

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

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

### **The notion of the circle of trust**

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

### **The previous and current monitoring rounds on the circle of trust**

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

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

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

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

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

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

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

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

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

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

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

9. In addition, Parties are kindly requested to:

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

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

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

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

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

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

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

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

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

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

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

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

## IDENTIFICATION OF THE RESPONDER

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\* Name of the Party responding or concerned by your response

the Netherlands

\* Name of the contact person/coordinator

\* Email address of the contact person/coordinator

## KEY NOTIONS Question 1. Does your national legal framework:

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

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

- Yes  
 No

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

Draft bill on sexual offences

The current legislation with regard to sexual offences is being revised fundamentally in the Dutch Penal Code. In October 2022, a draft bill on sexual offences (in Dutch: wetsvoorstel seksuele misdrijven) has been submitted to Parliament. The draft bill has been passed by the House of Representatives. The bill is now pending before the Senate. If relevant we will refer both to the current legislation and to the draft bill in the answers to the questions below. Please see attachment.

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

[7] *Ibid.*, Recommendation 2

- Yes  
 No

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

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

- Yes  
 No

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

Yes (article 245 and 246, paragraph 1 a).

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

[9] *Ibid*

- Yes  
 No

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

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

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

[10] *Ibid.*, Recommendation 6

- Yes  
 No

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b. **[for 22 Parties + North Macedonia and Ukraine]** indicate that the child's legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?<sup>[11]</sup> Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
- No

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

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

[12] *Ibid.*, Recommendation 1

- Yes
- No

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

Yes. Please see the answer to question 1a.

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

[13] *Ibid.*, Recommendation 7

- Yes
- No

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

[14] *Ibid.*, Recommendation 8

- Yes

No

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

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

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

[15] *Ibid.*, Recommendation 9

Yes

No

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

Yes. The offence of sexual assault covers all sexual activities, thus not limited to sexual intercourse. Touching (dressed or undressed) body parts for sexual pleasure is considered a sexual act. Performing sexual acts "with" a child also extends to cases in which there is no physical sexual contact between the perpetrator and the child, but there is relevant sexual interaction between them. Examples include situations in which the perpetrator remotely controls sexual acts that the victim performs on his own body or on the body of a third party via a webcam, for example by giving 'live' instructions about the concrete acts that should be performed. It also includes situations in which the perpetrator performs sexual acts with himself, if there is relevant interaction with a child at the time (e.g. masturbation in a dressing room in the physical proximity of a child, requesting the child to participate).

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

[16] *Ibid.*, Recommendation 11

Yes

No

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c. **[for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to "homosexual activities" in the description of criminal offences involving sexual abuse and sexual exploitation of children?**<sup>[1</sup>

7] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes  
 No

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

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

[18] *Ibid.*, Recommendation 57

- Yes  
 No

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

No. At the same time the offences can be investigated and prosecuted ex officio, which means that a complaint from the victim or his/her legal representative is not required for such an investigation or prosecution.

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

[19] *Ibid*

- Yes  
 No

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

No. The Public Prosecutor decides on whether or not to continue the proceedings, based on its assessment of all the circumstances of the case.

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

[20] *Ibid.*, Recommendation 56

- Yes  
 No

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

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

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

- Yes  
 No

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

For minors below the age of twelve, it is logical in such a case to consider whether the use of youth protection measures is appropriate.

The Prosecutor's Directive and framework for criminal proceedings in youth and adolescents states the following about this target group (not specifically sexual abuse):

1.a 12-minors

Minors under the age of 12 cannot be criminally prosecuted. However, police investigation and limited application of coercive measures in connection with establishing the truth is possible. Here, of course, responsible treatment of these very young suspects must come first. As minors below the age of twelve cannot be prosecuted, they are not entitled to funded consultation and interrogation assistance from a counsel.

However, in the case of these minors, the police should always invite a trusted person to be present during the interrogation. As a basic principle, the police interrogation should take place in the presence of a parent or guardian.

Criminal offences committed by very young children can be an important care signal. In such cases, the police always make a care report to the advisory and reporting centre for domestic violence and child abuse Veilig Thuis by means of the care form, which investigates on the basis of this report whether an intervention is required.

Furthermore, committing crimes at a very young age can be an important predictor of later criminal behaviour. At a later stage, it may be important to be aware of this in order to make a good assessment of the risk of recidivism. Recording criminal offences of 12-year-olds by the police is necessary in this context. If a minor under the age of 12 is involved, the police, the Public Prosecution Service, the Child Protection Board and Safe Home convene a separate meeting if necessary in connection with the progress of the criminal investigation and any civil measures to be taken.

