide continuous and integrated support.

251. **Cyprus, Czechia and Estonia** also referred the importance of ensuring that the child has access to victim support regardless of the status of any investigation or criminal proceedings.<sup>183</sup> In **Azerbaijan**, psychological assistance is provided to victims of child sexual exploitation and sexual abuse under the law on combatting trafficking in human beings.

252. **Azerbaijan** indicated that child victims of sexual exploitation and sexual abuse receive support under the law on combatting human trafficking. No specific protections are in place in **Serbia**.<sup>184</sup>

<sup>178</sup> Austria, Bulgaria, Cyprus, Denmark, France, Greece, Iceland, Latvia, Netherlands, Portugal, San Marino, and Switzerland.

<sup>179</sup> Albania, Austria, Croatia, Denmark, Hungary, Latvia, Lithuania, Malta, Montenegro, Norway, Poland, Portugal, Spain, Sweden and Türkiye.

<sup>180</sup> A number of Parties also referred to the fact that the child is protected against disclosure of their identity in the media; this is examined in more detail in chapter 5.4.

<sup>181</sup> Albania, Croatia, Finland, Georgia, Hungary, Republic of Moldova, Portugal, Sweden and United Kingdom.

<sup>182</sup> Denmark, France, Georgia, Norway and Sweden.

<sup>183</sup> Information on legal assistance and interventions by special representatives or guardians is examined in chapter 2.5.

<sup>184</sup> Information was lacking from **North Macedonia**, the **Russian Federation** and **Tunisia**.

## Recommendations

### Recommendation 60

The Lanzarote Committee invites all **Parties** to take the necessary legislative or other measures to ensure that professionals working with child victims have access to training and resources to be able to identify and react appropriately to potential conflicts of interest arising in the context of access to information about a child.

### Recommendation 61

The Lanzarote Committee invites all **Parties** to ensure, without prejudice to the free and proper evaluation of evidence, that where a child has received therapeutic intervention, this will not, by itself, have an adverse effect on the assessment of the credibility or weight given to the child's testimony.

## Additional guidance for State Parties

### Strengthen the national legal framework by:

- Establishing clear rules on confidentiality and sharing of data between services;
- Providing training and protocols to professionals to ensure that information disclosed by the child does not worsen their situation;
- Ensuring child victims under-go an individual risk assessment as early as possible after they are identified;
- Strengthening frameworks for multi-disciplinary and inter-agency co-operation, including by establishing clear case management procedures on data sharing; and
- Ensuring that it is possible to limit a parent's access to information about their child in cases of conflict of interest.

## 6.3 Long term victim support

253. The majority of Parties continue to provide child victims of sexual offences with support through mainstream health, social, education, or therapeutic services provided in the context of general health, education or social welfare sectors.<sup>185</sup>

254. Parties made specific reference to the following types of support, beyond general social services and child protection services:

- Needs assessment: **Armenia, Austria, Denmark, Estonia, Ireland, Latvia, Malta, and the Slovak Republic;**
- Child-friendly explanation of the court decision: **Albania, and Malta;**
- Information about support available and how to access it: **Austria, Malta, the Republic of Moldova, Romania, the Slovak Republic, and the United Kingdom;**
- Information about the release of the perpetrator: **Austria, Malta, and Slovenia;**

<sup>185</sup> Access to psychological assistance and other support during proceedings is explored in chapter 5.6.

- Right to financial compensation: **Albania, Austria, Bulgaria, Cyprus,<sup>186</sup> Georgia, Germany,<sup>187</sup> Malta, the Netherlands, Portugal, Romania, and the Slovak Republic;**
- Multi-disciplinary victim assistance services provided via a victim's assistance office or Barnahus/Barnahus-type services or other multidisciplinary interagency services: **Armenia, Austria, Belgium, Croatia, Cyprus, Czechia, Estonia, France, Iceland, Ireland, Latvia, Liechtenstein, Malta, the Netherlands, San Marino, Switzerland, Ukraine, and the United Kingdom;**
- Social compensation benefits for persons who have suffered damage to their health: **Germany;**
- Free psychological assistance/therapy: **Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Germany, Iceland, Malta, Portugal, Romania, the Slovak Republic, and the United Kingdom.**

255. **Armenia, Bulgaria, Denmark, France, Italy, Malta, Monaco, Switzerland, and Tunisia** also made reference to protection measures decided by the guardianship judge or family courts including as regards contact, visitation rights, parental authority, and residence.<sup>188</sup>

#### *Promising practices*

In **Austria**, victims of child sexual exploitation and sexual abuse have the right to psychotherapy, crisis intervention, reimbursement of medical costs, rehabilitation services, and compensation for: loss of earnings, loss of maintenance, allowances and financial compensation for pain and suffering, and if applicable funeral costs. Judicial proceedings or the conviction of the offender are not pre-requisites to access State compensation.

In **Belgium**, services are available in both French speaking and Dutch speaking parts of the country that provide multi-disciplinary support (medical, legal, and psycho-social) to child victims of sexual abuse and maltreatment. These centres also undertake preventive actions.

In the **Netherlands**, staff at centres supporting child victims of crime receive special training. Sexual assault centres also provide specialist care to child (and adult) victims of sexual offences including on-ward referral to appropriate services.

#### **Recommendation**

##### **Recommendation 62**

The Lanzarote Committee invites **all Parties** to ensure that victims of child sexual exploitation and sexual abuse have access to long term support designed to cater for their specific needs.

<sup>186</sup> In Cyprus, victims are also entitled to legal aid to help them exercise their right to financial compensation.

