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LANZAROTE COMMITTEE

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

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Questionnaire

**“Protecting children against sexual abuse in the circle of
trust: legal frameworks”**

Adopted by the Lanzarote Committee on 2 June 2023

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 launched³. 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.

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.

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.

QUESTIONS

Key notions

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).

§ 212 of the Liechtenstein Criminal Code (LGBI. 1988 No. 311, StGB) criminalises the abuse of a relationship of authority. Various groups of offenders are covered by the penal provision, with explicit reference to the following: “Anyone who [...] by taking advantage of his position vis-à-vis a minor person that he is raising, educating, or supervising [...]”.

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.

- 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.

See response to 1.a.

- c. list specific categories of adults in contact with children automatically qualifying as holding this position?⁸ If yes, please list these categories in your response.

Under § 212(1) StGB, offenders may be parents (whether the parents are married or not), adoptive parents, stepparents, guardians, and other relatives who are related to the minor in an ascending line or persons who are responsible for raising, educating, or supervising minors. These include, for example, employers and trainers, officials of youth and sports organisations, and supervisors in youth centres. § 212(2)(1) further includes pastors, physicians, persons in the health professions (clinical psychologists, health psychologists, psychotherapists, nurses, dentists, pharmacists, veterinarians, medical physicists, midwives, members of the higher medical-technical services and cardio-technical services, medical assistants, medical masseurs, massage therapists, paramedics, and dental assistants). § 212(2)(2) also includes employees or other persons working in an educational facility with respect to persons under the care of such a facility. In addition, subparagraph (3) covers officials who are entrusted with persons in their official custody and if they carry out coercive acts relating to persons, such as police officers, prison officers, and public health officers.

- d. define the notion of “circle of trust”?⁹ If yes, please provide the definition.

No definition of the term “circle of trust” is provided in § 212 StGB. The purpose of § 212 is to protect against involuntary sexual acts in general, where it is assumed not only that violence or threats may be used as a means of influencing the victim’s will, but also that relationships of authority and dependency may be used inappropriately to achieve sexual acts.

Victims’ age

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.

Yes. See also response to question 1.a: The objects of § 212 StGB are minors, i.e. persons who have not yet reached the age of 18.

⁷ *Ibid.*, Recommendation 2.

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).

⁹ *Ibid.*

¹⁰ *Ibid.*, Recommendation 6.

- 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?¹¹ Please provide details.

Yes. See response to question 1.a.: The age for legal sexual acts is not relevant.

Scope of offence

3. Does your national legal framework criminalise sexual abuse of children:
a. **where the offender abuses a recognised position of influence?**¹²

See also response to question 1.c. With respect to the group of offenders defined in § 212(1) StGB who are responsible for raising, educating, or supervising minors, a de facto protective relationship based on actual circumstances is decisive. A de facto parent/child (or similar) relationship is required, characterised by superiority and subordination or also a temporary supervisory relationship, for which no explicit agreement is required (Philipp in Höpfel/Ratz, WK² StGB § 212 para. 5 (rdb.at)).

- 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

According to doctrine, no relationship of authority is recognisable in marriage, so that § 212 StGB does not apply (Philipp in Höpfel/Ratz, WK² StGB § 212 para. 4 (rdb.at)). In such a case – depending on the offence – other criminal provisions would apply. If offences against sexual self-determination and other sexual offences are committed by a spouse, this is an aggravating cause pursuant to § 33(3)(1) StGB.

- 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

No coercion, force, or threat is required to fulfil the elements of the offence. The purpose of § 212 StGB is to protect against involuntary sexual acts, where it is assumed that relationships of authority and dependency may also be used inappropriately to achieve sexual acts (Philipp in Höpfel/Ratz, WK² StGB § 212 para. 1 (rdb.at)).

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.

According to § 212 StGB, an offender commits an abuse of a relationship of authority if the offender sexually abuses another person, induces the person to perform a sexual act with another person, or, for the purpose of sexually arousing the offender or a third party, induces the person to perform a sexual act on themselves.

¹¹ *Ibid.*, Recommendation 5.

¹² *Ibid.*, Recommendation 1.

¹³ *Ibid.*, Recommendation 7.

¹⁴ *Ibid.*, Recommendation 8.

¹⁵ *Ibid.*, Recommendation 9.

Sexual abuse means that the offender performs a sexual act on the victim or has the victim perform a sexual act on the offender. According to doctrine and case law, a sexual act is understood to be any act that is sexual in terms of its outward appearance, that is of some degree of significance in terms of its meaning, intensity, and duration, and that accordingly constitutes an unreasonable, socially disruptive impairment of legally protected interests relating to the intimate area. It must be more than merely fleeting sexual touching of the parts of the victim's or offender's body belonging to the immediate sexual sphere with the body of the other person. The physical touching does not have to consist of contact between the offender and the victim, e.g. it may consist in self-touching by the victim (Philipp in Höpfel/Ratz, WK² StGB § 202 paras. 9 and 12 (rdb.at)).

Sexual harassment involving abuse of a relationship of authority is punishable under § 203(2) StGB. Irrespective of abuse of a relationship of authority, the following criminal provisions are relevant in this context: aggravated sexual abuse of under-age persons (§ 205 StGB); sexual abuse of under-age persons (§ 206 StGB); endangerment of the morals of under-age persons or adolescents (§ 207 StGB); sexual abuse of minors (§ 208 StGB); initiation of sexual contacts with under-age persons (§ 209 StGB); Immoral influence on under-age persons (§ 209a StGB).

- 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.

No distinction is made between heterosexual and homosexual activities.

- 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

No.