Under the education laws, school boards have the responsibility to ensure school safety. Whenever a child below the age of criminal responsibility commits an act of sexual abuse towards another child, while under the authority of the school board, the schoolboard has to take appropriate measures to restore the school safety. That includes the safety of individual victims as well as perpetrators.

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

[22] Question included for capacity-building purposes

- Yes
- No

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

Yes. Juveniles aged 12 to 17 who commit an offence are penalised under juvenile criminal law (articles 77a-77hh Dutch Penal Code). The court may also apply juvenile criminal law to adults aged 18 to 22 years (article 77c Dutch Penal Code). Children under the age of 12 cannot be prosecuted.

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:

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

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

- Yes  
 No

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

Art. 250 of Civil Code Book 1. states that if, in matters concerning the minor's care and upbringing or his/her assets, the interests of the parents or one of them or the guardian or both guardians are in conflict with those of the minor, the court/the relevant judge, if he deems it necessary in the interest of the minor, taking into account in particular the nature of this conflict of interests, at the request of an interested party or ex officio, can appoint a special guardian to represent the minor in this matter, both in and out of court. In the event of a request by the Child Protection Board as referred to in Article 242a, the Children's Court shall appoint a special guardian at the start of the proceedings to represent the minor, both in and out of court.

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

[24] *Ibid*

- Yes  
 No

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

Safe Home, domestic violence and child abuse organisation, can interview minors - regardless of their age - who turn to Safe Home, even when the parent(s) or legal guardian(s) do not give permission.

Article 7.3.4 in the Youth Law of the Netherlands states the consent of the person concerned is required for the provision of youth assistance, unless it concerns youth assistance in the context of an authorization for a child protection measure. This includes the consent of the parents/legal guardians.

A person who is obliged to maintain confidentiality on the basis of a statutory regulation or on the basis of his office or profession may, without the permission of the person concerned, provide information to the Child Protection Board if this can be deemed necessary for the exercise of the tasks of the council (Article 240 of the Dutch Civil Code).

If there is a conflict of interest between the exercisers of parental authority or guardianship and the child victim, Article 250 in conjunction with Article 247, paragraph 2, of Book 1 of the Civil Code shall be applied mutatis mutandis for the preliminary investigation and the examination in court. The relevant court can, if it deems necessary in the interest of the minor and in particular the nature taking into account this conflict of interest, appoint to represent the minor in this matter, both in and out of court. This guardian can give consent in place of the parent(s) or guardian(s) when consent is needed for the police investigation.

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

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

- Yes  
 No

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

A temporary restraining order can be imposed in the event of child abuse (including sexual abuse) or a serious suspicion thereof. The temporary restraining order is issued in the form of a decision by the mayor or by the police if mandated to do so. The temporary restraining order means that a perpetrator of domestic violence is in principle not allowed to enter his or her home for ten days and is not allowed to contact the partner or the children during that period. Depending on the situation, the mayor can extend the restraining order to a maximum of four weeks. An evicted person who does not comply with the restraining order can receive a maximum prison sentence of two years or community service (Temporary Restraining Order Act). The police and the Public Prosecution Service assess whether (additional) protection measures are necessary, such as restraining and barring orders. In this they are advised by a specialised domestic violence and child abuse organisation (Art. 38v Sr - Article 38v Penal Code).

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

[26] *Ibid.*, Recommendation 27

- Yes  
 No

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

Dutch laws and regulations on the decision-making process in youth care are recorded in the Revision of Child Protection Measures Act and in the Youth Act. Both laws are independent of each other but also complement each other. The Revision of Child Protection Measures Act revolves around the content of the measures. The Youth Act regulates the organization of the child system, including child protection. When the judge deems it necessary for the safety of the child to temporarily live elsewhere, the child is placed under supervision and authorizes a forced out-of-home placement. The authorization is valid for a maximum of one year. If more time is needed to improve the situation at home, the judge can extend that authorization. The removal of a child victim can be considered as a last resort. This depends on what is deemed necessary for the safety of the child. If there is an acute crisis situation or if it is necessary for the child to move to live elsewhere as a matter of urgency, the judge may immediately issue an authorisation.