<sup>187</sup> This is restricted to specific situations.

<sup>188</sup> Information is missing in respect of **Norway, Poland** and the **Russian Federation**.

#### Additional guidance for State Parties

**Strengthen victim support by:**

- Carrying out a needs assessment for the victim to establish any long-term support needs;
- Ensuring the victim understands the court decision and how to exercise any additional rights to obtain financial compensation;
- Providing information on safety planning and support services available if safeguarding concerns are likely to arise when the perpetrator is later released from prison.

## 7 Measures following criminal proceedings

### Children's views

Children consulted in Bosnia and Herzegovina said:

"The message to the authorities is to increase penalties for those who commit not only this type of violence but any other, and to establish institutions to support victims of sexual exploitation and abuse."

### 7.1 Measures to monitor or supervise persons convicted of child sexual abuse

#### Articles of the Convention

##### **Article 27 - Sanctions and Measures**

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

##### **Article 37 - Recording and storing of national data on convicted sexual offenders**

**Paragraph 1** For the purposes of prevention and prosecution of the offences established in accordance with this Convention, each Party shall take the necessary legislative or other measures to collect and store, in accordance with the relevant provisions on the protection of personal data and other appropriate rules and guarantees as prescribed by domestic law, data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention.

**Paragraph 2** Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the name and address of a single national authority in charge for the purposes of paragraph 1.

256. The Lanzarote Convention requires Parties to ensure that sexual offences against children are punishable by effective, proportionate and dissuasive sanctions, including deprivation of liberty which can give rise to extradition (Article 27). It also provides for Parties to adopt other measures such as monitoring or supervision of convicted persons (Article 27, paragraph 4). In order to be able to monitor or supervise convicted offenders it is necessary for States to record data on their DNA and identity (Article 37). Recording of this data is a necessary pre-cursor to comply with the obligations to screen persons in regular contact with children, to exclude those convicted of sexual exploitation or sexual abuse of children from such roles (Article 5 paragraph 3). States are also required to ensure that victims and their families can be informed, if necessary, when the person prosecuted or convicted is released temporarily or definitively (Article 31 paragraph 1.b).

257. Monitoring or supervision measures often overlap with consensual intervention programmes and measures for convicted offenders that do not form part of the criminal justice response (Article 15). These include programmes or measures accessible during the proceedings (inside and outside prisons), multi-disciplinary intervention (health, social and judicial authorities), as well as assessments of the dangerousness and possible risks of repeat offending. Article 16 provides that such measures must be accessed in accordance with the rights of the defence, the right to a fair trial and the presumption of innocence.

258. Monitoring and supervision of convicted offenders is of particular relevance where they hold a position of trust, authority or influence over the child, for example members of the child's family. In this connection, Parties are required to provide protective measures for victims, including removal of the perpetrator from the family environment.<sup>189</sup>

259. **Greece**, the **Russian Federation** and **Tunisia** did not respond to this question. Information has been collected as far as possible from replies to the general overview questionnaire and information received from civil society.

#### Findings from the first monitoring round

260. In the first monitoring round, 8/26 Parties referred to the possibility of imposing measures on convicted offenders, such as protection orders and or restrictions on their movements.<sup>190</sup> 17/26 Parties had some form of prohibition or mandatory checks in place to prevent persons convicted of child sexual exploitation and sexual abuse from working with children.<sup>191</sup> The Lanzarote Committee invited Parties to "envisage taking steps to monitor or supervise persons convicted of child sexual abuse in the child's circle of trust". (R33)

#### Findings from the current monitoring round

261. Most Parties have some form of monitoring or supervision measures in place. These tend to be general measures for persons convicted of child sexual abuse, which include but are not specific to offenders in the child's circle of trust. 9/48 Parties indicated that they had no mechanism in place to monitor or supervise convicted offenders once the sentence and probation period had been completed.<sup>192</sup> It was not possible to analyse the situation in detail in **Greece**, or **Tunisia**.

#### *Risk assessment and multi-disciplinary co-ordination*

262. Monitoring or supervision measures are necessary in order to assess any risks of re-offending.<sup>193</sup> Relatively few States referred to providing psychological or risk assessments to offenders prior to release,<sup>194</sup> or referred to multi-disciplinary co-ordination for offender management.<sup>195</sup>

#### *Post-release supervision by court, probation or other administrative services*

263. Supervision and monitoring of a convicted offender following their release from prison is a key safeguard against re-offending. As these measures often intervene after the offender has served their sentence, independent oversight is important in the interests of justice. 22/48 Parties indicated that following release offenders are subject to supervision by a relevant authority.<sup>196</sup> **Austria**, **Croatia**, **Cyprus**, and **Czechia** directly referred to court supervision, whereas other Parties referred to supervision by probation or other administrative services. In addition, in **Cyprus**, convicted offenders

---

<sup>189</sup> This is further explored in chapter 2.2.

<sup>190</sup> Albania, Austria, Bosnia-Herzegovina, Bulgaria, Denmark, Iceland, Lithuania, Spain.

<sup>191</sup> Albania, Austria, Belgium, Bulgaria, Croatia, Finland, France, Iceland, Italy, Luxembourg, Malta, Netherlands, North Macedonia, Portugal, Romania, Spain, Türkiye.

<sup>192</sup> Albania, Andorra, Armenia, Liechtenstein, Republic of Moldova, Norway, Russian Federation, Serbia, Slovak Republic.

<sup>193</sup> [Explanatory Report to the Lanzarote Convention](#), para. 192.

