

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

Fields marked with * are mandatory.

Introduction

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

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

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

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

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

The notion of the circle of trust

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

The previous and current monitoring rounds on the circle of trust

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

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

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

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

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

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

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

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

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

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

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

9. In addition, Parties are kindly requested to:

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

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

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

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

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

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

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

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

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

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

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

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

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Ireland

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

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

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

- Yes
 No

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

“Abuse of a recognised position of trust, authority or influence” is not a separate sexual offence against children in Irish primary legislation.

However the Criminal Law (Sexual Offences) Act 2006, as amended by the Criminal Law (Sexual Offences) Act 2017, does refer to “person in authority”.

The relevant Irish legislation in this regard is the Criminal Law (Sexual Offences) Act 2006, as amended by the Criminal Law (Sexual Offences) Act 2017 and further revised in December 2022.

Criminal Law (Sexual Offences) Act 2006 (as amended):

<https://revisedacts.lawreform.ie/eli/2006/act/15/revised/en/html>

The legislation comprises three offences:

- Section 2: Sexual act with a child under 15 years of age
- Section 3: Sexual act with a child under 17 years of age
- Section 3A: Offence by person in authority

It is a criminal offence to engage in a sexual act with a child under the age of 15; the legislation provides for a penalty up to life imprisonment upon conviction.

It is a criminal offence to engage in a sexual act with a child under the age of 17; the legislation provides for a penalty of up to 7 years imprisonment, rising to up to 15 years imprisonment where the perpetrator is a person in authority in relation to the child.

It is a criminal offence for a person in authority to engage in a sexual act with a child who has attained the age of 17 years (i.e. the age of consent) but is under the age of 18 years; the legislation provides for a penalty of up to 10 years imprisonment upon conviction.

In this legislation, Section 15 states that a “person in authority”, in relation to a child against whom an offence is alleged to have been committed, means—

- (a) a parent, grandparent, uncle or aunt whether of the whole blood, of the half blood or by affinity of the child,
- (b) a current or former guardian or foster parent of the child,
- (c) a current or former step-parent of the child,
- (d) a current or former partner of a parent of the child who lives or has lived in an enduring family relationship with the parent,
- (e) any person who is for the time being, or has been, in loco parentis to the child, or
- (f) any other person who is or has been responsible for the education, supervision, training, care or welfare of the child.

In this legislation, “sexual act” means vaginal sexual intercourse, anal sexual intercourse, fellatio, vaginal penetration by an object and aggravated sexual assault.

The notion of “circle of trust” is not defined in legislation.

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

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

- Yes
 No

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

Yes. Sections 17 and 18 of the Criminal Law (Sexual Offences) Act 2017:

Sexual act with child under 17 years of age

17. The Act of 2006 is amended by the substitution of the following section for section 3:

“3. (1) A person who engages in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 7 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.

(2) A person who attempts to engage in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—

- (a) to imprisonment for a term not exceeding 7 years, or
- (b) if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.

(3) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years.

(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.

(5) The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 17 years shall be that applicable to civil proceedings.

(6) Subject to subsection (8), it shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.

(7) No proceedings for an offence under this section against a child under the age of 17 years shall be brought except by, or with the consent of, the Director of Public Prosecutions.

(8) Where, in proceedings for an offence under this section against a child who at the time of the alleged commission of the offence had attained the age of 15 years but was under the age of 17 years, it shall be a defence that the child consented to the sexual act of which the offence consisted where the defendant—

- (a) is younger or less than 2 years older than the child,
- (b) was not, at the time of the alleged commission of the offence, a person in authority in respect of the child, and
- (c) was not, at the time of the alleged commission of the offence, in a relationship with the child that was intimidatory or exploitative of the child.”.

Offence by person in authority

18. The Act of 2006 is amended by the insertion of the following section after section 3:

“3A. (1) A person in authority who engages in a sexual act with a child who has attained the age of 17 years but is under the age of 18 years shall be guilty of an offence.

- (2) A person who attempts to commit an offence under subsection (1) shall be guilty of an offence.
- (3) It shall be a defence to proceedings for an offence under this section for the defendant to prove

that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 18 years.

(4) Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 18 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained that age.

(5) The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 18 years shall be that applicable to civil proceedings.

(6) It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she has reasonable grounds for believing that he or she was not a person in authority in relation to the child against whom the offence is alleged to have been committed.

(7) It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.

(8) A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.”.

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

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

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

- Yes
 No

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

Yes, as set out under Section 15 Criminal Law (Sexual Offences) Act, 2017:

15. Section 1 of the Act of 2006 is amended—

(a) by the substitution of the following definition for the definition of “person in authority”:

“ ‘person in authority’, in relation to a child against whom an offence is alleged to have been committed, means—

(a) a parent, grandparent, uncle or aunt whether of the whole blood, of the half blood or by affinity of the child,

(b) a current or former guardian or foster parent of the child,

(c) a current or former step-parent of the child,

(d) a current or former partner of a parent of the child who lives or has lived in an enduring family relationship with the parent,

(e) any person who is for the time being, or has been, in loco parentis to the child, or

(f) any other person who is or has been responsible for the education, supervision, training, care or welfare of the child;”,

and

(b) by the insertion of the following definition:

“ ‘foster parent’ means a person other than a relative of a child who is caring for the child on behalf of the Child and Family Agency in accordance with regulations made under the Child Care Act 1991 ;”.

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

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

[9] *Ibid*

- Yes
 No

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

Circle of trust is not defined in Irish legislation; however a “person in authority” is defined – please see response to 1.c

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

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

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

[10] *Ibid.*, Recommendation 6

- Yes
 No

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

Yes - The relevant provisions are outlined above in response to question 1.b. A sexual act with a child under 15 is punishable by up to life imprisonment; a sexual act with a child aged 15 or 16 is punishable by up to seven years imprisonment and up to 15 years imprisonment where the perpetrator is in a position of authority. A sexual act with a child aged 17 (i.e. the legal age of consent) is punishable by up to 10 years imprisonment.

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

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

[1] *Ibid.*, Recommendation 5

- Yes
 No

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

The legal age of consent does not apply/is not relevant in the case of an offence committed by a person in authority. In general, whether the child consented is not relevant to any of these offences.