Ex officio prosecution

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.

§ 212 StGB is an ex officio offence, i.e. the Office of the Public Prosecutor is obliged to investigate and/or prosecute the offence after gaining knowledge of the criminal fact pattern.

- 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).

Because § 212 StGB is an ex officio offence, the Office of the Public Prosecutor is obliged to investigate and/or prosecute the offence after gaining knowledge of the criminal fact pattern. The complaint cannot be withdrawn.

¹⁶ *Ibid.*, Recommendation 11.

¹⁷ *Ibid.*, Recommendation 12.

¹⁸ *Ibid.*, Recommendation 57.

¹⁹ *Ibid*

- 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

Measures in respect of children who sexually offend and children displaying risky and harmful sexual behaviour

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.

According to Article 7 of the Children and Youth Act (LGBI. 2009 No. 852, KJG), child and youth welfare is engaged in cases of socially conspicuous behaviour, behavioural problems, mental disorders, and developmental disorders (Article 7(c)), in cases of violence, physical or psychological abuse, sexual abuse, or other sexual transgressions against children and adolescents (Article 7(f)), and in cases of dissociality and delinquency of children and adolescents (Article 7(m)).

According to Article 11(5) KJG, children and adolescents who have committed a punishable act are entitled to receive support from the Office of Social Services in accordance with Section D (support for children and adolescents who have committed an offence). In that section, Article 31(1) KJG states that children who have committed a punishable act must be supported with suitable measures, in particular educational-therapeutic measures, in order to prevent further offences and dissocial development. If the circumstances and nature of the offence indicate family, school, professional, or social problems or a personality development disorder, the Office of Social Services must carry out the necessary clarifications (Article 33(2) KJG). If these clarifications indicate a need for action, assistance must be offered or suitable measures taken.

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

In Liechtenstein, the age of criminal responsibility is 14 years. This is pursuant to § 74(1)(1) StGB and § 2(1) of the Juvenile Court Act (LGBI. 1988 No. 39, JGG). The JGG applies to adolescent offenders (persons who have reached the age of 14 but not yet 18), with appropriately reduced penalties (§ 6 JGG).

Child victims' rights to protection and parental rights

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

²⁰ *Ibid.*, Recommendation 56.

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.

²² Question included for capacity-building purposes.

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.

The Office of Social Services can avail itself of this possibility pursuant to Article 21(1) KJG. If the Office of Social Services receives a report or otherwise becomes aware of the violation or endangerment of the best interests of children and adolescents, it carries out the clarifications necessary to assess the facts or has such clarifications carried out. Under Article 11(3) KJG, children and adolescents can also turn to the Office of Social Services without the knowledge of their legal guardians and obtain advice where necessary in an emergency or conflict situation and as long as the purpose of the advice would be prevented by informing the legal guardians.

- 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.

See response to question 7.a.

- 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.

Pursuant to Article 277a(1) of the Enforcement Act (LGBl. 1972 No. 281, EO), the court must, on the application of a close family member, or on the application of that family member's legal representative, order a person who, by physically assaulting that close family member, threatening to physically assault that close family member, violating sexual self-determination, threatening to violate sexual self-determination, or otherwise acting in a manner that substantially impairs psychological health, makes it unreasonable for that close family member to continue to live with the person, to 1) leave the dwelling and its immediate surroundings and/or 2) prohibit entering the dwelling and its immediate surroundings, if the dwelling serves to satisfy the applicant's housing needs. According to paragraph 2 of that article, the court can 1) prohibit a close family member from being present in places to be specifically designated or 2) order that close family member to avoid meeting and contacting the applicant. Article 277a(3) EO sets out who belongs to the circle of close family members.

Pursuant to § 215(1) of the General Civil Code (LGBl. 1003 No. 1, ABGB), the Office of Social Services must apply for the court orders necessary to safeguard the best interests of a minor with respect to parental custody. The Office of Social Services has the power to apply for a preliminary injunction in accordance with Article 277a EO and the enforcement of that preliminary injunction in accordance with Article 277c EO if no other legal representative of the minor has filed the necessary application without undue delay. On the basis of § 215(1) ABGB in conjunction with Articles 277a and 277c EO, it is therefore possible for the Office of Social Services to effect the removal of an alleged perpetrator from the family environment. This helps those children whose representatives refrain from filing an application due to their fear or accommodation of a close relative (especially the other parent or step-

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

²⁴ *Ibid*

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).

parent or the partner of a parent) where such accommodation is incompatible with the best interests of the child. This power of the Office of Social Services is to be understood as an obligation.

- 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.

Children and adolescents can be placed in suitable (open or closed) facilities against their will or against the will of their parents where, firstly, their best interests are seriously endangered by their own behaviour or the behaviour of others if they are left in their existing environment due to mental disorders, addiction, social deviance, neglect, violence, sexual abuse, or other impairments and, secondly, they cannot be provided with the necessary assistance in any other way (Article 25 KJG). This means that, according to the KJG, children and adolescents can be placed in third-party care only if there is a serious risk to their best interests and always as a measure of last resort. Alternatives must be examined before every placement. The solution that is in the child's best interests must be identified. It is not a prerequisite for the parents to be at fault.