<sup>194</sup> Austria, Belgium, Bulgaria, Croatia, Denmark, France, Italy, Latvia, Lithuania and Portugal.

<sup>195</sup> Austria, Cyprus, France, Ireland, Latvia, Romania and Spain.

<sup>196</sup> Austria, Azerbaijan, Croatia, Cyprus, Czechia, Estonia, Finland, France, Georgia, Iceland, Ireland, Italy, Latvia, Luxembourg, Montenegro, San Marino, Slovak Republic, Spain, Switzerland, Türkiye, Ukraine.

are obliged to work with a social welfare officer following their release, including weekly interviews, house visits and contact with their families. **Azerbaijan** indicated that convicted offenders must register with the police and are subject to supervision by probation services.

### Promising practices

In **Austria**, legislation provides for a specific period during which the court will continue to supervise the convicted offender. This requires co-ordination between probation, national security and youth justice agencies. Court supervision takes place every 3 to 6 months and the legislation identifies clear consequences in case of non-compliance.

### *Restrictions on professional or volunteer activities*

264. Article 5 paragraph 3 Lanzarote Convention requires Parties to ensure that persons convicted of sexual offences against a child cannot work in regular contact with children. In addition, Article 27, paragraph 3.b, requires Parties to take legislative or other measures to “... deny the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed.” Some form of prohibition on exercising professional activities requiring regular contact with children and mandatory criminal record checks during recruitment procedures are in place in at least 33/48 Parties.<sup>197</sup> This shows that progress has been made in 6 of the Parties that did not indicate that this was the case in the first monitoring round.<sup>198</sup> 19 Parties also subject volunteers in contact with children to criminal records checks.<sup>199</sup> 5/48 Parties indicated that offenders are subject to a lifelong ban on exercising professional activities with children, this provides a very high level of protection against the risk of convicted offenders coming into contact with children.<sup>200</sup>

265. However, some Parties indicated that such a prohibition was at the discretion of the court (**Georgia**) or not automatic (**Slovenia**). Whilst this screening of professionals and volunteers is an important safeguard, it is not sufficient in and of itself as a monitoring mechanism for convicted persons.<sup>201</sup>

---

<sup>197</sup> Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, North Macedonia, Poland, Portugal, Romania, Serbia, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, United Kingdom.

<sup>198</sup> Bosnia and Herzegovina, Denmark, Lithuania, Republic of Moldova, Montenegro, Serbia, Ukraine.

<sup>199</sup> Austria, Belgium, Croatia, Denmark, Estonia, Finland, France, Greece, Iceland, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Netherlands, Portugal, Romania, Spain, United Kingdom.

<sup>200</sup> Croatia, Estonia, Hungary, Portugal, Switzerland.

<sup>201</sup> It is likely that information reflected here is incomplete given that Parties were not specifically asked about this topic, the Lanzarote Committee will further examine this topic in its next report.

## Promising practices

In **Estonia**, the Child Protection Act requires employers to conduct criminal record checks upon entry into professions involving regular contact with children and these must be repeated at least once a year.<sup>202</sup> Persons convicted of sexual exploitation or sexual abuse of a child for whom they are in a position of trust, authority or influence are subject to a lifelong ban on working with children. These obligations are explained along with instructions for conducting background checks on the government website which also provides information on how to check criminal records from other countries where a person has lived or worked.

In **Lithuania**, as of 2024 employers and organisations are required to conduct background checks on all individuals at the start of employment and at least every six months thereafter. Employers and organisations failing to conduct these checks face fine of up to €6,000. The government intends to establish an institution to monitor compliance with these obligations. Parents can also use this system to conduct background checks on people they hire, for example personal tutors or babysitters.

In the **Netherlands**, the criminal records of persons working in childcare institutions are monitored daily to check if an employee is being prosecuted for new criminal offences that may indicate that they pose a risk to children. If a risk is detected, the director of the childcare institution is notified, and the employee is required to apply for a new “certificate of conduct” in order to continue working. This provides the opportunity for the relevant authority to assess the application and whether there is any risk for that person to continue working with children, if there is no risk then a “certificate of conduct” is issued. If the “certificate of conduct” is not issued, the employee would be dismissed. Organisations are also encouraged to require volunteers to provide a “certificate of conduct” before engaging them. This is provided free of charge by the Dutch authorities.

## *Restrictions on other behaviours or activities*

266. Persons convicted of sexual offences against children may also be placed under surveillance following their release, including conditional or early release and those that have completed their sentence.<sup>203</sup> Many Parties have some form of surveillance in place. 10/48 Parties indicated that convicted offenders may be subject to prohibitions or bans on going within certain localities such as schools and playgrounds.<sup>204</sup> **Germany** referred to the use of electronic tagging as a tool to ensure compliance with such measures. 6/48 Parties referred to a prohibition on contacting the victim.<sup>205</sup> **Denmark** specified that this includes restrictions on attempting to contact the victim using ICTs, and that offenders convicted of sexual offences against children can be subject to a prohibition on sharing a home with a child. **France** specified that the prohibition on contacting the victim is mandatory where a person that has been convicted of sexual offences against a child is released if there is any risk that they might come into contact or meet the victim after release and such a meeting should be avoided.

267. 8/48 Parties indicated that offenders convicted of sexual offences against children may be subject to travel restrictions, bans or notification requirements.<sup>206</sup>

---

<sup>202</sup> See [www.rik.ee/en/criminal-records-database/child-care-institutions](http://www.rik.ee/en/criminal-records-database/child-care-institutions).