Section 3A(7) Criminal Law (Sexual Offences) Act, 2006 as amended by Section 18, Criminal Law (Sexual Offences) Act, 2017 states "It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted."

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

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

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

[12] *Ibid.*, Recommendation 1

- Yes
 No

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

Yes. The definition of “person in authority” as set out by Section 15 of the Criminal Law (Sexual Offences) Act, 2017 includes (f) any other person who is or has been responsible for the education, supervision, training, care or welfare of the child;”,

The Criminal Law (Sexual Offences) Act 2017, Section 18 states:

The Act of 2006 is amended by the insertion of the following section after section 3:

“3A. (1) A person in authority who engages in a sexual act with a child who has attained the age of 17 years but is under the age of 18 years shall be guilty of an offence.

(2) A person who attempts to commit an offence under subsection (1) shall be guilty of an offence.

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

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

[13] *Ibid.*, Recommendation 7

- Yes
 No

If appropriate, please provide more information (3.b No)

Not applicable - The legal age of marriage in Ireland is 18 years.

Section 49, Domestic Violence Act, 2018 abolishes underage marriage in this jurisdiction. No marriage can take place where one or both parties has not reached the age of 18 years.

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

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

[14] *Ibid.*, Recommendation 8

- Yes
 No

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

Yes. Coercion, force or threat are not ingredients which must be present to constitute an offence of a sexual act with a child.

As above, there are two legislative provisions which refer to sexual acts committed by a perpetrator who is a person of authority in relation to a child. Where the child is aged 15 or 16 this is an aggravating factor which more than doubles the potential sentence. Where the child is aged 17 (and therefore old enough to consent to sexual activity) nevertheless a person in authority engaging in a sexual act with the child commits an offence, which is punishable by up to 10 years imprisonment. The legal age of consent does not apply/is not relevant in the case of an offence committed by a person in authority. This is the case regardless of whether or not coercion, force or threat was involved.

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

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

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

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

[15] Ibid., Recommendation 9

- Yes
 No

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

YES. In addition to the Criminal Law (Sexual Offences) Act, 2006, the Child Trafficking and Pornography Act 1998 (as amended) criminalises the following conduct:

- Child trafficking and taking, etc., child for sexual exploitation
- o Aggravating factor: certain offences under section 3 committed by public official during performance of duties
- Allowing child to be used for child pornography
- Organising etc. child prostitution or production of child pornography
- Producing, distributing, etc. child pornography
- Participation of child in pornographic performance
- Possession of child pornography

Child Trafficking and Pornography Act 1998 (as amended) : <https://revisedacts.lawreform.ie/eli/1998/act/22/revised/en/html>

Similarly, the Criminal Law (Sexual Offences) Act 2017 criminalises the following offences involving children:

- Obtaining, providing etc. a child for purpose of sexual exploitation
- Invitation etc. [of a child] to sexual touching
- Sexual activity in presence of child
- Causing child to watch sexual activity
- Meeting child for purpose of sexual exploitation

- Use of information and communication technology to facilitate sexual exploitation of child
Criminal Law (Sexual Offences) Act 2017 : <https://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/print.html>

It is also an offence under section 3 of the Criminal Law (Sexual Offences) Act 1993 to solicit a child under 17 to engage in behaviour that would otherwise be an offence under section 2 or 3 of the 2006 Act or which would constitute sexual assault.

Criminal Law (Sexual Offences) Act 1993 (as amended): <https://revisedacts.lawreform.ie/eli/1993/act/20/revised/en/html>

The legislation does not specifically refer to violation of a child's "sexual integrity". There is no distinction in the legislation between heterosexual and homosexual activity, nor any distinct reference to "homosexual activities". The sanctions for child sexual abuse are the same regardless of whether it is in relation to heterosexual or homosexual activity.

Yes. There is a large suite of offences on the Irish Statute Books concerning Sexual Abuse of Children. Sexual Exploitation of a Child contrary to Section 3, Child Trafficking and Pornography Act, 1998 as amended by Section 10 of the Criminal Law (Sexual Offences) Act, 2017

Amendment of section 3 of Act of 1998

10. Section 3 of the Act of 1998 is amended—
- (a) by the repeal of subsections (2A) and (2B), and
 - (b) in subsection (5), by the substitution of the following definition for the definition of "sexual exploitation":
 - “ ‘sexual exploitation’ means, in relation to a child—
 - (a) inviting, inducing or coercing the child to engage in prostitution or the production of child pornography,
 - (b) the prostitution of the child or the use of the child for the production of child pornography,
 - (c) the commission of an offence specified in the Schedule to the Sex Offenders Act 2001 against the child, causing another person to commit such an offence against the child, or inviting, inducing or coercing the child to commit such an offence against another person,
 - (d) inducing or coercing the child to engage or participate in any sexual, indecent or obscene act,
 - (e) inviting the child to engage or participate in any sexual, indecent or obscene act which, if done, would involve the commission of an offence against the child, or
 - (f) inviting, inducing or coercing the child to observe any sexual, indecent or obscene act, for the purpose of corrupting or depraving the child,
- and ‘sexually exploits’ shall be construed accordingly;”.

The specific offences as set out under the Criminal Law (Sexual Offences) Act, 2017 are as follows:

Section 3 – Obtaining, providing etc. a child for purposes of sexual exploitation

Section 4 – Invitation etc. to sexual touching

Section 5 – Sexual Activity in the presence of a child

Section 6 – Causing a child to watch sexual activity

Section 7 – Meeting a child for the purpose of sexual exploitation

Section 11 – 14 – Refer to the possession/production/organisation and distribution of child pornography

Section 16 – Sexual Act* with a child under 15

Section 17 - Sexual Act* with a child under 17

- Sexual Activity is defined as 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.

The concept of Sexual Integrity is not specifically mentioned within Irish Statute, however there is repeated reference to “corrupting or depraving the child.”

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

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

[16] *Ibid.*, Recommendation 11

- Yes
 No

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

YES – No distinction is made in Irish law relating to the gender of the offender or victim in child exploitation or sexual abuse and no distinction is referred to in penalties for these offences.

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

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

[17] *Ibid.*, Recommendation 12

- Yes
 No

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

No distinct reference is made.