If the conditions for placement in a suitable facility are met, the following responsibilities and procedures are available, depending on the circumstances of the case:

1. Placement by the Office of Social Services (Article 26 KJG)

If the child's parents agree to placement in an open facility, the placement can be ordered or initiated by the Office of Social Services. In this case, no court order is required, given that placement in an open facility is covered by the right to determine the child's place of residence, which is inherent in parental custody rights as set out in § 146b ABGB. This means that custodial parents can in principle agree to their child being placed in an open facility, even against the child's will, to the extent that care and upbringing necessitate such placement. To the extent covered by the parents' right to determine the child's place of residence, it is up to the parents to decide whether and for how long their child is to be placed in an open facility. Adolescents from the age of 14 can object to the decision of their parents and independently submit applications in this regard to court in non-contentious proceedings (Article 104(1) of the Non-Contentious Proceedings Act, LGBl. 2010 No. 274, AussStrG).

2. Placement by the Court of Justice (Article 27 KJG)

The decision to place a child or adolescent in a closed facility is the responsibility of the Court of Justice. The same applies to placements in open facilities if the legal guardians do not consent to the placement (see Article 27(1) KJG). In both cases, the Court of Justice must decide on the placement within four weeks on application of the Office of Social Services. According to Article 27(5) KJG, the placement may be ordered for a maximum of one year. The application by the Office of Social Services must contain a specialist assessment and details of the location and duration of the placement. The chosen facility must be described, and it must be explained why the facility is suitable. Where necessary, the Court of Justice must also obtain an expert opinion from a child and adolescent psychiatrist, a child and adolescent psychologist, or other specialists.

Before deciding on placement, the Court of Justice must hear the child or adolescent and their legal guardians in person (Article 29(1) KJG). Where necessary, a person must be appointed to provide legal assistance to children and adolescents and represent their interests in the proceedings. Proceedings before the Court of Justice are governed by the provisions of the AussStrG. The decision on placement must be notified to the legal guardians, the Office of Social Services and, in an appropriate form, the

²⁶ *Ibid.*, Recommendation 27.

children and adolescents concerned. They have the opportunity to appeal the decision of the Court of Justice to the Court of Appeal within 14 days. An appeal on points of law to the Supreme Court is permitted against the decision of the Court of Appeal.

Once placement has been ordered, the Office of Social Services must regularly review whether the purpose of the measure is being achieved and whether the placement is still justified. In practice, these reviews are carried out at minimum intervals of three months. During a placement, the Office of Social Services, the child or adolescent, and the legal guardians can apply for early termination of the measure. The measure must in any event be terminated as soon as the purpose of the measure has been achieved, the mental state of the child or adolescent so allows, and further care is ensured.

If it turns out after one year – or after a shorter placement period specified in the decision – that the child or adolescent cannot yet be released from the facility, the Office of Social Services must submit an application for extension of the measure. All decisions of the Court of Justice can be appealed to the Court of Appeal.

3. Placement in the event of imminent danger (Article 28 KJG)

In the event of imminent danger, the Office of Social Services must order the immediate placement or retention of the child or adolescent in a suitable facility. The Court of Justice must be informed immediately of such a measure (Article 28(1) KJG). The public health officer and the emergency service physician on duty also have such placement powers in the event of imminent danger. They must notify the Court of Justice and the Office of Social Services immediately (Article 28(2) KJG). According to Article 28(3) KJG, the Court of Justice must decide on the permissibility of the measure ordered by the Office of Social Services, the public health officer, or the physician on duty within five days. In the case of placement in the event of imminent danger, the Office of Social Services must immediately apply to the Court of Justice for further measures or take measures itself. As a rule, the Office of Social Services applies to the Court of Justice to have the child or adolescent retained in accordance with Article 27 KJG, unless the child or adolescent is placed in an open facility and the child's parents or legal guardians support such placement. In all placement proceedings under the KJG, the Office of Social Services and the courts must hear children and adolescents as well as legal guardians in person in accordance with Article 29(1) KJG before deciding on placement or retention.

4. Placements with withdrawal of parental custody (§ 215 ABGB)

In all cases in which a change in parental custody arrangements is necessary at the same time as the placement of a child or adolescent in the event of imminent danger, the Office of Social Services must base its measures on Article 28 KJG and the second sentence of § 215(1) ABGB (see comments on the Report and Motion to Parliament concerning comprehensive revision of the Youth Act of 19 December 1979 (JuG, LGBl. 1980 No. 38), now the Children and Youth Act (KJG), and amendment to the Criminal Code No. 72/2008²⁷, p. 189). It is important to note that for placements with a close relative or a foster family, Articles 26 et seq. KJG do not apply. These forms of third-party placement are always based on § 215 ABGB. Pursuant to § 215(1) ABGB, the Office of Social Services must apply for the court orders necessary to safeguard the best interests of a minor with respect to parental custody. In the event of imminent danger, it can take the necessary measures for care and upbringing as a special guardian itself on a temporary basis, with effect until the court decision, if it applies for the necessary court orders without delay, and in any case within eight days.

²⁷ <https://buA.regierung.li/BuA/default.aspx?nr=72&year=2008&backurl=modus%3dnr%26filter1%3d2008>

If the Office of Social Services withdraws custody from the legal guardians in the event of imminent danger, it must submit an application to the Court of Justice within eight days of taking the measure. This application based on § 176(2) ABGB generally aims at withdrawing custody of the child from the persons previously entitled to custody and transferring it to the Office of Social Services (or to a person close to the child who is able to care for and raise the child, where such a person exists). If the Office of Social Services takes a measure pursuant to the second sentence of § 215(1) ABGB, then, according to prevailing doctrine and case law, it remains entrusted with custody until the court reaches a decision on the main matter (see Decision of the Supreme Court OGH of 7 July 2017, 06 PG.2016.142).