<sup>203</sup> [Explanatory Report to the Lanzarote Convention](#), para. 192.

<sup>204</sup> Croatia, Denmark, France, Germany, Italy, Latvia, Montenegro, Russian Federation, Spain, Türkiye.

<sup>205</sup> Denmark, France, Germany, Luxembourg, Slovenia, Spain.

<sup>206</sup> Croatia, France, Ireland, Montenegro, Romania, Poland, Russian Federation, United Kingdom.

### *Requirements to notify changes to address and identity details*

268. 10/48 Parties have established a specific register of persons convicted of sexual offences against children.<sup>207</sup> Usually, these are used by police and probation services to monitor and record any changes in the address or identity details of the convicted person and are not publicly available. Exceptions are **North Macedonia**, where the register is public, and **Poland**, where the court has discretion to include the offender's identity on a public registry.

269. Specific registers of persons convicted of sexual offences against a child were reported as being under development in **Bulgaria**, and the **Republic of Moldova**.

270. 8/48 Parties indicated that they have introduced additional or specific safeguards into their general criminal records systems to facilitate and enhance checks against persons convicted of child sexual exploitation or sexual abuse.<sup>208</sup> For example in **Slovenia**, criminal record information in relation to these offences will not be expunged from the record and will remain available for life.

271. The remaining 31/48 Parties rely on their general criminal records systems without any additional measures or safeguards to keep track of this specific group of offenders.

### *Rehabilitation and therapeutic programmes*

272. Whilst not strictly measures of supervision or monitoring, 14/48 Parties indicated that they provide some form of therapeutic intervention or rehabilitation programme to convicted offenders;<sup>209</sup> some indicated that this is provided via helplines dedicated to persons who fear they may sexually abuse a child.<sup>210</sup>

## **Recommendations**

### **Recommendation 63**

The Lanzarote Committee requires **Parties that have not yet done so**,<sup>211</sup> to establish mechanisms to monitor and supervise persons convicted of child sexual exploitation and sexual abuse in accordance with Article 27 paragraph 4.

### **Recommendation 64**

The Lanzarote Committee invites **Parties** to enhance monitoring and supervision of offenders convicted of child sexual exploitation or sexual abuse, for example by considering the steps set out in the additional guidance below.

<sup>207</sup> Bosnia and Herzegovina (Republika Srpska only), Croatia, France, Georgia, Malta, North Macedonia, Poland, Portugal, Romania, Spain, United Kingdom.

<sup>208</sup> Cyprus, Germany, Hungary, Italy, Lithuania, Norway, Sweden, Switzerland.

<sup>209</sup> Belgium, Bulgaria, Croatia, Cyprus, France, Italy, Latvia, Luxembourg, Monaco, Poland, San Marino, Slovenia, Spain, Switzerland, Türkiye.

<sup>210</sup> Given that this was not strictly within the scope of the question asked to Parties, it is possible that other Parties also provide similar programmes to convicted persons. This will be explored further in the next report of the Lanzarote Committee.

<sup>211</sup> Albania, Andorra, Armenia, Azerbaijan, Greece, Liechtenstein, Republic of Moldova, Norway, Russian Federation, Serbia, Slovak Republic and Tunisia.

### Additional guidance for State Parties

It can be a challenge to establish effective supervision and monitoring mechanisms for convicted offenders. Such mechanisms must be sufficiently resourced and evaluated to ensure they are effective. It is also important to ensure that such mechanisms are proportionate and do not hinder the potential rehabilitation of offenders. **Parties can achieve this by considering implementing one or more of the following safeguards:**

- Assessing the dangerousness and possible risk of repeat offending before release;
- Strengthening multi-stakeholder co-ordination in the management and supervision of offenders following release, including by providing outpatient medical or social support to encourage rehabilitation and reintegration;
- Establishing court, probation or other administrative supervision for offenders following release and for as long as they continue to pose a risk of re-offending;
- Ensuring that all persons convicted of sexual offences against children are prevented from working or volunteering in contact with children (not limiting this to only specific professions);
- Restricting other activities such as going within specific localities such as schools or children's playgrounds;
- Requiring convicted offenders to notify the authorities of any changes in their identity or address; and
- Providing therapy and rehabilitation programmes to help prevent risk of reoffending in line with chapter V of the Lanzarote Convention.

**For Parties relying on general criminal records data, additional safeguards may include:**

- Ensuring that data relating to sexual offences against children is not expunged from the criminal record for at least the duration of the prohibition on carrying out professional or voluntary activities in contact with children;
- Requiring convicted offenders to notify changes to their identity and address to the appropriate authorities;
- Ensuring probation or other services have appropriate tools to enforce relevant bans on professional, volunteer or other types of activities;
- Co-operating with other countries to ensure continued supervision and monitoring if the offender travels for professional or other reasons.

## 7.2 Sharing data on offenders convicted of child sexual abuse with other countries

### Article of the Convention

#### **Article 37 - Recording and storing of national data on convicted sexual offenders**

**Paragraph 3** Each Party shall take the necessary legislative or other measures to ensure that the information referred to in paragraph 1 can be transmitted to the competent authority of another Party, in conformity with the conditions established in its internal law and the relevant international instruments.