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

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

a. contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his

/her legal representative? [18] Please refer to the specific legal provisions.

[18] *Ibid.*, Recommendation 57

- Yes
 No

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

The Paramountcy Principle of Child Protection is strictly adhered to in this jurisdiction as per Section 24, Child Care Act, 1991. Where suspicion of child sexual abuse exists and is made known to An Garda Síochána it is fully investigated and a file is forwarded to the Director of Public Prosecutions (DPP). Where a complaint is not forthcoming or not applicable due to the age of the child, the DPP will consider all available evidence such as medical and forensic reports and witness/expert evidence in considering whether to pursue a prosecution.

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

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

[19] *Ibid*

- Yes
 No

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

Criminal proceedings in cases of sexual offences are only brought at the behest of the Director of Public Prosecutions who will consider all available evidence in the absence of a complaint from a victim.

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

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

[20] *Ibid.*, Recommendation 56

- Yes
 No

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

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

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

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

- Yes
- No

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

Section 52 of the Children Act 2001 provides that a child under the age of 12 cannot be charged with a criminal offence. There is an exception for certain crimes: a child aged 10 or 11 can be charged with murder, manslaughter, rape, rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990 (i.e. anal rape, oral rape or penetration of the vagina with an object) or aggravated sexual assault. Prosecution of a child under 14 cannot take place without the consent of the Director of Public Prosecutions.

Part 4 of the Children Act 2001 provides for the Youth Diversion Programme. Any child aged 10 to 17 who has committed an offence or behaved anti-socially and who accepts responsibility for this can be considered for admission to the Diversion programme. A decision on admission is made by the Director of the programme and is based on a number of factors, such as the nature of the offence, the impact of the offence on the community, the views of the victim, and the offending history of the child. The intended outcome of the Programme is to divert young people from committing further offences and/or anti-social behaviour. The child receives a caution (i.e. a police warning against specified behaviour) and, where relevant, is subject to supervision.

Part 7 of the Children Act relates to the Children Court. Under the Act, the Children Court has the power to deal summarily with a child charged with any indictable offence (other than an offence which is required to be tried by the Central Criminal Court or manslaughter) unless the Court is of opinion that the offence does not constitute a minor offence fit to be tried summarily. In deciding whether to deal with a child summarily for an indictable offence, the Children Court must take into account the age and level of maturity of the child.

Part 9 of the Children Act 2001 provides for the powers of the Courts in relation to child offenders. A range of sanctions are provided for from community sanctions to children detention. Where the court deems it necessary, the Court can impose a sentence of detention in a children detention school. A child cannot be detained in an adult prison. Section 96 of the Children Act 2001 sets out "Principles relating to exercise of criminal jurisdiction over children". Detention is the sentence of last resort and the Court will endeavour to interfere as little as possible with the education and family life of a child offender and to ensure as far as is possible in the circumstances that the child continues to reside in the family home.

Children Act 2001 (as amended): <https://revisedacts.lawreform.ie/eli/2001/act/24/revised/en/html>

In practice, each case of peer on peer abuse is assessed by Tusla and An Garda Síochána. Where a similar age occurs then the approach is one of therapeutic provision and support to the child and parents and ensuring robust safety plans are in place to protect each child from peer on peer abuse. Where significant age gaps occur then this is a matter for An Garda Síochána and charges may be brought as per the age of criminal responsibility.

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

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

[22] Question included for capacity-building purposes

- Yes
 No

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

As stated at Section 6a, Part 4 of the Children Act 2001 provides for the Youth Diversion Programme. The Youth Diversion Programme provides an alternative pathway to prosecution for children between the ages of 12-17 years. Children who are prosecuted for sexual offences have their cases dealt with in the Children's Court in-camera. The presiding Judge will have discretion as to the sentence imposed. Penalties for sexual offences against children are longer than those against adults.

Section 52, Children Act, 2001: Age of criminal responsibility is 12. Children between the ages of 10-12 years can be prosecuted for the offences of Rape and Aggravated Sexual Assault.

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

CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

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

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

- Yes
 No

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

Section 16(1) (b) of the Criminal Evidence Act, 1992 provides for members of An Garda Síochána and Child Protection Social Workers to conduct video recorded interviews with victims of sexual crime under 18 years of age. The consent of a parent or legal guardian is required to conduct such interviews. The principle of consent is required by Tusla (Child and Family Agency)/social workers in all cases where a child is to be interviewed. However, in cases where concern exists as to the best interest of the child and parents are either refusing consent or are complicit in the alleged crime, social workers/TUSLA will seek legal advice regarding on seeking an application to the District Court to grant an Order as per the Child Care Act, 1991.

Social workers will also review the child's family environment to ensure that it is an emotionally supportive one, for the child to engage in a screening interview assessment process and also any follow up therapeutic interventions.

National implementation of the Barnahus model:

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) is working in close partnership with the Department of Justice and the Department of Health in developing the Barnahus model. The establishment of the model in Ireland is not on a legislative basis, but in working under the inter-agency model, Tusla operates within their statutory remit under the Child Care Act 1991 as amended. Further information on national implementation is given, as relevant, under answers to questions 11, 12, 17, 18, 19 and 20.

Regarding consent under the Barnahus model in Ireland, in the Inception Report (link to published report - gov.ie - Barnahus Ireland Inception Report (www.gov.ie)) of the the Joint EU-Council of Europe project, which is supporting national implementation, in Section 6.1 Legal and policy context it is noted that:

There is a need to further clarify the issue of the conflict between children's rights and the rights of the parent regarding single / double consent: children that are attending Barnahus but are not going through a judicial process are required to have the consent of two parents. Based on the Data Protection Impact Assessment (DPIA) completed by Tusla for Barnahus West, just one parent (the non-offending caregiver) can provide consent to refer a case to Barnahus.

Separate consent is required for any investigations undertaken in Barnahus including forensic medical examination. For a child to go through medical examination, consent of only one parent is needed, except for cases of children aged 16 years and over, as they are capable of giving their own consent as per the Non-Fatal Offences Against The Person Act 1997, and for situations where concerns of possible child sexual abuse arise in the context of custody and access cases and where the consent of the parent who is accused of possible CSA may not be forthcoming.