The child or the person whose custody is being withdrawn can, however, apply to the Court of Justice to have the provisional measure taken by the Office of Social Services revoked or amended (OGH of 7 July 2017, 06 PG.2016.142). The court must then deal with the application in non-contentious proceedings. The Court of Justice can also revoke or amend the provisional measure ex officio. The decision of the Court of Justice can be appealed to the Court of Justice. An appeal on points of law against the decision of the Court of Justice can in turn be filed with the Supreme Court. The Office of Social Services and the legal guardians whose custody is being withdrawn are entitled to file appeals. Minors who have reached the age of 14 can act independently in court and file their own applications (Article 104(1) AussStrG). The procedure is again governed by the AussStrG.

Where, in the case of placements pursuant to Article 27 KJG, measures under parental custody law are also necessary, the Office of Social Services must submit an application for withdrawal of custody in accordance with the first sentence of § 215 (1) ABGB in conjunction with § 176(2) ABGB at the same time as the application for placement.

- e. [ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?](#)²⁸ Please provide details.

The legal basis for the exchange of data between responsible bodies is provided in Articles 104a and 104b KJG. Under these provisions, the bodies entrusted with the enforcement of the KJG may disclose personal data, including special categories of personal data and personal data relating to criminal convictions and offences, to other bodies entrusted with the enforcement of the KJG as well as to courts, national and municipal authorities, care facilities, caregivers, probation officers and appointed guardians, physicians, members of other health professions, and other bodies and persons working in child and youth welfare or child and youth services, to the extent that the data is necessary for the fulfilment of their tasks assigned by law or performance mandate, in particular for the assessment, care, treatment, and counselling of children, their parents, or other legal guardians (Article 104a(1)(a) and (c)).

According to Article 104b(1) KJG, courts, national and municipal authorities, care facilities, persons and bodies working in child and youth welfare or in child and youth services, caregivers, teachers, including kindergarten teachers, physicians and members of other health professions, and all persons and bodies entitled and obliged to report under Article 20 KJG must transmit to the bodies entrusted with enforcement of the KJG all personal data, including special categories of personal data and data on criminal convictions and offences, necessary for the fulfilment of the tasks assigned to them.

A further legal basis for the exchange of personal information is provided in Article 10(3) KJG, which stipulates that the confidentiality obligations that in principle apply to persons and institutions working

²⁸ *Ibid.*, Recommendation 25.

in child and youth welfare do not apply to other persons and institutions working in child and youth welfare in Liechtenstein and abroad within the framework of professional cooperation.

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?²⁹ Please provide details.

The following provisions (under civil law) are relevant in Liechtenstein:

- *If, through their behaviour, the parents endanger the best interests of the minor child, the court must make the necessary orders to safeguard the best interests of the child in accordance with § 176(1) ABGB, regardless of who invokes the court's jurisdiction. In particular, the court may withdraw parental custody of the child in whole or in part, including legally provided rights of consent and approval.*
- *If the best interests of the child are at risk and it is therefore necessary to remove the child completely from the child's existing environment against the will of the legal guardians, and if it is not possible to place the child with relatives or other suitable close persons, the court must transfer parental custody of the child in whole or in part to the Office of Social Services. The Office of Social Services may transfer the exercise of parental custody to third parties (§ 176a ABGB).*
- *However, the court may restrict parental custody by means of an order pursuant to §§ 176 and 176a ABGB as mentioned above only to the extent that doing so is necessary to safeguard the best interests of the child (§ 176b ABGB).*
- *§ 177a(2) ABGB further states that the court must restrict or prohibit personal contact with a parent if this is in the best interests of the child, in particular if doing so appears necessary due to the use of violence against the child or an important attachment figure of the child or if the parent does not fulfil their obligation under § 137a(1) ABGB.*
- *Supplementing the provisions of the General Civil Code (ABGB) mentioned above, appropriate preliminary injunctions must be issued by the court under the conditions set out in Articles 277a et seq. of the Enforcement Act (EO) to protect against violence in the family.*
- *The provisions of the KJG are also marginally relevant in this context. Article 20(1) KJG stipulates that any person who has a reasonable suspicion or knowledge of a serious violation or endangerment of the best interests of children and adolescents is required to report that suspicion or knowledge to the Office of Social Services. Serious violations or endangerment include, in particular, abuse and other serious uses of violence, sexual abuse, gross neglect, the threat of forced marriage, squalor, and substance addiction.*
- *Children and adolescents can be placed in suitable facilities as referred to in Article 14(2) KJG, even against their will or against the will of their parents, where their best interests are seriously endangered by their own behaviour or the behaviour of others if they are left in their existing environment due to mental disorders, addiction, social deviance, neglect, violence, sexual abuse, or other impairments, and where they cannot be provided with the necessary assistance in any other way (Article 25(1) KJG).*

²⁹ *Ibid.*, Recommendation 32.

- Finally, in accordance with Article 107(2) AussStrG, the court may also award custody and the exercise of the right to personal contact on a preliminary basis in proceedings concerning custody or the right to personal contact (subject to the applicable conditions and after careful consideration of the individual case).

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?³⁰ Please provide details.

See response to question 8.

- b. automatic withdrawal of parental rights of parents convicted of sexual abuse of own child?³¹ Please provide details.

See response to question 8.

Guarantees of protection for persons reporting suspected offences

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?³²

If a report is made by a person in good faith, this does not constitute a case of false accusation, defamation, or a similar offence. Any person who has reasonable grounds to suspect that the best interests of children and adolescents have been seriously violated or endangered (including sexual abuse) is required under Article 20 KJG to report that suspicion to the Office of Social Services.