273. Acknowledging that offenders may sexually abuse children in other countries, be it in the context of travel and tourism, employment, or volunteering, the Lanzarote Convention requires Parties to share data on convicted sexual offenders with other State Parties. Such data sharing must be in accordance with the rules applicable to international transfers of personal data.<sup>212</sup>

274. To facilitate data sharing between Parties, the Lanzarote Convention requires each Party to communicate the name and address of a single national authority (Article 37 paragraph 2).<sup>213</sup>

275. Sharing of data on convicted offenders may be particularly helpful in different contexts, especially as regards persons whose nationality or habitual residence is in another State. For example:

- in the context of screening potential employees or volunteers;
- during investigations of suspected child sexual exploitation or sexual abuse in the context of travel and tourism;
- during the prosecution phase; and
- in the context of sentencing if previous convictions are considered an aggravating circumstance.

276. In practice data sharing can be achieved to some extent through mechanisms for mutual legal assistance however, this will not allow Parties to exchange data on convicted persons in all of the scenarios outlined above.<sup>214</sup>

#### Findings from the current monitoring round

277. In response to the current monitoring round, Parties mentioned a variety of different legal bases for exchanging information on convicted sexual offenders.

278. There are 15 Council of Europe conventions on international co-operation in the criminal field, including the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters (ETS 030) which has been ratified by all Parties to the Lanzarote Convention except **Tunisia**. Parties to this Convention must regularly exchange information with other Parties concerning nationals of that State Party (Article 22). The majority of Parties do so on a regular basis.<sup>215</sup> Article 13 of this Convention provides a mechanism for Parties to make requests to obtain criminal records of offenders within the context of criminal proceedings and also in other cases. **France** indicated that information on criminal records is also shared in the context of background screening of professionals and volunteers on the basis of this Article.

---

<sup>212</sup> [Explanatory Report to the Lanzarote Convention](#), para. 250.

<sup>213</sup> The declarations pertaining to this Article are available on the Council of Europe Treaty Office here: <https://www.coe.int/en/web/conventions/full-list?module=declarations-by-treaty&numSte=201&codeNature=0>

<sup>214</sup> This question was not examined in the first monitoring round and no reply was received to this question from: **Iceland, Montenegro, Norway, the Russian Federation and Serbia**.

<sup>215</sup> Council of Europe Committee of Experts on the Operation of European Conventions on Co-operation (2020) scoping review.

### Promising practices

In **Cyprus**, criminal records are updated with information received from other countries.

**Romania** and **Switzerland** inform other States about criminal convictions of their citizens.

**Ireland** informs other States when an Irish citizen with a criminal conviction moves to their country.

279. Article 38 of the Lanzarote Convention also provides a legal basis for mutual legal assistance in criminal matters in respect of offences established in accordance with this Convention. **Tunisia** specifically cited this article as a legal basis for such requests.

280. All EU States are connected to the European Criminal Records Information System (ECRIS) which allows them to exchange information on convictions in relation to EU nationals.<sup>216</sup> This system comprises notifications between the 27 EU member States, and the **United Kingdom**, on new convictions and provides a system to facilitate requests for information and their replies. In addition to facilitating mutual legal assistance requests, this system also allows exchange of information “for other purposes”, including in the context of screening prior to recruiting a professional or engaging a volunteer.

281. INTERPOL also provides a platform for international requests for co-operation between police in member countries who can consult the INTERPOL notices database. INTERPOL Green notices provide a warning about a person’s criminal activities where a person is considered to be a threat to public safety.

### Promising practices

**Austria** has developed a protocol to ensure co-operation between relevant authorities /services (court, prosecution, and security authorities) in the context of data sharing with other countries.

**France, Estonia** and **Germany** referred to spontaneous information sharing with other countries under specific circumstances.

**Latvia** has designated an information centre within the Ministry of Interior to deal with requests for data on criminal records from other countries.

---

<sup>216</sup> European Commission (2020) [Statistical report on the exchange through the European Criminal Records Information System \(ECRIS\) of information extracted from criminal records between the Member States](#)

282. It appears that not all Parties make full use of the mutual legal assistance mechanisms identified above and sharing of data is limited to specific situations and not systematic. The responses to this question have allowed for an analysis of the mechanisms available but do not provide data on the use made of these mechanisms in practice.

## Recommendation

### Recommendation 65

The Lanzarote Committee reiterates Recommendation 11 of the Report on Data Collection Mechanisms, requiring **Parties, that have not yet done so**,<sup>217</sup> to co-operate with other Parties through the exchange of data relating to the identity and the genetic profile of persons convicted of the offences established in accordance with the Lanzarote Convention, in line with data sharing agreements and protocols, for the purpose of prevention and prosecution of such offences in accordance with Article 37 paragraph 3.

## Additional guidance for State Parties

### Make full use of existing mechanisms for data sharing by:

- Adhering to or improving the use of mechanisms available such as those established in the framework of the Council of Europe, the EU, INTERPOL and other relevant international organisations;
- Ensuring that relevant agencies/authorities are aware of available mechanisms, receive appropriate training on how to make and respond to a request for data on convicted persons, and receive guidance on the circumstances in which it is necessary to make use of these mechanisms;
- Guaranteeing that the declarations made under Article 37 paragraph 2 are correct and up to date.

---

<sup>217</sup> Albania, Andorra, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Georgia, Germany, Greece, Liechtenstein, Malta, Monaco, Montenegro, North Macedonia, Iceland, Russian Federation, San Marino, Serbia, Slovenia, Switzerland, Tunisia, Türkiye, and Ukraine.