The DPIA completed by Tusla for Barnahus West advises that consent is not a valid lawful basis for the processing of personal data by Tusla in relation to Barnahus, and recommends that all references to 'consent' must be explained in Barnahus documentation in a manner which clearly distinguishes between any consent or agreement that Tusla might seek, for example, from a parent to provide interventions and supports in relation to a child and 'consent' under GDPR.

An information booklet is provided to the child and/or legal guardian regarding the Barnahus process by the Child Protection Social Worker. The legal guardian is then requested to sign the Barnahus consent form, which also requests them to sign to confirm that they have read and understood the information booklet.

Under the Joint EU-Council of Europe project an in-depth analysis of the existing legal and policy situation at national level is being carried out, defining the existing practices and identifying current issues. This analysis has a focus on information and data sharing processes as this has been identified as a particular challenge. The analysis will also include considerations of issues in relation to consent as cited above.

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

[24] *Ibid*

- Yes
 No

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

The legal consent of a parent/legal guardian can only be bypassed in this jurisdiction by way of court order. In this case the court order would be moved by TUSLA under the Child Care Act, 1991.

As above, legal advice in such a scenario will be sought, including situations where thresholds are exceeded, and an application is made to the district Court to seek to remove the child from the family on an emergency or interim care order and place in care or with supportive extended family members.

The response to question 7(a) in relation to national implementation of the Barnahus model is also applicable to this question.

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

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

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

- Yes
 No

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

Section 7 of the Domestic Violence Act 2018 provides for the making of barring orders. In all cases where there is a risk to the child of violence, including sexual violence a Barring Order may be considered necessary and applied for by the non-offending parent. This Order is provided for under Sections 7, 8 & 9 Domestic Violence Act 2018, to include the dependent children of the applicant. The respondent to this Barring Order must immediately leave the family home.

A court may make a barring order if it is satisfied that there are reasonable grounds for believing that the safety or welfare of the applicant for the order or a dependent person (defined to include a child) so requires.

A barring order directs the person against whom it is made to leave the place, or prevents him/her from entering the place, where the applicant for the order or a dependent person resides. Barring orders can remain in place for 3 years (or for a shorter period if the court so specifies) and before the expiration of that period another barring order can be made for a further period of up to 3 years.

Section 11 of the Act enables the Child and Family Agency to apply for orders on behalf of a person (or a dependent person/child) whose safety or welfare it believes to be at risk of violence and who is being deterred or prevented from making an application because of this risk of violence.

The text of the Domestic Violence Act 2018, as amended, can be accessed at this link: <https://revisedacts.lawreform.ie/eli/2018/act/6/front/revised/en/html>

Where there is an immediate risk and identified ongoing threat to a child's safety Tusla will request the suspected perpetrator to leave the family environment. Where this fails to take place Tusla may seek grounds for application to the district court under its statutory remit of the Child Care Act 1991 to identify children at immediate risk of harm.

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

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

[26] *Ibid.*, Recommendation 27

- Yes
 No

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

Article 42A of the Irish Constitution affirms children's natural and inalienable rights and the State's duty to uphold these rights.

Section 3, Child Care Act, 1991 recognises that it is generally in the best interest of the child to be brought up in the family home. The Child Care Act, 1991 (as amended) states that Tusla, the Child and Family Agency, shall [in the performance of its function to promote the welfare of children] "(c) have regard to the principle that it is generally in the best interests of a child to be brought up in his own family."

Sections 12 & 13 of the Child Care Act 1991 set out the legal basis for removing a child from his/her home where it is believed they are at immediate and serious risk. In all cases the matter of the permanency /duration of the removal order will be considered by a Judge and acted upon by TUSLA.

In practice an application is made by Tusla under the 1991 Child Care Act to the District Court, seeking a Court order on either an interim or emergency care order application. This is clearly set out in law and the time periods whereby the Court can grant an Emergency Care Order or Interim Care Order. Such orders are only granted if the required threshold has been met.

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

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

[27] *Ibid.*, Recommendation 25

- Yes
 No

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

The Children First Act, 2015 provides for information sharing between agencies when TUSLA is undertaking child protection assessments. Section 41(B) Data Protection Act, 2018 allows for the sharing of information with An Garda Síochána in the course of a criminal investigation.

As advised in response to question 7(a), the legal and policy analysis that is being carried out as part of the Joint EU-Council of Europe project has a focus on information and data sharing processes as this has been identified as a particular challenge in inter-agency working under the Barnahus model. The findings and recommendations of this analysis will be considered by the Inter-Departmental Group and it is planned that interagency coordination and data sharing tools will be developed to address the challenges that have been identified in relation to data sharing.

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

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

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

[28] *Ibid.*, Recommendation 32

- Yes
 No

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

Criminal proceedings in Ireland are governed by a separate legal framework to care proceedings. There is no automatic suspension or withdrawal of parental rights due to criminal proceedings or convictions. The Guardianship of Infants Act 1964, which makes provision for guardianship, custody and access in relation to children, does not make specific provision for these matters. Tusla, the Child and Family Agency has a responsibility to institute proceedings for supervision or care orders where appropriate. Section 16 of the Child Care Act, 1991, states that:

16.—Where it appears to Child and Family Agency that a child requires care or protection which he is unlikely to receive unless a court makes a care order or a supervision order in respect of him, it shall be the duty of the Agency to make application for a care order or a supervision order, as it thinks fit.

The Child Care Act, states at S18 that: (3) Where a care order is in force, the Child and Family Agency shall— (a) have the like control over the child as if it were his parent;

In cases of withdrawal of parental rights once the court has convicted the said parent? - This legislation comes within the remit of the Family Law Courts and Guardianship of Infants Acts. In all such cases TUSLA will lead the process.

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

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

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

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

- Yes
- No

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

The Guardianship of Infants Act 1964, which makes provision for guardianship, custody and access in relation to children, does not make specific provision for these matters.

Criminal proceedings in Ireland are governed by a separate legal framework to care proceedings. There is no automatic suspension or withdrawal of parental, visitation, and child hosting rights of parents due to criminal proceedings or convictions.

Note that Tusla, the Child and Family Agency acts on balance of probabilities when responding to allegations of abuse, whereas conviction in a criminal court requires proof of guilt beyond a reasonable doubt.