With regard to persons bound by professional confidentiality, no consequences under criminal law arise where the person is subject to a reporting obligation. Under Article 20 of the Physicians Act (LGBI. 2003 No. 811.12) and Article 14 of the Public Health Act (LGBI. 2008 No. 811.01), for example, there is an obligation to report to the Office of Public Health any findings made in the exercise of their profession that give rise to the suspicion that the death or serious bodily harm of a person has been brought about by an act that is punishable by a court, or that inflicting agony on or neglecting a person has caused bodily harm or damage to health.

Under § 53 of the Code of Criminal Procedure (LGBI. 1988 No. 312, StPO), authorities which learn of the suspicion of a punishable act that concerns its legal sphere of activity and is subject to ex officio prosecution are under the obligation of filing a criminal complaint with the Office of the Public Prosecutor or the National Police. There are exceptions to this obligation, for example if the complaint would impair an official activity whose effectiveness requires a personal relationship of trust.

Also relevant in this connection is the special justification available under § 122(4) StGB (violation of professional secrets), according to which a perpetrator shall not be punished if the disclosure or

³⁰ Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

³¹ *Ibid*

³² 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.

exploitation is justified by public or legitimate private interests due to its content and form. Furthermore, the perpetrator may only be prosecuted upon demand of the person whose confidentiality interest has been violated (not an *ex officio* offence, but rather a private prosecution offence).

Assistance to third parties

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?³³

According to Article 1(2) of the Victims Assistance Act (LGBI. 2007 No. 312.2, OHG), the spouse of the victim, the registered partner, the children and parents, as well as other persons who are similarly close to the victim are also entitled to victims assistance. According to Article 2 OHG, victims assistance includes the following:

- counselling and urgent support (a);
- longer-term support from the Victims Assistance Office (b);
- cost contributions for longer-term third-party support (c);
- compensation for damages (d);
- legal aid (e).

Urgent and long-term assistance (Article 2(a) and (b) OHG) includes appropriate medical, psychological, social, material, and legal assistance in Liechtenstein and, as needed, in neighbouring countries, where such assistance has become necessary as a result of the crime (Article 14(1) OHG).

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?³⁴

It is a top priority to ensure that the necessary protective measures are taken for the victim and non-offending family members. The Liechtenstein Victims Assistance Office works closely with the ifs Child Protection centre in Vorarlberg, Austria, which provides its services on behalf of the Principality of Liechtenstein. Victims, their family members, or other persons of trust can also contact ifs Child Protection Vorarlberg directly by telephone, email, or online. The centre offers assistance and advice for people who suspect sexual abuse of children and adolescents, including girls and boys affected by sexual transgressions; family members or persons of trust of affected children or adolescents; and multipliers who are confronted with (suspected) sexual abuse in their work. Counselling at the Victims Assistance Office and at ifs Child Protection Vorarlberg is free of charge and can be anonymous if desired. The specialists are bound to confidentiality.

³³ 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 30.

³⁴ *Ibid.*, Recommendation 31.

Monitoring of offenders

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?³⁵ Please provide details.

The legal provisions in force do not permit monitoring or supervision of the persons mentioned above.

- b. sharing with other countries data concerning persons convicted of child sexual abuse?³⁶ Please provide details.

International administrative assistance is governed by Articles 35 et seq. of the Police Act (LGBI. 1989 No. 143).

Measures in respect of professionals and legal persons

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?³⁷ Please provide details.

The KJG contains rules governing out-of-home care of children and adolescents in private care and foster care relationships (Articles 49 to 52 KJG) and in care facilities Articles 53 to 56 KJG).

According to Article 50(1) KJG, care in private care and foster care relationships (i.e. by day parents or foster parents) may be approved only if the caregivers and housemates offer a guarantee of good care, upbringing, and education for the children and adolescents in terms of their personality, reputation, health, and suitability for childraising, as well as the living conditions, and if the best interests of other children and adolescents living in the household are not endangered. Fulfilment of these requirements is checked before the care or foster care relationship can commence. After the care or foster care relationship has been established, the Office of Social Services must regularly check whether the requirements continue to be met. In the case of persons who are suspected of sexual abuse of children, it must be assumed that they are not suitable for the care of children in terms of their personality and therefore do not meet the requirements. If deficiencies or difficulties cannot be remedied or measures to remedy the situation appear useless, the Office of Social Services must withdraw the licence in accordance with Article 52(2) KJG. Where there is suspicion of sexual abuse by a caregiver, the Office of Social Services must immediately take the necessary measures in accordance with Article 52 (3) KJG in the event of imminent danger (imminent danger regularly exists if sexual abuse is suspected). In particular, the Office of Social Services can withdraw the licence. Day parents or foster parents and care facilities whose licence has been withdrawn are to be punished by the Court of Justice pursuant to Article 101(h) or (i) KJG, respectively, with a fine of up to CHF 5 000, in the event of non-payment with a sentence of imprisonment of up to one month, if they continue the care activity despite withdrawal of the licence.

According to Article 54(1)(b) KJG, the operation of a care facility is permitted only if the director of the facility and the employees are suitable in terms of personality, reputation, health, qualifications for childraising, and training. Fulfilment of these requirements is checked both before operations commence and on a regular basis after operations have commenced. If deficiencies or difficulties

³⁵ *Ibid.*, Recommendation 33.

³⁶ Based on Article 38 of the Lanzarote Convention.

³⁷ Based on Article 27§3(b) of the Lanzarote Convention.

cannot be remedied through advice or the provision of expert assistance, the Office of Social Services must, pursuant to Article 56(2) KJG, request the director of the facility to take the necessary steps to remedy the deficiencies or difficulties without delay, and it must notify the sponsors of the facility to that effect. If sexual abuse by a caregiver is suspected, the Office of Social Services requests the facility to take the necessary measures. In particular, it may demand the provisional suspension of the caregiver in question. If the facility fails to comply with this request, the Office of Social Services may withdraw the facility's licence on the basis of Article 56(3) KJG.