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e. **ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?**<sup>[27]</sup> Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes  
 No

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

We follow the General Data Protection Regulation (EU 2016/679), the GDPR Implementation Act and – as a result of the Data Protection Directive on Investigation and Prosecution (Directive EU 2016/680) – the amended Dutch Police Data Act and Judicial and Criminal Procedure Act. Additionally, the Social Support Act en Youth Act give grounds for sharing relevant personal information for the performance of the legal obligation of the child protection board and the domestic violence and child abuse organisation regardless of the consent of the client. Sharing personal information is also possible when it concerns the situation that data processing is necessary to protect the life or other vital health interest of the data subject and it is not possible to ask this person for permission. This legal basis is applied when there is acute danger and/or the person concerned is unconscious and is unable to give consent.

If necessary, the police share victimisation information with support agencies such as ‘Safe Home’ (Article 4: 2 paragraph 1, under i Police Data Decree), the ‘Sexual Assault Center’ (Article 20 Police Data Act, Article 4: 5 paragraphs 1 and 2 Police Data Decree) and/or ‘Victim Support the Netherlands’ (Article 18 Police Data Act and Article 4:2 first paragraph, under n Police Data Decree).

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

### Question 8. Does your national legal framework clearly distinguish:

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

[28] *Ibid.*, Recommendation 32

- Yes
- No

If appropriate, please provide more information (8 No)

The legal framework does not distinguish between these cases. The court may terminate or suspend a parent's parental rights if:

- a. a minor grows up in such a way that his development is seriously threatened, and the parent is not able to bear the responsibility for the care and upbringing, referred to in Article 247, 266 and 268 of the Civil Code within a period acceptable to the person and the development of the minor term to be considered, or
- b. the parent abuses authority.

If there is an acute crisis situation or if it is necessary for the child to move to live elsewhere as a matter of urgency, the judge may immediately issue supervision and an authorisation. This legal framework leaves the possibility to act in cases before a court decision on the conviction of the concerned parent.

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes
- No

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

(a and b combined): The legal framework does not distinguish between these cases nor does it give the option for automatic withdrawal of parental rights. The court may change, suspend or terminate of parental authority, when deemed necessary. If there is an acute crisis situation or if it is necessary for the child to move to live elsewhere as a matter of urgency, the judge may immediately issue an authorisation.

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

[30] *Ibid*

- Yes  
 No

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

(a and b combined): The legal framework does not distinguish between these cases nor does it give the option for automatic withdrawal of parental rights. The court may change, suspend or terminate of parental authority, when deemed necessary. If there is an acute crisis situation or if it is necessary for the child to move to live elsewhere as a matter of urgency, the judge may immediately issue an authorisation.

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

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

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

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

The criminal offences of libel and defamation explicitly exclude people who act in good faith:  
Article 261 Dutch Penal Code  
(...)  
3. Neither defamation nor libel exists to the extent that the perpetrator has acted in necessary defense, or could have assumed in good faith that the charge was true and that the public interest required the charge.

Artikel 261 Wetboek van Strafrecht  
(...)  
3. Noch smaad, noch smaadschrift bestaat voor zover de dader heeft gehandeld tot noodzakelijke

verdediging, of te goeder trouw heeft kunnen aannemen dat het te last gelegde waar was en dat het algemeen belang de telastlegging eiste.

Article 262

1. Any person who commits the crime of defamation or libel, knowing that the offense charged is contrary to the truth, shall, if guilty of defamation, be punished with a prison term of not more than two years or a fine of the fourth category.

(...)

Artikel 262

1. Hij die het misdrijf van smaad of smaadschrift pleegt, wetende dat het te last gelegde feit in strijd met de waarheid is, wordt, als schuldig aan laster, gestraft met gevangenisstraf van ten hoogste twee jaren of geldboete van de vierde categorie.

(...)

There are specific education laws in place that involve the obligation for certain people to notify, consult, and report to the responsible authorities concerning suspected sexual abuse and sexual exploitation of a child.

This duty to notify, consult, and report involves the following three elements:

- (1) An employee who becomes aware of a possible sex crime committed by another employee towards a minor pupil or student must immediately notify the school board;
- (2) A school board who becomes aware of a possible sex crime as described under (1) must immediately consult with a special inspector of the Inspectorate of Education;
- (3) If the inspector together with the school board conclude that there is a reasonable suspicion of a sex crime as described under (1), the school board has to immediately report it to the police.

The people who are obligated to notify, consult, or report can be considered to have some form of protection against judicial proceedings for defamation, libel, or similar offences.

Furthermore, a legislative proposal that extends the above legal obligation to notify the school board and to consult with a special inspector of the Inspectorate of Education is currently in the making. It will no longer only concern suspected criminal cases of sexual abuse and sexual exploitation of a child. Rather, when an employee or a school board has any reason to suspect that an employee has sexually approached a pupil or student in any intrusive way, they have a legal obligation to, respectively, notify the school board or consult with a special inspector. In case they together conclude there is a reasonable suspicion of a sex crime, the school board has to report to the police. This proposal is meant to limit the number of criminal sex offences that fail to be reported to the police and to make sure that the decision to report to the police is not dependent merely on the board's judgement on whether a case concerns a possible sex crime (about which they would have to consult a special inspector of the Inspectorate of Education).