There is no automatic suspension of parental visitation rights against a parent convicted of criminal proceedings for sexual abuse of a child. However, TUSLA can seek a court order in relation to supervised access if required and An Garda Síochána can seek bail conditions for any perpetrator to refrain from having contact with witnesses or victims ahead of the court trial.

Each parent retains a right to apply for access to the District Court even in cases where sexual abuse has occurred. In which case, Tusla need to prove grounds/threshold to the Court as to why supervised access should/should not proceed in such circumstances. The District Court will generally hear clinical psychological evidence in such applications in respect of the child's best interests.

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

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

[30] *Ibid*

- Yes
- No

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

There is no 'automatic' withdrawal of parental rights on conviction, however, such an application relating to access and/or custody can be brought before the Family Law Courts.

The Guardianship of Infants Act 1964, which makes provision for guardianship, custody and access in relation to children.

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

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

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

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

The Protections for Persons Reporting Child Abuse Act 1998 protects any person who makes a report of suspected child abuse to designated officers of Tusla, the Health Service Executive (HSE) or to members of An Garda Síochána as long as the report is made in good faith and is not malicious. They are also protected from penalisation in employment.

Section 3 of the Act protects from civil liability the communication of an opinion, by the person reporting the abuse, to an appropriate person:

“that -

(a) a child has been or is being assaulted, ill-treated, neglected or sexually abused, or

(b) a child's health, development or welfare has been or is being avoidably impaired or neglected,

unless it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person”.

Defamation is not a criminal offence in Ireland. The Defamation Act 2009 sets out the law in relation to the civil law of defamation in Ireland.

The Act is available at: <https://www.irishstatutebook.ie/eli/2009/act/31/enacted/en/html>.

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

ASSISTANCE TO THIRD PARTIES Question 11.

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

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

There is no legislative provision to ensure that persons close to the victim receives emergency psychological care.

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

ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

TUSLA are responsible for monitoring the child protection concerns and in serious cases where An Garda Síochána has appointed a Family Liaison Officer, the child's situation will be jointly monitored.

As part of the national implementation of the Barnahus model, a National Therapeutic Framework is being developed, however this is not on a legislative basis.

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

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

No specific reference is made in legislation to the offending having been against children, however, such a fact will be considered for a greater sentence and therefore a greater period of supervision. The risk assessment conducted with child sex offenders is considered greater and therefore these offenders will be considered high risk and monitored appropriately.

Section 22 of the Criminal Law (Sexual Offences) Act 2017 provides for offences of a sexual act with a relevant person by a person in authority.

Section 22(8) of the Criminal Law (Sexual Offences) Act 2017 defines who a "person in authority" is and who a "relevant person" is.

Part 5 of the Sex Offenders Act 2001 provides for Post-Release Supervision of Sex Offenders by a responsible person. Such supervision is, in practice, provided by the Probation Service. Sections 29-30 of the Sex Offenders Act 2001 (as amended) provides a mechanism for the Court to order the post-release supervision of persons convicted of child sexual abuse. These sections are applicable to, but not exclusive, to persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence (defined in section 22(8) of the Criminal Law (Sexual Offences) Act 2017).

At present such persons, convicted of an offence included in the Schedule of the Sex Offenders Act 2001 (as amended) are managed by a multi-agency management group, Sex Offender Risk Assessment and Management (SORAM), comprising the Probation Service, An Garda Síochána, the Irish Prison Service, TUSLA and the Health Service Executive. The management group will be placed on a statutory footing as a Risk Assessment and Management (RAM) team on the commencement of Part 2A of the Sex Offenders (Amendment) Act, 2023, which is anticipated in Q4 of 2023.

It is also possible for a Court, when imposing sentence, to order that a person convicted of such offences to be subject of a suspended or part suspended sentence, as provided for in Section 99 of the Criminal Justice Act 2006, with a condition of supervision by the Probation Service and possibly other conditions and obligations for a specified period.

The obligations of convicted sex offenders are outlined in the Sex Offenders Act 2001. Part 2 of the Act sets out the notification requirements of a person who has obligations under the Act. They must, within seven days, notify their name, date of birth and home address to An Garda Síochána. Any changes must also be notified to An Garda Síochána within seven days. If an offender wants to leave the State for seven days or more, or two or more periods in any twelve months which together amount to seven days, they must notify An Garda Síochána of that intention in advance and state the address at which they are staying outside the State.

Under new legislation, the Sex Offenders (Amendment) Act 2023, which will come into force later this year, the notification periods will be reduced from 7 days to 3 days. Convicted sex offenders will have to notify Gardaí -

- of their name and address within 3 days of leaving prison;
- of any change to their name or address within 3 days;
- if they are going to be outside the State for more than 3 days;
- if they are returning to the State having been outside it for 3 days;
- if they are at an address in the State for 3 days and that address has not been notified to AGS;
- or every 12 months if they had not notified within the previous 12 months.

In addition, the legislation provides powers to Gardaí to take fingerprints, palm-prints and photographs to confirm the identity of the person. It also creates a legislative basis for SORAM.

Sex Offenders Act 2001:

<https://www.irishstatutebook.ie/eli/2001/act/18/enacted/en/print.html>

Sex Offenders (Amendment) Act 2023:

<https://www.irishstatutebook.ie/eli/2023/act/9/enacted/en/print.html>

<https://www.garda.ie/en/about-us/organised-serious-crime/garda-national-protective-services-bureau-gnpsb-/sex-offender-risk-assessment-and-management-soram-/faq-%E2%80%93-soram.html>

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

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

- Yes
 No

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

Yes. Criminal convictions are shared via Interpol on application through a country's national office. Article 38 of the Lanzarote Convention provides general principles and measures for international co-operation.

The Probation Service acts in accordance with the GDPR, particularly the Law Enforcement Directive in the sharing of information pertaining to persons convicted of sexual offences, where and when appropriate.

The Children First Act 2015 was commenced in full on December 11th 2017. Importantly it provides for mandatory reporting by key professionals, among which the Probation Service and Probation Officers are identified.

The Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act, 2012 and the National Vetting Bureau (Children and Vulnerable Persons) Acts, 2012 - 2016 are additional key pieces of complementary legislation designed to improve child safety and protection.

The Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Act 2019 and EC Framework Decision 947/2008 provides for the transfer of probation supervision in EU jurisdictions. The legislation makes provision for the sharing of information with relevant Probation authorities when persons apply to move to other European Countries and wish to seek to transfer their supervision to that other jurisdiction.

The Good Friday Agreement and policing arrangements allows for the exchange of information between both Police forces on the island of Ireland.

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

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

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

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

- Yes
 No

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

Tusla cannot advise a school or employer to suspend a worker who is the subject of an allegation of abuse against a minor. It can however insist on supervision of that worker at all times when in contact with minors while a Tusla assessment and Garda investigation is taking place. In practice this may not be possible for an employer to ensure this level of supervision in a school environment for example and in that scenario they may likely suspend the worker until an assessment outcome has been reached.

Immediate removal or suspension is not stipulated and will be a decision made by the employer in accordance with their HR Departments – however such information must be supplied to the National Vetting Bureau under Section 19 of the National Vetting Bureau (Children and Vulnerable Persons) Act, 2012 which will affect an individual’s vetting to work in specified areas.

Scheduled organisations required to notify specified information to Bureau.

19.— (1) Where, following an investigation, inquiry or regulatory process (howsoever described) in respect of a person, (including an investigation, inquiry or regulatory process initiated but not yet concluded before the commencement of this section) a scheduled organisation, has as a result of the investigation, inquiry or regulatory process, a bona fide concern that the person who is the subject of that investigation, inquiry or regulatory process, may—

- (a) harm any child or vulnerable person,
- (b) cause any child or vulnerable person to be harmed,
- (c) put any child or vulnerable person at risk of harm,
- (d) attempt to harm any child or vulnerable person, or
- (e) incite another person to harm any child or vulnerable person,

the scheduled organisation shall, as soon as may be, for the purposes of providing specified information to the Bureau, notify the Bureau in writing of that concern and shall state the reasons for it.

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

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

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

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

- Yes
- No

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

Yes. The Criminal Justice (Withholding of Information on offences against children and vulnerable persons) Act, 2012 ensures that matters must be reported to An Garda Síochána.

The Children First Act 2015, which was fully commenced in December 2017, provides for a number of key child protection measures, including raising awareness of child abuse and neglect, providing for mandated

reporting of child protection concerns and improving child protection arrangements in organisations providing services to children.

The Act provides for mandatory reporting of child protection concerns by certain key professionals, including professionals working with children in the education, health, justice, youth and childcare sectors. Under the Act mandated persons are required to report child protection concerns at or above a defined threshold to Tusla. Mandated persons are people who have contact with children and/or families and who, because of their qualifications, training and/or employment role, are in a key position to help protect children from harm. The list of mandated persons, is set out in Schedule 2 of the Act.

The Children First Act does not impose criminal sanctions on mandated persons who fail to make a report to Tusla. However, there are a number of administrative actions that Tusla could take if, after an investigation, it emerges that a mandated person did not make a report and a child was subsequently left at risk or harmed. Tusla may:

- Make a complaint to the Fitness to Practise Committee of a regulatory body of which the mandated person is a member.
- Pass information about the mandated person's failure to make a report to the National Vetting Bureau of An Garda Síochána. This information could then be disclosed to their current or future employers when they are next vetted.

Apart from the Children First Act, a number of other policy and legislative improvements have been made to child protection standards in recent years. These include the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 and the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, both of which fall under the remit of the Minister for Justice. This latter Act requires that any person who has information about a serious offence against a child, which may result in charges or prosecution, must report this to An Garda Síochána. Failure to do so is a criminal offence under that legislation. This obligation is in addition to any obligations under the Children First Act 2015.

There are professional implications for failing to report offences under Children First legislation and also professional registration bodies' code of conduct and potential disciplinary disciplinary hearings.

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

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

Please provide details.

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

- Yes
 No

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

All persons failing to protect children in their care will be held liable under a number of Irish Statutes including the offence of Endangerment contrary to Section 13, Non-Fatal Offences Against the Person Act, 1997 and Child Cruelty contrary to Section 246, Children Act, 2001.

Cruelty to children.

246.—(1) It shall be an offence for any person who has the custody, charge or care of a child wilfully to assault, ill-treat, neglect, abandon or expose the child, or cause or procure or allow the child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause unnecessary suffering or injury to the child's health or seriously to affect his or her wellbeing.

(2) A person found guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 7 years or both.

Endangerment.

13.—(1) A person shall be guilty of an offence who intentionally or recklessly engages in conduct which creates a substantial risk of death or serious harm to another.

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 7 years or to both.

Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, requires that any person who has information about a serious offence against a child, which may result in charges or prosecution, must report this to An Garda Síochána. Failure to do so is a criminal offence under that legislation. This obligation is in addition to any obligations under the Children First Act 2015.

Similar issues apply to legal professional as per response to 14.b. Children First legislation includes a schedule of mandated professions. Failure to report a child protection concern as a mandated person under this legislation has professional implications in respect of professional registration body.

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

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

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

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

Guardians ad litem in Ireland are appointed primarily to inform the court of the child's views and to advise the court on the best interests of the child, in child care proceedings under the Child Care Act 1991. Their purpose is to avoid a conflict of interest between the holders of parental authority and the child victim.

The Child Care (Amendment) Act, 2022 specifically states that advice be made available to an appointed Guardian ad Litem.

Legal advice and legal representation

35D. (1) In proceedings under Part IVA, where a guardian ad litem is appointed for a child pursuant to an order under section 35B(2) or 35H(3)(b), the Minister shall provide, or arrange for the provision, to the guardian ad litem of legal advice and legal representation for the purposes of the proceedings for which the guardian ad litem is appointed.

A guardian ad litem is appointed by the District Court and report to the Court in respect of all matters related to the welfare of a child. A guardian ad litem is required to act as an independent voice for the child and not as legal representatives for the child or the child's parents. A guardian ad litem will generally have their own legal representation in Court.

Legislation was enacted in 2022 to regulate the guardian ad litem profession and to allow a new national service be set up. Work is currently underway to set up this service. 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.