- 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"³⁸ settings are held liable?³⁹

Please provide details.

Any person who has reasonable grounds to suspect that the best interest of children and adolescents has been seriously violated or endangered (including sexual abuse) is required under Article 20(1) KJG to report that suspicion to the Office of Social Services. Serious violations or endangerment include, in particular, abuse and other serious uses of violence, sexual abuse, gross neglect, the threat of forced marriage, squalor, and substance addiction. For less serious violations or endangerment to the best interests of children and adolescents, there is an entitlement to report to the Office of Social Services. Persons working in child and youth welfare or child and youth services, teachers, kindergarten teachers, and health professionals must cooperate in clarifying whether there is a violation or endangerment of the best interests of children and adolescents in accordance with Article 21(2) KJG and support the Office of Social Services with their expertise and experience. Persons subject to official or professional confidentiality are exempt from their obligation to report and to exercise their right to report as well as to cooperate in the clarifications. Anyone who fails to comply with the reporting obligation under Article 20(1) KJG is to be punished for a contravention by the Court of Justice pursuant to Article 101(b) KJG with a fine of up to CHF 5 000, in the event of non-payment with a sentence of imprisonment of up to one month.

- c. ensure that legal persons failing to protect children in their care from sexual abuse are held liable?⁴⁰ Please provide details.

See response to question 14.a and b.

Special representatives

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?⁴¹

Persons providing psychosocial procedural assistance (under § 73a of the Code of Civil Procedure (LGBI. 1912 No. 271 ZPO) (civil proceedings), §§ 31a, 34 StPO (criminal proceedings), and Articles 12 and 14

³⁸ 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).

³⁹ Based on the [Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse](#), point 6.

⁴⁰ *Ibid.*, see point 7.

⁴¹ 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35.

OHG)) must have basic psychosocial training and sufficient practical experience in dealing with violent offences, related proceedings, and minors.

- b. *avoid combining the functions of a lawyer and guardian ad litem in one person?*⁴²

In all cases, it is ensured that a child in a criminal case is represented by a lawyer who has only that role. In particular, the lawyer representing the rights of the child must check that there are no conflicts of interest before accepting the mandate.

- c. *are provided free of charge for the child victim?*⁴³

See Article 2 in conjunction with Article 5 OHG concerning the range of free services provided by the Victims Assistance Office.

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?*⁴⁴ Please provide details.

See response to question 15.b.

- c. *Is this person allowed to be present throughout the criminal proceedings?*⁴⁵ Please provide details.

The legal representative is entitled to be involved in all steps of the proceedings and to inspect the files.

Support for child victims in investigative and judicial proceedings

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?*⁴⁶ Please provide details.

In civil proceedings, § 73a (procedural assistance), § 289a (separate questioning), and § 289b ZPO (questioning of minors) as well as support provided by the Victims Assistance Office under the OHG are relevant in this regard. Under these provisions, the court can refrain from questioning a minor entirely or on individual issues if the examination would endanger the best interests of the minor, taking into account their mental maturity, the subject matter of the examination, and the closeness of their relationship with the parties to the proceedings.

The court may also conduct the examination using technical equipment for the transmission of audio and video, where appropriate also by a suitable expert, if the best interests of the minor would not be endangered by the examination itself, but would be endangered by the examination in the presence of the parties or their representatives, taking into account the minor's mental maturity, the subject matter of the examination, and the minor's close relationship to the parties to the proceedings. Finally, the examination of the minor must be attended by a person whom the minor trusts, to the extent that doing so serves the minor's interests. The victims protection provisions under the law of criminal procedure (§§ 31a et seq., 115, 115a StPO) apply regardless of the age of the victim, and accordingly also to children.

⁴² *Ibid.*, Recommendation 36.

⁴³ *Ibid.*, Recommendation 37.

⁴⁴ *Ibid.*, Recommendation 34.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, Recommendation 38.

- 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?⁴⁷

The possibility of conducting a considerate inter parties examination (§ 115a StPO) is relevant here. This separate or considerate examination ensures that there is no direct encounter between the perpetrator and the victim, thus ruling out further traumatising of the victim to the extent possible.

Children and adolescents, their parents, and other attachment figures are entitled to assistance in accordance with Chapter II Section B KJG (e.g. therapy, placement in suitable facilities, participation in training and employment programmes, work and integration projects) within the scope of child and youth welfare pursuant to Article 7 KJG. According to Article 7(f) KJG, these cases include the use of violence, physical or psychological abuse, sexual abuse, or other sexual transgressions against children and adolescents. The Office of Social Services is responsible for implementing child and youth welfare, subject to the competence of the Court of Justice (Article 9(1) KJG). It is primarily competent for official measures, particularly in the area of child protection.

Under the OHG, the Victims Assistance Office supports persons whose physical, mental, or sexual integrity has been directly and adversely affected by a criminal offence. The Victims Assistance Office provides or – where it is unable to do so itself – arranges the necessary medical, psychological, social, material, and legal assistance in individual cases (Article 14(1) OHG). The Victims Assistance Office provides, firstly, round-the-clock assistance for the most urgent needs arising as a result of the offence (urgent support) and, secondly, additional assistance to the extent necessary until the health of the person concerned has stabilised and until the other consequences of the offence have been eliminated or compensated as far as possible (longer-term support, Article 13 OHG). Under Article 12 OHG, victims and their family members are given advice by the Victims Assistance Office or a specialist appointed by it, supported in exercising their rights, and informed about the rights and obligations of victims in the proceedings as well as the progress of the proceedings. Where necessary, the Victims Assistance Office arranges for victims to be accompanied or to be represented by authorised persons in court (Article 12(2) OHG, §§ 31a(2) and 34 StPO).