This piece of legislation is yet to be submitted to the Dutch parliament. If it is accepted by both Chambers, the above mentioned indirect protection against judicial proceedings for defamation, libel, or similar offences can also be considered to be extended, as the obligation to notify or report then additionally concerns non-criminal cases of sexually inappropriate behaviour.

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

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## **ASSISTANCE TO THIRD PARTIES Question 11.**

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

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

Victim Support the Netherlands (Slachtofferhulp Nederland) offers free support to people - including minors - who have been victim of a crime or a traffic accident. Victim Support Netherlands also offers help to those directly involved. It provides practical and legal advice and psychosocial support. In recent years, Victim Support has radically improved the services provided to minor victims and people close to them. Intensive support is provided to surviving relatives and victims of serious violent and sexual crimes. In these cases, relatives and victims are supported by professional case managers from Victim Support. Case managers provide emotional and practical support, tailored to the needs of victims. Case managers also act as a point of contact for judicial organizations, employers and social services. They provide support immediately after the crime, during the investigation and criminal proceedings.

Complaints arising from a major event can also be discussed with your General Practitioner. The General Practitioner is the official referrer for further medical or psychological help. A General Practitioner has a complete overview of options and organizations that can help people. The General Practitioner can provide advice or, if necessary, refer people to the correct (youth) care organization.

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

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## ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

The Sexual Violence Center (in Dutch, Centrum seksueel geweld) is there to support the child and environment in the event of sexual violence or abuse. The sexual violence center takes the safety of a young person into account in the investigation and an assessment is made of the safety risks. If necessary, and there are concerns about safety, advice can be requested from an organization specially set up for this purpose (Veilig Thuis). If the situation deteriorates to such an extent for the child, there is the option to implement a child protection measure for protection. There are conditions attached to this and this is always done in close coordination with the organizations involved and in the interests of the child.

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes  
 No

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

In the Netherlands, employees that wish to work with children need to submit a Certificate of Conduct ('Verklaring Omtrent Gedrag', VOG). This is a document by which the Dutch Minister of Legal Protection declares that the applicant has not been convicted or prosecuted for any crime relevant to the performance of his or her duties. Sometimes the submission of a Certificate of Conduct is required by law, in other cases it is up to the employer to decide whether the certificate is required. As a rule, the Certificate of Conduct will not be issued for the purpose of working with children if someone has been convicted of a sexual offense. In addition, the criminal records of employees working in child care are monitored daily to check whether the employee is being prosecuted for new criminal offenses that might form a risk for working with children. If the criminal record contains new information concerning a criminal offense that poses a possible risk for children, a signal is sent to the organisation that supervises the Dutch childcare institutions, and the supervisor then informs the relevant childcare organisation. The employee whom it concerns must apply for a new Certificate of Conduct if he/she wishes to continue working in their former position. Justis (the screening authority) then again assesses the application for a Certificate of Conduct, including the new criminal offense, to conclude if there is indeed a risk for the safeguarding of children. If that is the case, the Certificate of Conduct will not be issued and the employee will be discharged by the employer for reasons that the employee in question does not meet the requirements for working in childcare anymore. This additional daily screening has been established by law. In addition to the Certificate of Conduct, it is the employer's responsibility to take appropriate measures to ensure integrity of employees, and the safety of the children.

Aside from paid positions, the Dutch government also encourages volunteer organisations that work with vulnerable persons (such as children) to only employ persons who can provide a Certificate of Conduct. An application for a Certificate of Conduct is free for all volunteers that work with children or other vulnerable persons if the employer/organisation has applied for the free-of-charge arrangement.

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

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b. sharing with other countries data concerning persons convicted of child sexual abuse?<sup>[35]</sup> Please provide details.

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

- Yes  
 No

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

If a person with another EU nationality (other than Dutch) wishes to work with children and applies for a Certificate of Conduct in the Netherlands, a request is sent to his/her home country to obtain any possible criminal record information from the country of nationality. Member states of the EU are obliged to provide other EU member states with information about the criminal records if requested. The Trade and Cooperation Agreement (TSA) between the European Union and the United Kingdom (UK) has also made it possible to obtain information from the criminal record system of the UK if a British citizen applies for a Certificate of Conduct for wanting to work with children in the Netherlands.