## Appendix 1: Intervention measures for children under the age of criminal responsibility

| State Party                   | Age of criminal responsibility   | Intervention measures for children <b>under</b> the criminal age of responsibility who display harmful sexual behaviours |                      |                                                                                                                                                                         |                                          |                     |                                                                                                                 |
|-------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------|
|                               |                                  | Multi-disciplinary risk assessment                                                                                       | Education / training | Social welfare intervention and other safeguarding measures (family counselling or therapy and support measures, potential referral to special schools or institutions) | Health / medical intervention or therapy | Police intervention | Supervision measures overseen by youth offending service / probation/ correctional unit (non-criminal measures) |
| <b>Albania</b>                | 16 (14 for some sexual offences) | -                                                                                                                        | -                    | -                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Andorra</b>                | 12                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       |                                          | -                   | -                                                                                                               |
| <b>Armenia</b>                | 16 (14 for some sexual offences) | -                                                                                                                        | ✓                    | -                                                                                                                                                                       | -                                        | ✓                   | ✓                                                                                                               |
| <b>Austria</b>                | 14                               | -                                                                                                                        | ✓                    | ✓                                                                                                                                                                       | ✓                                        | -                   | -                                                                                                               |
| <b>Azerbaijan</b>             | 14                               |                                                                                                                          |                      | ✓                                                                                                                                                                       |                                          | -                   | ✓                                                                                                               |
| <b>Belgium</b>                | 18 (16 in exceptional cases)     | ✓                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | ✓                                                                                                               |
| <b>Bosnia and Herzegovina</b> | 14                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Bulgaria</b>               | 14                               | -                                                                                                                        | ✓                    | -                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Croatia</b>                | 14                               | ✓                                                                                                                        | -                    | ✓                                                                                                                                                                       | ✓                                        | -                   | -                                                                                                               |
| <b>Cyprus</b>                 | 14                               | ✓                                                                                                                        | -                    | ✓                                                                                                                                                                       | ✓                                        | -                   | -                                                                                                               |
| <b>Czechia</b>                | 15                               | -                                                                                                                        | ✓                    | ✓                                                                                                                                                                       | ✓                                        | -                   | ✓                                                                                                               |
| <b>Denmark</b>                | 15                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | ✓                                                                                                               |
| <b>Estonia</b>                | 14                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Finland</b>                | 15                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | ✓                   | -                                                                                                               |
| <b>France</b>                 | 13                               | -                                                                                                                        | ✓                    | ✓                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Georgia</b>                | 14                               | ✓                                                                                                                        | ✓                    | ✓                                                                                                                                                                       | ✓                                        | -                   | -                                                                                                               |
| <b>Germany</b>                | 14                               | -                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | -                                                                                                               |
| <b>Greece</b>                 | 15                               | ✓                                                                                                                        | ✓                    | ✓                                                                                                                                                                       | ✓                                        | ✓                   | ✓                                                                                                               |
| <b>Hungary</b>                | 12                               | ✓                                                                                                                        | -                    | ✓                                                                                                                                                                       | -                                        | -                   | ✓                                                                                                               |

|                            |                                                  |   |   |   |   |   |   |
|----------------------------|--------------------------------------------------|---|---|---|---|---|---|
| <b>Iceland</b>             | 15                                               | - | - | ✓ | - | - | - |
| <b>Ireland</b>             | 12 (10 for some sexual offences)                 | - | - | ✓ | - | - | - |
| <b>Italy</b>               | 14                                               | - | ✓ | ✓ | - | - | ✓ |
| <b>Latvia</b>              | 14                                               | - | ✓ | ✓ | - | - | - |
| <b>Liechtenstein</b>       | 14                                               | - | - | ✓ | - | - | - |
| <b>Lithuania</b>           | 16 (14 for some sexual offences)                 | - | ✓ | ✓ | - | - | - |
| <b>Luxembourg</b>          | 18                                               | - | ✓ | ✓ | - | - | - |
| <b>Malta</b>               | 14                                               | - | - | ✓ | - | - | - |
| <b>Republic of Moldova</b> | 16 (14 for some sexual offences)                 | ✓ | - | ✓ | - | - | - |
| <b>Monaco</b>              | 13                                               | - | ✓ | ✓ | - | - | - |
| <b>Montenegro</b>          | 14                                               | - | - | - | - | - | - |
| <b>Netherlands</b>         | 12                                               | ✓ | ✓ | ✓ | - | - | - |
| <b>North Macedonia</b>     | 14                                               | - | - | - | - | - | - |
| <b>Norway</b>              | 15                                               | - | - | - | ✓ | - | - |
| <b>Poland</b>              | 17 (10 for some sexual offences)                 | - | ✓ | ✓ | - | ✓ | - |
| <b>Portugal</b>            | 16                                               | - | ✓ | ✓ | - | - | ✓ |
| <b>Romania</b>             | 14                                               | - | ✓ | ✓ | - | - | - |
| <b>Russian Federation</b>  | 16 (14 for some sexual offences)* <sup>218</sup> | - | - | - | - | - | - |
| <b>San Marino</b>          | 14                                               | - | - | ✓ | - | - | - |
| <b>Serbia</b>              | 14                                               | - | - | - | ✓ | - | - |
| <b>Slovak Republic</b>     | 14 (15 or 18 for some offences)                  | - | ✓ | ✓ | - | - | - |
| <b>Slovenia</b>            | 14                                               | - | - | ✓ | - | - | - |
| <b>Spain</b>               | 14                                               | - | - | ✓ | - | - | - |
| <b>Sweden</b>              | 15                                               | - | - | ✓ | - | - | - |
| <b>Switzerland</b>         | 10                                               | - | ✓ | ✓ | - | - | - |
| <b>Tunisia</b>             | 13                                               | - | - | ✓ | - | - | - |
| <b>Türkiye</b>             | 12                                               | - | ✓ | ✓ | ✓ | - | - |
| <b>Ukraine</b>             | 16                                               | - | ✓ | - | - | - | - |
| <b>United Kingdom</b>      | 10 (12 Scotland)                                 | - | - | ✓ | - | - | ✓ |
| <b>Total. 48</b>           |                                                  |   |   |   |   |   |   |

<sup>218</sup> \*The Russian Federation did not reply to this question; some information was provided by CSO.