- c. a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children’s psychological well-being?⁴⁸

The services provided by Liechtenstein victims assistance and the corresponding procedural assistance are especially relevant in this regard (Articles 2, 14 OHG, § 31a(2) StPO, § 73a ZPO etc.).

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?⁴⁹ Please provide details.

An important expansion of the protection of children against sexual abuse and other forms of sexual violence was adopted with the tightening of sexual criminal law. This tightening of criminal law entered

⁴⁷ *Ibid.*, Recommendation 39.

⁴⁸ Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021.

⁴⁹ 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”, Recommendation 40.

into force in 2023 (LGBI. 2023 No. 48, Report and Motion 112/2022, 130/2022). In particular, this revision increased the penalties for the following sexual offences:

- § 200(1) Rape, increased from imprisonment of 1-10 years to 2-10 years;
- § 205(1) Aggravated sexual abuse of under-age persons, increased from imprisonment of 1-10 years to 2-10 years;
- § 206(1) Sexual abuse of under-age persons, increased from imprisonment of 6 months-5 years to 1-5 years;
- maximum penalties also increased for § 219(1) to (4) Pornographic depictions of minors:
- for production or circulation of such depictions, increased from imprisonment of up to 3 years to 6 months-5 years (increased from misdemeanour to crime);
- for production for the purpose of dissemination/on a commercial basis, increased from imprisonment of 6 months-5 years to 1-10 years;
- for participation in criminal group or particularly severe disadvantage to the minor, increased from imprisonment of 1-10 years to 5-15 years;
- for possession or procurement for own consumption, increased from imprisonment of up to 2 years to up to 3 years.
- The individual daily rate for monetary penalties was increased from CHF 10 to 15 (in the case of adolescents, half of those amounts; § 19 StGB) and
- conditional suspension of sentences excluded entirely for rape (§ 43 StGB).

A further expansion already took place in 2019. This expansion entered into force on 1 October 2019 (LGBI. 2019 No. 124, Report and Motion 90/2018, 14/2019), covering the following provisions:

- Introduction of further aggravating causes in §§ 33(1)(10), 33(2) and 33(3): in particular § 33(2) in the case of use of force or a dangerous threat against an under-age person and § 33(3)(2) in the case of offences against persons in need of protection.
- Introduction of § 39a: Increase of minimum penalty for offences by adults against under-age persons.
- Extension of limitation period such that the limitation period does not include the time until the victim of an offence against life and limb, against liberty, against sexual self-determination or another sexual offence has reached the age of 28 years, provided that the victim was a minor when the act was committed (§ 58(3)(3)).
- In connection with Liechtenstein's ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Liechtenstein's jurisdiction was expanded in 2016 to include offences committed abroad in cases of sexual abuse of a defenceless or mentally impaired person (§ 204) and abuse of a relationship of authority (§ 212; amendment of § 65(1)(4) and (4a); LGBI. 2015 No. 209; Report and Motion 2015/56).

The latest revision of the Code of Criminal Procedure, which entered into force on 1 October 2022 (LGBI. 2022 No. 223, Report and Motion 30/2022, 61/2022), also brought improvements for victims of sexual offences and under-age victims in general. These include:

- In the case of sexual offences, the criminal court must include at least one judge of the sex of the person whose sexual integrity may have been violated by the offence (§ 15(2a)).
- Obligations to inform the victim whose sexual integrity may have been violated (examination by a person of the same sex, interpreter of the same sex, right to refuse the answering of

questions on unacceptable circumstances/details, considerate examination, exclusion of the public; § 31b(3)).

- Any physical examination must be carried out by a doctor or medical professional (first clause of § 95(5)).
- Considerate inter parties examination of witnesses: “In particular if there is a special need for protection, an expert shall be commissioned to carry out the examination where possible.” (previously: The investigating judge may commission an expert to conduct such questioning, especially if the witness has not yet reached the age of eighteen. § 115a(2)).

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.

In Liechtenstein, the competent authorities find case-by-case solutions for children who have been victims of sexual, physical, or psychological violence. The Expert Group on Protection against Sexual Abuse of Children and Young People is currently discussing the possibility of a variation on the Barnahus model that would be appropriate to the country’s size – also in light of social change, which has noticeably reduced the availability of foster families. The Victims Assistance Office offers counselling and support to persons who have been adversely affected by an offence committed in Liechtenstein, regardless of whether a criminal complaint has been filed.

Investigation

19. In the investigation phase:

- 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?⁵⁰ Please provide details.

There is a child-friendly room for questioning, equipped with technical equipment for audio and video transmission so that interviews can be recorded.

- are all staff responsible for interviewing child victims required to undergo suitable qualifying training?⁵¹ Please provide details.

Criminal investigators of the National Police who specialise in sexual offences have decades of experience in this field, must take part in relevant training, and are involved in working groups to combat sexual offences.

- 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?⁵² Please provide details.

There is no legal basis for requiring interviews with child victims to be conducted as soon as possible after the offence, but the principle of acceleration applies. There is also no legal provision limiting the

⁵⁰ *Ibid.*, Recommendation 41.

⁵¹ *Ibid.*, Recommendation 42.