In addition, European countries are obliged to report every irrevocable conviction of a citizen from another EU member state to the country of nationality. The country of nationality must then add the criminal information to its own criminal records system. The Dutch authority for criminal record information, Justid, adds these irrevocable convictions of Dutch citizens to the Dutch criminal records system. As a result, all criminal convictions on the EU territory are available in the home country of all EU nationals so that all criminal records can be included in pre-employment screening.

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

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

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

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

- Yes  
 No

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

Article 28 of the Code of Criminal Procedure (Wetboek van Strafvordering) states that it is possible for special conditions to be considered specifically aimed at the interests of the victim or aimed at the public interest. Examples include a contact ban, location ban or disqualification from profession or office.

As described earlier, childcare employees (and registered childminders) are also screened daily to check whether the employee is being prosecuted for new criminal offenses that might form a risk for working with children. If there is a change in an employee's criminal records system, the screening authority Justis will be notified. Justis will then assess whether the criminal offense may pose a risk to the safeguarding of children. If the new information indicates a risk, a signal is sent to the organisation that supervises the Dutch childcare institutions, and the supervisor then informs the relevant childcare organisation. The employee whom it concerns must apply for a new Certificate of Conduct if he/she wishes to continue working in their former

position. Justis then again assesses the application for a Certificate of Conduct, including the new criminal offense, to conclude if there is indeed a risk for the safeguarding of children. If that is the case, the Certificate of Conduct will not be issued and the employee will be discharged by the employer for reasons that the employee in question does not meet the requirements for working in childcare anymore.

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

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

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

- Yes  
 No

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

According to the ‘Wet verplichte meldcode Huiselijk geweld en kindermishandeling’ (Act on Mandatory Reporting Code for Domestic Violence and Child Abuse Act) for some professional groups reporting domestic violence and child abuse is mandatory. This is the case for: health care, education, child care, social support, youth support and justice.

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?<sup>[39]</sup>**

Please provide details.

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

- Yes  
 No

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

Please see answer to 14b.

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:

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

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

The court may appoint a special representative in the event of a conflict of interest between the child and his parents or guardian. Such a conflict of interest can exist if: a. the parents have a conflict between themselves, or b. if the child himself has a conflict with his parents or guardian. The special liquidator must be registered with the Legal Aid Board as a specialist in personal and family law matters (family mediator).

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- b. avoid combining the functions of a lawyer and guardian ad litem in one person?<sup>[41]</sup>

[41] Ibid., Recommendation 36

The court may appoint a special receiver to represent the interests of the minor. This can be a lawyer, but also, for example, a mediator or psychologist. A special representative cannot act as both a lawyer and a special representative in a case.

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

- c. are provided free of charge for the child victim?<sup>[42]</sup>

[42] Ibid., Recommendation 37

The costs of the special representative are reimbursed through the system of legal aid. No personal contribution is due.

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

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

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

[43] *Ibid.*, Recommendation 34

- Yes  
 No

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

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

[44] *Ibid*

- Yes  
 No

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

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

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

[45] *Ibid.*, Recommendation 38

Police are implementing the EU Minimum Standards for Victims Directive 2012. For all victims, this means that the police strive to identify vulnerable victims as soon as possible after initial contact, prevent repeat victimisation and then enable protective measures to be applied if necessary. For children, they are always seen as a vulnerable victim and treated as such.

In addition, if necessary, the police share victimisation information with support agencies such as 'Safe Home' (Article 4:2 paragraph 1, under i Police Data Decree), the 'Sexual Assault Center' (Article 20 Police Data Act, Article 4:5 paragraphs 1 and 2 Police Data Decree) and/or 'Victim Support the Netherlands' (Article 18 Police Data Act and Article 4:2 first paragraph, under n Police Data Decree). These organisations provide the juvenile with medical, psychological, practical, legal and family support.

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

provide details.

[46] *Ibid.*, Recommendation 39

Sexual abuse by abuse of authority/trust is punishable under section 249 of the Penal Code (from 1 December 1991). Police closely coordinate such cases with 'Safe Home', which draws up a safety plan for the period during the investigation.

Furthermore, the Instruction on Vice (accessible at <https://wetten.overheid.nl/BWBR0037821/2016-05-01#Circulaire.divisie2>) states: 'Where the interests of establishing the truth clash with the interests of preserving and strengthening victims' resilience, these interests are always carefully weighed against each other to prevent the criminal investigation from resulting in harm to victims and others.'