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

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

[41] Ibid., Recommendation 36

Legislation specifies that a court appointed Guardian ad Litem (GAL) is an independent person responsible for representing the voice of the child.

The new service will provide legal advice/representation as necessary. The Child Care (Amendment) Act 2022 lays out a set of factors to be considered when determining whether a guardian ad litem requires legal representation, but also provides that they shall be provided with legal advice in all situations.

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

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

[42] Ibid., Recommendation 37

Yes - Guardians ad litem appointed in child care proceedings are currently paid for by Tusla, the Child and Family Agency, and once opened will be paid by the new service. This is laid out in the Child Care Act 1991.

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

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

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

[43] *Ibid.*, Recommendation 34

- Yes
 No

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

A Guardian ad Litem is appointed to all children who are the subject of Child Care Proceedings as set out in the Child Care (Amendment) Act, 2002, where it is "satisfied that it is necessary in the interests of the child and in the interests of justice to do so".

When the new service is opened in accordance with the Child Care (Amendment) Act 2022, there will be a presumption in favour of appointment of a guardian ad litem in proceedings before the District Court, with mandatory appointment in special care cases before the High Court.

Social workers are qualified trained professionals who ensure that the child's interests and welfare is promoted at all times in their course of work and presented at all times in their submissions to the Court. They do not represent parental authority in the course of their professional work but are focused on the child's needs and the child's best interests at all times.

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

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

[44] *Ibid*

- Yes
 No

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

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

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

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

[45] *Ibid.*, Recommendation 38

Protective measures are enshrined in legislation for ALL children under 18 years of age during criminal investigations under the Criminal Justice (Victims of Crime) Act 2017 Sections 15 and 30. (<https://www.irishstatutebook.ie/eli/2017/act/28/enacted/en/html>)

The legal age of consent in Ireland is 17. Protections afforded by the Children First legislation (2015) are applicable here, which was fully implemented in 2017.

In relation to the Barnahus model, it is intended, where possible, that services operated under the model will be co-located with Adult SATU services, to facilitate the close working relationship needed where the victim is a teenager who may need a mix of adult (forensic) services and a child protection service.

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

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

[46] *Ibid.*, Recommendation 39

The assessment of a child victim carried out pursuant to Section 15, Criminal Justice (Victims of Crime) Act, 2017 ensures that all required and reasonable measures are in place in the best interest of the child.

As advised in response to question 7, Ireland is implementing the Barnahus model to improve the inter-agency response to cases of child sexual abuse, and reduce re-traumatisation for children who are referred to services operating under the model. An Interdepartmental Group (INTER-DEPARTMENTAL GROUP) is in place, which bring together representatives from the key Departments (Children, Equality, Disability, Integration and Youth; Health; Justice) and State Agencies (Tusla; An Garda Síochána; the HSE; Children's Health Ireland). These bodies are collectively responsible for child protection, policing, medical, health and therapeutic services, and are working to co-ordinate a child centred response to sexual abuse allegations, and to develop an appropriate governance framework for services provided under this inter-agency model.

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

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

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

The Child and Family Agency (TUSLA) are involved from the outset of a criminal investigation and have overall responsibility for the oversight of the well-being of the child.

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

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

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

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

- Yes
 No

If appropriate, please provide more information (18 No)

The establishment of the Barnahus model in an Irish context is not on a legislative basis, but in working under the inter-agency model, Tusla operates within their statutory remit under the Child Care Act 1991 as amended. Barnahus is in operation at designated centres in this jurisdiction.

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

INVESTIGATION Question 19. In the investigation phase:

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

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

[49] *Ibid.*, Recommendation 41

- Yes
 No

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

As part of national implementation of the Barnahus model, a pilot project was launched in 2019. Barnahus West (based in Galway), has been receiving referrals since November 2020. The centre has, at one specially designed and equipped location, a child friendly interview suite, a child friendly forensic medical examination room and secure evidence storage, and is co-located with adult SATU services. The facility also has meeting rooms and family rooms specifically designed to feel safe and non-threatening to children. Key professionals in child protection, health care and An Garda Síochána meet regularly to review cases of child sexual abuse and plan the steps that need to be taken.

It is intended that the model will be expanded with two additional centres are planned for the South (Cork) and East (Dublin), with each site to have a dedicated building with all agencies able to provide services onsite, including forensic medical, child protection, Garda interviewing and therapeutic provision. Section 17, Criminal Justice (Victims of Crime) Act, 2017 sets out the special measures which must be implemented during investigation.

Special measures during investigations

17. (1) The special measures which may be implemented in respect of a victim during the course of an investigation of an alleged offence include the following:

- (a) that any interview with the victim—
 - (i) be carried out in premises designed or adapted for that purpose,
 - (ii) be carried out by or through persons who have been trained for that purpose, and
 - (iii) where there is more than one interview, be carried out, where possible, by the same member or members of the Garda Síochána or the same officer or officers of the Ombudsman Commission, as the case may be;
- (b) where the alleged offence involves sexual violence, gender-based violence or violence in a close relationship, that the victim be informed of his or her right to request that interviews are carried out by a person of the same sex as him or her.

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

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

Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes
 No

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

All forensic interviewers (referred to as Specialist Interviewers in Ireland) are trained to the same level under the Good Practice Guidance, which is the police interview protocol.

In Ireland, a Joint Specialist Interview is an interview carried out in accordance with Section 16(1)(b) of the

Criminal Evidence Act 1992 by a trained member of the Garda Síochána and a trained Tusla staff member or other trained competent person with a child under the age of 18 years.

Service providers in Barnahus West try to ensure that children can access a joint interview with police and social work together whenever possible, however there is a shortage of interviewers. Joint specialist training recommenced earlier this year, after a three year hiatus, with staff from Tusla, the Child and Family Agency and An Garda Síochána (AGS) attending training together. Subject to capacity at a dedicated training facility, it is intended that a total of 36 to 48 Tusla staff will have completed this training with an equivalent additional 36 to 48 AGS members by the end of 2023.

In addition, a training gap analysis is currently underway as part of the Joint EU-Council of Europe project - Support the implementation of the Barnahus project in Ireland. Joint specialist interviewer training is a key topic that will be considered as part of the analysis.