⁵² *Ibid.*, Recommendation 43.

duration or number of interviews, but as a rule only one inter parties hearing is conducted. Pursuant to § 31a and § 115(3) of the Code of Criminal Procedure, the Victims Assistance Office or a person of confidence can or should be involved in such questioning. Pursuant to § 115a(2) StPO, the investigating judge may limit participation insofar as the parties and their representatives may follow the witness's examination – if necessary using technical equipment for audio and video transmission – and may exercise their right to ask questions without being present at the examination. In particular if there is a special need for protection, an expert must be commissioned to carry out the examination where possible. In any case, care must be taken to ensure that any encounter between the witness and the accused is avoided to the extent possible. The legal basis takes into account the age and attention span of the child.

- 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?**⁵³
- 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?**⁵⁴ Please provide details.

The Liechtenstein legal framework does not require that the interview be conducted by the same person and under the same material conditions as the first. As a rule, a single inter parties examination is sufficient. Should a further interview nevertheless become necessary, this will generally be conducted by the same person and under the same material conditions as the first.

- 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?**⁵⁵ Please provide details.

See response to question 19. c.

Judicial proceedings

20. In the judicial proceedings:

- 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?**⁵⁶ Please provide details.

As a general matter, § 115a StPO provides for the possibility of considerate inter parties examination. § 115a(3) StPO provides that witnesses who have not yet reached the age of 18 years and whose sexual integrity may have been violated shall always be questioned considerately. In the case of considerate examination as set out in § 115a(2) StGB, the possibilities of participation are limited in such a way that the parties and their representatives are able to follow the questioning of the witness, if necessary using technical equipment for audio and video transmission, and can exercise their right to ask questions without being present during the questioning. If possible, an expert witness is to be commissioned for such questioning.

⁵³ *Ibid.*, Recommendation 54.

⁵⁴ *Ibid.*, Recommendation 44.

⁵⁵ *Ibid.*, Recommendation 45.

⁵⁶ *Ibid.*, Recommendation 46.

In practice, considerate examination takes place by having the investigating judge conduct the examination with the witness in a meeting room. At the same time, the public prosecutor and the accused (where applicable with the accused's defence counsel) are in a courtroom. Audio and video of the examination are transmitted live to the courtroom. Following the examination by the investigating judge, both the public prosecutor and the accused (and, where applicable, the defence counsel) have the right to ask questions of the witness. The questions are communicated by telephone to the investigating judge, who then poses them to the witness.

If a person has been examined in this way, the record of the questioning can be read out at trial. This means that the person does not have to be examined again at trial. In addition, this possibility of questioning ensures that victims do not have to face the perpetrator directly.

- 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?](#)⁵⁷ Please provide details.

Yes. See also response to question 20.a.

- c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)⁵⁸ Please provide details.

Considerate examination is in any case provided for all persons who have not yet reached the age of 18 (§ 115a(3) StPO).

- d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)⁵⁹ Please provide details.

Yes, the video recordings are regarded as admissible evidence and are presented at trial.

- 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?](#)⁶⁰

See response to question 20.a. Considerate examination ensures that victims do not have to face the perpetrator directly.

- f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)⁶¹ Please provide details.

See response to question 20.a.

⁵⁷ *Ibid.*, Recommendation 59.

⁵⁸ *Ibid.*, Recommendation 60.

⁵⁹ *Ibid.*, Recommendation 47.

⁶⁰ *Ibid.*, Recommendation 48.

⁶¹ *Ibid.*

- g. how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?⁶²

See response to question 20.a.

- 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?⁶³

Pursuant to § 181a(1) and (2) StPO, it is possible to exclude the public from a trial. According to paragraph 2 of that article, the court must exclude the public ex officio or on application before discussing circumstances from the personal sphere or from the sphere of secrecy of the defendant, any witness, or any third party, if legitimate interests prevail.

- 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?⁶⁴ Please provide details.

Any person whose physical, mental, or sexual integrity has been directly and adversely affected by a criminal offence is entitled to support under the Victims Assistance Act. Victims assistance encompasses support and counselling from the Victims Assistance Office, including legal assistance (Article 14(1) OHG). Pursuant to § 34(1) StPO, the Victims Assistance Office can represent the victim in criminal proceedings. Victims assistance also includes legal aid in proceedings (Article 2(e) OHG; Article 25 OHG). Pursuant to Article 25(3) OHG, a victim may be assigned a person providing legal aid in accordance with §§ 63 et seq. ZPO.

The precondition for the granting of legal aid is that the victim is unable to cover the costs of the proceedings without impairing the victim's necessary livelihood and that the intended assertion of legal rights and legal defence does not appear to be obviously wanton or futile. In addition, special difficulties of law or fact must be anticipated. If the applicant for legal aid is a child, the income and asset circumstances of the parents must be taken into account (family income).

- 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?⁶⁵ Please provide details.

Yes, see response to question 20.i.

⁶² *Ibid*

⁶³ *Ibid.*, Recommendation 49.

⁶⁴ *Ibid.*, Recommendation 50.

⁶⁵ *Ibid.*, Recommendation 51.

- 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?⁶⁶

Victims assistance also includes longer-term support from the Victims Assistance Office as well as cost contributions for support from third parties (Article 2(b) and (c) OHG). The services include appropriate medical, psychological, social, material, and legal assistance (Article 14(1) OHG). Longer-term support means that the Victims Assistance Office provides victims and their family members with additional support as necessary until the affected person's health has stabilised and until the other consequences of the offence have been eliminated or compensated for as far as possible; the Victims Assistance Office may involve third parties for this purpose (Article 14(2) and (3) OHG). The cost contributions for third-party support depend on the income of the entitled person (Article 16 OHG).

⁶⁶ *Ibid.*, Recommendation 52.