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

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

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

Up to 12 years of age:

Before hearing a child up to 12 years of age in a vice case, the vice investigator gathers the necessary information about the case and the child. The vice investigator then consults with the Assessing Advisor of the child-friendly interrogation studio, who assesses the interrogability of the case and gives advice. The interrogation of minors up to 12 years old is conducted by two studio interrogators, at least one of whom is certified, with one of these studio interrogators following the interrogation from the control room. In principle, the interrogation of minors up to 12 years of age always takes place in the child-friendly studio.

12 years and older:

During the investigation, the vice investigator gathers information about the possible vulnerability of persons aged 12 years and older to be interviewed. However, sometimes insight into the person's vulnerability only emerges during the interrogation. The Vulnerability Indication Questionnaire can be used to recognise vulnerability during interrogation. The vice investigator consults with the Interrogator Vulnerable Suspects, if there is a suspect, and in the case of vulnerable witnesses or declarants with the Interrogation Studio's Assessment Advisor, about the necessary expertise to be deployed. The Interrogator Vulnerable Suspects or Assessor-Counsellor consults a criminal psychologist in this process if necessary. Depending on the type of vulnerability, the interrogation is conducted by a certified vice investigator, a studio interrogator, or Interrogator Vulnerable Suspects. The choice of interrogation location is case-dependent. An external expert may be used if there is insufficient expertise within the police for a specific case. An external behavioural expert is deployed through the National Expert Broker after consultation with the criminal psychologist. External experts are not deployed as interrogators but are consulted in the preparation and possibly the execution of interrogations of vulnerable persons in vice cases.

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

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

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

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

- Yes  
 No

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

With regard to the position and participation of child victims, we see that the provisions included in The Lanzarote Convention are also reflected in Dutch legislation. Certainly with the introduction of the 'Strengthening the Position of Victims Act' in 2011, the minor victim received a better position in the criminal process, which is in line with the provisions in international regulations.

With regard to the questioning of child victims, the conditions from the 'Lanzarote Convention' have been adopted almost entirely in the 'Decree on victims of criminal offences', except for one provision: representation. However, we see this provision reflected in the various directions.

Member States are also required under Article 31(3) of the Lanzarote Convention to ensure that child victims have access to legal aid free of charge. A minor victim must, according to paragraph 4, be provided with a special representative when legal representatives cannot do so due to conflicting interests between them and the victim. In the Netherlands legal aid is free of charge. Regarding assistance, it is stated internationally that the victim can choose a representative in this. In the Netherlands, however, it is possible for assistance by a specific third party to be refused (art. 51c, paragraph 4 Dutch Code of Criminal procedure), for example if this chosen assistance provider (legal representative or other) is involved in the offence. Assistance by persons other than a lawyer is possible in the Netherlands, as also prescribed internationally.

Member States should ensure that contact between victims and offenders in courthouses and law enforcement agencies is prevented, unless competent authorities provide otherwise in the best interests of the child or where the investigation or proceedings require such contact (Article 31(g) Lanzarote Convention). How the contact between offender and victim during the investigation and trial should be arranged, is not regulated in the Dutch Code of Criminal Procedure. However, provisions on this are included in the Decree on Victims of Criminal Offences'. For example, consideration should be given whether a victim can wait in separate waiting rooms until the hearing begins. Article 12 explicitly states for child victims that:

- 'Between victim and accused, including during the giving of a testimony, no eye contact can take place, through the use of appropriate means, including communication technology;
- The victim may be heard in the courtroom without being present there, in particular through the use of appropriate communication technology.

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

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**INVESTIGATION Question 19. In the investigation phase:**

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**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?**<sup>[49]</sup> Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes  
 No

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

For hearing (minor) sex victims, an interrogation room, a social interrogation room or an interrogation studio can be used. All police units have a social interrogation room, which is used to put the person being heard at ease. Furthermore, there are 11 interrogation studios in the Netherlands.

In an interrogation room, an interrogation can be recorded with sound. In a social interrogation room, which is domesticated, recording with image and/or sound can take place. In an interrogation room, two interrogators are present (one asks questions and one types).

In the interrogation studios, the interrogation can be recorded with image and sound. In addition to an interrogation room, the studio consists of a control room and/or viewing room. One interrogator is present in the studio. A vice investigator can give instructions from the control room and the interview can be followed live from the observation room, for example by lawyers. The studio is child-friendly to put 12-year-olds and mentally challenged persons at ease as much as possible. Furthermore, the set-up is neutral, as young people aged between 12 and 18 and adults are also heard in the studio. Depending on the target group, the studio can be further adapted, e.g. by removing/putting down toys.