Section 17(1)(a)(ii), Criminal Justice (Victims of Crime) Act, 2017 sets out the special measures which must be implemented during investigation.

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

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

[51] *Ibid.*, Recommendation 43

- Yes
 No

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

Yes, The Criminal Justice (Victims of Crime) Act 2017, in particular Sections 14 -17, sets out a range of special measures in this regard.

Additionally, all members of An Garda Síochána who are trained as Child Specialist Interviewers undergo a comprehensive and accredited training course which includes elements of child psychology.

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

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

[52] *Ibid.*, Recommendation 54

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

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

[53] *Ibid.*, Recommendation 44

- Yes
 No

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

Yes. See Section 17 (1) (a) (iii), Criminal Justice (Victims of Crime) Act, 2017 as set out in response to Question 19.a. (<https://www.irishstatutebook.ie/eli/2017/act/28/section/17/enacted/en/html>)

There is a focus on a central principle of the Barnahus model is to reduce the number of interviews that take place, and that they should take place in the same location. This, along with the other principles as described in the PROMISE Barnahus Quality Standards will continue to serve as guiding principles for the establishment of the model in an Irish context.

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

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

[54] *Ibid.*, Recommendation 45

- Yes
 No

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

Yes. Section 30 of the Criminal justice (Victims of Crime) Act, 2017 sets out the procedure for giving evidence via video link and provides for circumstances where any questions to be put to the child can be done so through an intermediary. (<https://www.irishstatutebook.ie/eli/2017/act/28/enacted/en/print#sec30>)

“(1A) Subject to section 14AA, where—

(a) a person is accused of an offence, other than a relevant offence, and

(b) a victim of the offence who is under 18 years of age, is giving, or is to give, evidence through a live television link,

the court may, on the application of the prosecution or the accused, if satisfied that the interests of justice require that any questions to be put to the victim be put through an intermediary, direct that any such questions be so put.”,

Under common law certain protections are afforded to child and vulnerable witnesses, allowing remote testimony; pre-recorded testimony and for the victim or witness to be present in another location than the court for cross examination. The Irish system does not allow for circumstances where a judge could conduct a full hearing in a Barnahus centre, or for the prosecuting or defence lawyers to be present in a Barnahus centre

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

JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

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

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

[55] *Ibid.*, Recommendation 46

- Yes
 No

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

Section 16(1) (b) of the Criminal Evidence Act, 1992 provides for members of An Garda Síochána and Child Protection Social Workers to conduct video recorded interviews with victims of sexual crime under 18 years of age. The consent of a parent or legal guardian is required to conduct such interviews.

In Barnahus West, interviews that are being conducted as part of criminal proceedings are video recorded. It is intended that this process will be implemented as part of the national implementation of the Barnahus model.

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

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

[56] *Ibid.*, Recommendation 59

- Yes
 No

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

Yes as set out under Point 16 above

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

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

[57] *Ibid.*, Recommendation 60

- Yes
 No

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

No. The only reference in legislation is to the child being Under 18 years.

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

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

[58] *Ibid.*, Recommendation 47

- Yes
 No

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

Yes, pursuant to Section 16(1)(b) Criminal Evidence Act, 1992 as amended by the Criminal Justice (Victims of Crime) Act, 2017.

In *Barnahus West*, the video recorded interviews that were conducted as part of criminal proceedings can be admitted as evidence as part of those criminal proceedings.

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

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

The child may not be present within the court venue if evidence is being given by video link. In cases where the victim is required to be physically present in the court room as per a judge's discretion, the child will remain in the victim's suite of the courthouse until such time as their evidence is required. On entering and remaining in the courtroom for the required duration a screen will be in place so as to prevent the witness from seeing the accused.

Section 30 Criminal Justice (Victims of Crime) Act, 2017:

"Placement of screen etc. for giving of evidence

14A. (1) Where a person who is under 18 years of age is to give evidence other than through a live television link in respect of a relevant offence, the court may, on the application of the prosecution or the accused, direct that a screen or other similar device be positioned, in an appropriate place, so as to prevent the witness from seeing the accused when giving evidence, unless the court is satisfied that in all the circumstances of the case such a direction would be contrary to the interests of justice."

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

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

[60] *Ibid*

- Yes
 No

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

Only in cases where the child's evidence is being given by way of video-link and the child is off site.

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

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

[61] *Ibid*

The child may not be present within the court venue if evidence is being given by video link. In cases where the victim is required to be physically present in the court room as per a judge's discretion, the child will remain in the victim's suite of the courthouse until such time as their evidence is required. On entering and remaining in the courtroom for the required duration a screen will be in place so as to prevent the witness from seeing the accused.

With regard to the protection of children's data and right to privacy under the Barnahus model in Ireland, the

aforementioned legal and policy analysis being carried out under the Joint EU-Council of Europe project is considering a range of relevant issues. The research being carried out will present a comprehensive analysis of current legislation, policies, and existing practices as related to data protection and data sharing in the context of child sex abuse interventions in Ireland, and make recommendations to be considered by the INTER-DEPARTMENTAL GROUP and the Advisory Group to the Joint EU-Council of Europe project.

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

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

[62] *Ibid.*, Recommendation 49

In all cases where a child is the victim of a crime and the matter comes before the courts the media are not permitted to disclose information which may lead to the identification of that child. The proceedings will be held 'in camera' and any members of the press who are present will be warned by the Judge as to their duty to protect the identification and privacy of the child

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

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

[63] *Ibid.*, Recommendation 50

- Yes
 No

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

Criminal Proceedings are brought at the behest of the Director of Public Prosecutions and no cost is incurred by any victim regardless of their age.

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

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

[64] *Ibid.*, Recommendation 51

- Yes

No

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

The victim of crime is considered a party to proceedings and is represented by legal counsel at the behest of the Director of Public Prosecutions.

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

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

[65] *Ibid.*, Recommendation 52

The investigating member or Family Liaison Officer as appropriate will maintain contact with the child victim and their parent/guardian or Social Worker. An Garda Síochána will ensure regular updates as to progress are provided and carry out the victim's assessment of needs prior to the court proceedings to ensure any identified special measures are in place.

As part of the national implementation of the Barnahus model, a National Therapeutic Framework is being developed, however this is not on a legislative basis.

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

Contact

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