## Appendix 2: Intervention measures for children over age of criminal responsibility

| State Party                   | Age of criminal responsibility   | Intervention measures for children <b>over</b> the criminal age of responsibility who display harmful sexual behaviours or sexually offend |                                        |                                           |                                     |                                      |                                         |                                                         |                                                               |
|-------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------|-------------------------------------|--------------------------------------|-----------------------------------------|---------------------------------------------------------|---------------------------------------------------------------|
|                               |                                  | No sanction (if criminal conviction considered punishment enough)                                                                          | Intervention of child welfare services | Treatment order (medical / psychological) | Educational measures (non-criminal) | Disciplinary measures (non-criminal) | Criminal sanctions specific to children | Reduced criminal sanctions foreseen for adult offenders | Victim / young offender mediation in cases of sexual offences |
| <b>Albania</b>                | 16 (14 for some sexual offences) | -                                                                                                                                          | -                                      | -                                         | -                                   | -                                    | -                                       | -                                                       | -                                                             |
| <b>Andorra</b>                | 12                               | -                                                                                                                                          | -                                      | -                                         | ✓                                   | ✓                                    | ✓                                       | -                                                       | -                                                             |
| <b>Armenia</b>                | 16 (14 for some sexual offences) | ✓                                                                                                                                          | ✓                                      | -                                         | ✓                                   | ✓                                    | ✓                                       | -                                                       | -                                                             |
| <b>Austria</b>                | 14                               | ✓                                                                                                                                          | ✓                                      | -                                         | ✓                                   | -                                    | -                                       | ✓                                                       | -                                                             |
| <b>Azerbaijan</b>             | 14                               | -                                                                                                                                          | -                                      | -                                         | ✓                                   | -                                    | -                                       | ✓                                                       | -                                                             |
| <b>Belgium</b>                | 18 (16 in exceptional cases)     | ✓                                                                                                                                          | -                                      | -                                         | ✓                                   | -                                    | -                                       | -                                                       | -                                                             |
| <b>Bosnia and Herzegovina</b> | 14                               | -                                                                                                                                          | ✓                                      | -                                         | ✓                                   | -                                    | ✓                                       | -                                                       | -                                                             |
| <b>Bulgaria</b>               | 14                               | -                                                                                                                                          | -                                      | -                                         | -                                   | -                                    | ✓                                       | ✓                                                       | -                                                             |
| <b>Croatia</b>                | 14                               | ✓                                                                                                                                          | -                                      | -                                         | ✓                                   | -                                    | ✓                                       | -                                                       | -                                                             |
| <b>Cyprus</b>                 | 14                               | -                                                                                                                                          | -                                      | ✓                                         | -                                   | ✓                                    | ✓                                       | -                                                       | -                                                             |
| <b>Czechia</b>                | 15                               | -                                                                                                                                          | ✓                                      | -                                         | ✓                                   | -                                    | ✓                                       | ✓                                                       | -                                                             |
| <b>Denmark</b>                | 15                               | -                                                                                                                                          | -                                      | -                                         | -                                   | -                                    | -                                       | ✓                                                       | -                                                             |
| <b>Estonia</b>                | 14                               | ✓                                                                                                                                          | ✓                                      | ✓                                         | ✓                                   | ✓                                    | ✓                                       | ✓                                                       | -                                                             |
| <b>Finland</b>                | 15                               | ✓                                                                                                                                          | -                                      | -                                         | -                                   | -                                    | ✓                                       | ✓                                                       | -                                                             |
| <b>France</b>                 | 13                               | -                                                                                                                                          | ✓                                      | -                                         | ✓                                   | -                                    | -                                       | ✓                                                       | -                                                             |
| <b>Georgia</b>                | 14                               | ✓                                                                                                                                          | ✓                                      | -                                         | ✓                                   | ✓                                    | ✓                                       | ✓                                                       | -                                                             |
| <b>Germany</b>                | 14                               | ✓                                                                                                                                          | ✓                                      | ✓                                         | ✓                                   | -                                    | ✓                                       | -                                                       | ✓                                                             |
| <b>Greece</b>                 | 15                               | -                                                                                                                                          | ✓                                      | ✓                                         | ✓                                   | ✓                                    | ✓                                       | ✓                                                       | ✓                                                             |
| <b>Hungary</b>                | 12                               | -                                                                                                                                          | -                                      | -                                         | ✓                                   | -                                    | ✓                                       | ✓                                                       | -                                                             |