In principle, the interrogation of minors up to 12 years old always takes place in a child-friendly interrogation studio. For sex offenders aged between 12 and 18, the interview location is case-dependent, according to the Police Instruction. For them, it is checked whether there are vulnerabilities that make a studio interrogation indicated.

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

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b. **are all staff responsible for interviewing child victims required to undergo suitable qualifying training?**<sup>[50]</sup> Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes  
 No

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

The interrogation of minor sex victims is carried out by (certified) vice investigators who, in their training, have also learned interview techniques and skills for hearing minor victims. Among other things, the training covers detection in vice cases; how to conduct an informative interview with victims; issues concerning the report (communication, false reports, vulnerable persons, statutes of limitation) and the interrogation of suspects. There is also a specific focus during training on how to influence the minor as little as possible, especially focusing on children under 12 and mentally challenged persons. Since the beginning of 2018, newly trained vice investigators are also trained in hearing 12- to 18-year-olds.

There is also the possibility for vice investigators to undergo training as studio interrogators. Within this training, there is a lot of practice in hearing and due attention to developmental psychology, developmental disorders and psychopathology. Studio interrogators engage in intervision in order to keep the quality of studio interrogators optimal. These intervision meetings take place on a structural basis.

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

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

[51] *Ibid.*, Recommendation 43

- Yes  
 No

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

Interrogation focuses on the discovery of truth. The Manual on directing vice cases (based on the Vice Instructions) states that a victim's minority is an important factor in prioritising a case. The younger the child, the more urgency there is behind the interrogation. The police strive to complete the interrogation of underage victims of sexual abuse as much as possible in one go and, if this is not possible, to have the interrogations conducted by the same vice investigators as much as possible (see the Vice Instructions: <https://wetten.overheid.nl/BWBR0037821/2016-05-01#Cirulaire.divisie2> ).

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

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

[52] *Ibid.*, Recommendation 54

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

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

[53] *Ibid.*, Recommendation 44

- Yes
- No

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

Audiovisual recording of the interrogation is mandatory for victims under the age of 18 and suspects under the age of 16 when it concerns a sex offence with a penalty threat of 8 years or more or sexual abuse in a dependency relationship, when there is evident grievous bodily harm or when the penalty threat is 12 years or more. The audiovisual recording is not provided to the defence in connection with the protection of the minor's privacy. Where necessary, the recording may be viewed by the defence depending on local arrangements at a police station or at the magistrate's office. The recording can also be viewed by the court in cases where it needs to do so. The public prosecutor always opposes the showing of the recording in a public part of the court hearing.

In cases where the defence interest requires further questions to be asked of a minor, it is suggested, where possible, that the defence and/or the examining magistrate have these questions asked by the same persons who initially heard the victim, in the same (studio) setting as the initial interrogation. The defence and the examining magistrate can watch via a link and have additional questions asked where necessary. Recordings are made of this interrogation. These recordings do not become part of the official record. The written record of the interrogation does.

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

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

[54] *Ibid.*, Recommendation 45

- Yes
- No

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

See answer at c to e.

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

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

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

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

[55] *Ibid.*, Recommendation 46

- Yes  
 No

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

Currently, on the basis of a temporary innovation law, pilots are running in which audio-visual recordings /recordings are used in criminal proceedings and can serve as evidence. After evaluation in 2024, it will be considered whether this possibility will be enshrined as a permanent provision in the new Code of Criminal Procedure.

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

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

[56] *Ibid.*, Recommendation 59

- Yes  
 No

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

According to article 269 of the Criminal Code, the hearing shall take place in public. From the time the case is called, the court may order all or part of the hearing to take place behind doors. This order may be issued in the interests of morals, public order, state security, as well as if the interests of minors, or respect for the privacy of the accused, other participants in the proceedings or otherwise involved in the case. Such an order may also be issued if, in the opinion of the court, disclosure would seriously harm the interests of due process.

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

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

[57] *Ibid.*, Recommendation 60

- Yes
- No

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

Participation by litigants in court hearings via videoconferencing is already possible in all courtrooms. In criminal proceedings, the starting point of the existing legal regulation since 2007 has been that videoconferencing can be used in all cases involving the hearing, interrogation or questioning of a person (suspect, witness, or victim). A participant in the proceedings does not then have to be physically present, but can participate remotely via a video and audio connection . It is the judge who decides whether videoconferencing is used in a particular case, taking into account the importance of the investigation and the views of all participants in the proceedings on this matter (Article 131a Code of Criminal Procedure).

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

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

[58] *Ibid.*, Recommendation 47

- Yes
- No

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

Please see answer to 20a.

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

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

[59] *Ibid.*, Recommendation 48

Please see the answer to 20f.

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?](#)<sup>[60]</sup> Please provide details.

[60] *Ibid*

- Yes  
 No

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

According to the Instructions on Vice, when questioning the victim as a witness comes up in criminal proceedings, a balance of interests will have to be made between the protection of the victim's privacy, health and safety and the right of the accused to a fair trial. It is in the victim's interest that interviews take place without undue delays, that the number of interviews is limited and that repetition of interviews is avoided. In addition, visual contact between victim and accused should be avoided, the victim should be required to act as a witness during a public hearing and unnecessary questions about the victim's private life or person should be asked.

The prosecutor may propose that the victim be heard out of public view and out of the presence of the accused, for example by using modern means of communication. Alternatives further include an interrogation by the examining magistrate, playing in court the audio recording made of the incriminating statement made by the victim to the police, or hearing the officers who conducted the interrogation.

Taking into account the interests of the defence, the public prosecutor will actively oppose unnecessarily incriminating reproduction of the victim's (sexual) history in the courtroom.

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

[61] *Ibid*

Please see the answer to 20c and 20f.

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

[62] *Ibid.*, Recommendation 49

According to the Instructions on Vice, the victims' personal data are handled with care and, where possible, measures are taken to prevent the identity of victims from becoming known outside the circle of parties

involved in the criminal process. This applies during the investigation, but also expressly during the hearing of a criminal case in open court or in preparation for the hearing. Sometimes, however, it cannot be prevented that information about the identity and often the exact age of the victim becomes or is known to the suspect. Consider the case where the accused is an acquaintance of the victim.

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

[63] *Ibid.*, Recommendation 50

- Yes  
 No

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

Yes. Free legal aid is available to (child) victims of a sexual offence regardless of income when (i) the case is being prosecuted and (ii) the victim is eligible to receive a compensation for their damages according to article 3 of the Violent crimes compensation fund law (Wet schadefonds geweldsmisdrijven). Damages can be physical as well as psychological. In the case of sexual offences it is generally assumed that severe psychological damages have occurred.

Victims of abuse during the time that they were under responsibility of youth care (Jeugdzorg), should first turn to Victim Support Netherlands. Victims can apply for free legal aid when Victim Support Netherlands refers them to a lawyer.

In cases where a suspect is not yet known, victims can receive legal advice. Once the prosecution has started they will be granted free legal aid.

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

[64] *Ibid.*, Recommendation 51

- Yes  
 No

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

Yes. Victims of sexual abuse can receive free legal aid by a qualified lawyer, regardless of whether the victim is underage. The lawyer represents the victim, not its parents or guardians. Legal aid lawyers need to

be registered with the Legal Aid Board as a specialized victims lawyer in order to represent a victim of sexual abuse. In order to qualify as a specialist, lawyers needs to have completed a training, be a member of a specialist organization and have performer three cases under supervision of another experienced lawyer.

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

[65] *Ibid.*, Recommendation 52

Victim Support the Netherlands (Slachtofferhulp Nederland) offers free support to people – including minors – who have been victim of a crime or traffic accident, giving practical and legal advice and psychosocial support. In recent years, Victim Support has radically improved its services for child victims of crime. The organisation's voluntary and paid staff have been trained to improve their skills in providing support for young people who have been the victim of a crime. More intensive support is offered to surviving relatives and victims of serious violent and sexual crimes. In these cases, surviving relatives and victims are supported by professional case managers of Victim Support. Case managers offer emotional and practical support, tailored to the needs of victims. Case managers also function as a contact person for judicial organisations, employers and social services. They offer support directly after the crime was committed, during the investigation and criminal proceedings. Support is offered as long as necessary and as short as possible.

The Sexual Assault Center (het Centrum Seksueel Geweld) is a place where victims of an unpleasant sexual experience - online or offline - can get the help they need: forensic, medical and psychological help. At the Sexual Assault Center, a team of doctors, nurses, police and other social workers work together to give victims of sexual violence specialist care. The Centre for Sexual Violence also helps children. They can call or chat with them for free, as often as they like. They provide victims with the best possible level of help within seven days, but even seven days after the event, the Sexual Assault Center can support victims to find the right help in their situation.

The group of victims and relatives who (might) develop long-term and/or complex complaints that cannot be supported by Victim Support the Netherlands or the Sexual Assault Center are referred to specialist care (e. g. doctor, psychologist). Specialist care is not dependent on criminal justice procedures and can be offered as long as necessary.

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## Contact

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