|                     |                                                  |   |   |   |   |   |   |   |   |
|---------------------|--------------------------------------------------|---|---|---|---|---|---|---|---|
| Iceland             | 15                                               | - | ✓ | ✓ | - | - | ✓ | - | - |
| Ireland             | 12 (10 for some sexual offences)                 | - | ✓ | - | ✓ | - | ✓ | - | - |
| Italy               | 14                                               | ✓ | ✓ | - | ✓ | - | ✓ | ✓ | - |
| Latvia              | 14                                               | ✓ | ✓ | - | ✓ | ✓ | ✓ | ✓ | - |
| Liechtenstein       | 14                                               | - | - | - | - | - | - | ✓ | - |
| Lithuania           | 16 (14 for some sexual offences)                 | ✓ | ✓ | - | ✓ | ✓ | ✓ | - | - |
| Luxembourg          | 18                                               | - | - | - | - | - | - | - | - |
| Malta               | 14                                               | - | - | - | - | - | - | ✓ | - |
| Republic of Moldova | 16 (14 for some sexual offences)                 | - | - | - | ✓ | ✓ | - | - | ✓ |
| Monaco              | 13                                               | - | ✓ | - | ✓ | ✓ | - | ✓ | - |
| Montenegro          | 14                                               | - | - | - | ✓ | - | ✓ | - | - |
| Netherlands         | 12                                               | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | - | ✓ |
| North Macedonia     | 14                                               | - | - | - | - | - | - | - | - |
| Norway              | 15                                               | - | - | - | - | - | - | - | - |
| Poland              | 17 (10 for some sexual offences)                 | - | - | - | - | - | - | - | - |
| Portugal            | 16                                               | - | - | - | - | - | - | - | - |
| Romania             | 14                                               | - | - | - | ✓ | - | ✓ | - | - |
| Russian Federation  | 16 (14 for some sexual offences)* <sup>219</sup> | - | - | - | - | - | ✓ | - | - |
| San Marino          | 14                                               | - | - | - | - | - | - | ✓ | - |
| Serbia              | 14                                               | - | - | - | ✓ | - | ✓ | - | - |
| Slovak Republic     | 14 (15 or 18 for some offences)                  | - | - | - | - | - | - | ✓ | - |
| Slovenia            | 14                                               | - | ✓ | ✓ | ✓ | - | ✓ | - | - |
| Spain               | 14                                               | - | - | - | ✓ | - | ✓ | - | - |
| Sweden              | 15                                               | - | ✓ | - | ✓ | - | ✓ | - | - |
| Switzerland         | 10                                               | - | ✓ | - | ✓ | - | ✓ | - | - |
| Tunisia             | 13                                               | - | - | - | - | - | ✓ | - | - |
| Türkiye             | 12                                               | - | - | - | - | - | - | ✓ | - |
| Ukraine             | 16                                               | - | - | - | ✓ | - | ✓ | - | - |
| United Kingdom      | 10 (12 Scotland)                                 | - | - | - | ✓ | - | ✓ | - | - |
| <b>Total. 48</b>    |                                                  |   |   |   |   |   |   |   |   |

<sup>219</sup> \*The Russian Federation did not reply to this question; some information was provided by CSO.

### Appendix 3: Special representatives

| Country                | Special representatives or guardians <i>ad litem</i> are appointed when there is a conflict of interest between the holders of parental authority and a child. | The national legal framework ensure that special representatives and guardians <i>ad litem</i> who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim: |                                                                                       |                                                   |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------|
|                        |                                                                                                                                                                | receive appropriate training and legal knowledge.                                                                                                                                                                | avoid combining the functions of a lawyer and guardian <i>ad litem</i> in one person. | are provided free of charge for the child victim. |
| Albania                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Andorra                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Armenia                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Austria                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Azerbaijan             | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Belgium                | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | ✓                                                                                     | -                                                 |
| Bosnia and Herzegovina | -                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Bulgaria               | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Croatia                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Cyprus                 | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Czechia                | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Denmark                | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Estonia                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Finland                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| France                 | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Georgia                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Germany                | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Greece                 | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Hungary                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Iceland                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Ireland                | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Italy                  | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | -                                                 |
| Latvia                 | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Liechtenstein          | -                                                                                                                                                              | -                                                                                                                                                                                                                | -                                                                                     | -                                                 |
| Lithuania              | ✓                                                                                                                                                              | -                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Luxembourg             | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | -                                                                                     | ✓                                                 |
| Malta                  | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Republic of Moldova    | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |
| Monaco                 | ✓                                                                                                                                                              | ✓                                                                                                                                                                                                                | ✓                                                                                     | ✓                                                 |

|                    |               |               |               |               |
|--------------------|---------------|---------------|---------------|---------------|
| Montenegro         | ✓             | ✓             | -             | ✓             |
| Netherlands        | ✓             | ✓             | ✓             | ✓             |
| North Macedonia    | ✓             | ✓             | -             | ✓             |
| Norway             | ✓             | ✓             | -             | ✓             |
| Poland             | ✓             | ✓             | -             | ✓             |
| Portugal           | ✓             | ✓             | -             | ✓             |
| Romania            | ✓             | ✓             | -             | ✓             |
| Russian Federation | -             | -             | -             | -             |
| San Marino         | ✓             | -             | ✓             | ✓             |
| Serbia             | ✓             | -             | -             | -             |
| Slovak Republic    | ✓             | ✓             | ✓             | ✓             |
| Slovenia           | ✓             | -             | ✓             | ✓             |
| Spain              | ✓             | ✓             | ✓             | ✓             |
| Sweden             | ✓             | ✓             | -             | ✓             |
| Switzerland        | ✓             | ✓             | -             | ✓             |
| Tunisia            | -             | ✓             | -             | ✓             |
| Türkiye            | ✓             | ✓             | -             | ✓             |
| United Kingdom     | ✓             | ✓             | -             | -             |
| Ukraine            | ✓             | -             | -             | -             |
| <b>Total</b>       | 44/48 Parties | 36/48 Parties | 23/48 Parties | 36/48 Parties |

**[www.coe.int](http://www.coe.int)**

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.