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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

Replies from North Macedonia received on 31 October 2024

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).
 - 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.
 - 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.

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.

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).

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

Victims’ age

2. Does your national legal framework:
- [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.
 - [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.

Scope of offence

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

Ex officio prosecution

5. Does your national legal framework:
- 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.
 - 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).

⁹ *Ibid*

¹⁰ *Ibid.*, Recommendation 6.

¹¹ *Ibid.*, Recommendation 5.

¹² *Ibid.*, Recommendation 1.

¹³ *Ibid.*, Recommendation 7.

¹⁴ *Ibid.*, Recommendation 8.

¹⁵ *Ibid.*, Recommendation 9.

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:
- 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. The Criminal Law does not apply to a minor who at the time of committing the act defined by law as a criminal offense, has not yet turned fourteen years old. According to the Criminal Law, it does not apply to a minor who, at the time of committing the act defined by law as a criminal offense, has not yet turned fourteen years old.
 - 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

Child victims' rights to protection and parental rights

7. Does your national legal framework:
- provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?²³ Please provide details. The Center for Social Work, as the competent authority for guardianship, may always take necessary measures to protect the child when it is in the child's best interest, even in cases where there are suspicions of child sexual abuse and without informing or obtaining consent from the parents, especially in situations where there is suspicion of the parents' involvement in the criminal act.
 - 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. The Center for Social Work, as the competent authority for guardianship, may always take necessary measures to protect the child when it is in the child's best interest, even in cases where there are suspicions of child sexual abuse, and without informing or obtaining consent from the parents, especially in situations where there is suspicion of the parents' involvement in the criminal act.

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.

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

²⁴ *Ibid*

- 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. In the Law on Prevention and Protection Against Violence Against Women and Domestic Violence, Article 58 provides for temporary protective measures aimed at stopping violence, removing the consequences of committed violence, and taking effective actions against the perpetrator to eliminate the causes of further violence. The court may impose the following temporary protective measures on the perpetrator of gender-based violence against women and victims of domestic violence: 1. Prohibition from threatening to commit violence; 2. Prohibition from harassing, disturbing, calling, contacting, or otherwise directly or indirectly communicating with the victim; 3. Prohibition from approaching within 100 meters of the victim's home, school, workplace, or any regularly visited location; 4. Removal from the home, regardless of ownership, for a period of 10 to 30 days; 5. Prohibition from possessing firearms or other weapons, or confiscation of such items; 6. Obligation to return items necessary for the daily needs of the victim and family; 7. Mandatory legal support for the family; 8. Mandatory attendance at a counselling center for perpetrators of violence against women or domestic violence; 9. Mandatory treatment for the perpetrator if they use alcohol, drugs, or other psychoactive substances or have a mental illness; 10. Obligation for the perpetrator to cover medical and other expenses incurred due to the violence; 11. Any other measure deemed necessary by the court to ensure the safety and well-being of the victim and other family members. In proceedings where the court decides on temporary protective measures, the provisions of the Law on Civil Procedure apply unless otherwise specified in this law. The Ministry of Interior is required to submit a proposal for the imposition of an urgent protective measure under Article 57 of this law to the competent court to eliminate immediate and serious danger to the life and physical and mental integrity of the victim and their family members, without the victim's consent. The Center for Social Work can submit a proposal for temporary protective measures under Article 58 of this law to the competent court with the victim's consent. A parent or guardian may submit a proposal for the imposition of a temporary protective measure under Article 58 of this law on behalf of a minor child or a person with limited or revoked legal capacity, as well as for a person under extended parental rights. The Center for Social Work is required to submit a proposal to the court for the imposition of a temporary protective measure under Article 58 of this law on behalf of children and legally incapacitated persons whenever the parent, guardian, or legal representative fails to do so and without their consent. In the proposal to the court for the imposition of a temporary protective measure under Article 58 of this law, the Center for Social Work may suggest that the measure also applies to the parent with whom the child lives, when it is in the child's interest for their protection and safety.
- 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.
- e. **ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?**²⁷ Please provide details. All data necessary for the course of the procedure is shared in accordance with the

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).

²⁶ *Ibid.*, Recommendation 27.

²⁷ *Ibid.*, Recommendation 25.

Law on Personal Data Protection (Official Gazette of the Republic of North Macedonia No. 42/20, 294/21).

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](#): In Articles 86 and 87 of the Family Law (Official Gazette of the Republic of Macedonia No. 80/92, 9/96, 38/04, 33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15, 150/15, and Official Gazette of the Republic of North Macedonia No. 53/21), it is established that if it is in the best interest of the child, the Center for Social Work may issue a decision for ongoing supervision over the exercise of parental rights regarding all children or only with respect to one of them. The Center for Social Work can, by decision, remove the child from one parent and entrust them to the care and upbringing of the other parent, another person, or an appropriate institution when the parents, or the parent with whom the child resides, neglect the child regarding care and upbringing, or when there is a serious danger to the child's proper development and upbringing.
 - [and cases of withdrawal of parental rights once the court has convicted the said parent?](#)²⁸ [Please provide details.](#) - Article 90 of the Family Law establishes that a parent who abuses their parental rights or grossly neglects their parental duties may have their parental rights revoked by a court decision in non-contentious proceedings, based on an opinion from the Center for Social Work. Abuse or gross neglect of parental duties, according to this article, includes situations where the parent: Commits physical or emotional violence against the child; Sexually exploits the child; Forces the child to work inappropriately for their age; Allows the use of alcohol, drugs, or other psychoactive substances; Encourages the child to beg or uses the child for begging; Leads the child to socially unacceptable behaviours; Abandons the child and fails to care for them for more than three months; and Violates the child's rights in any other gross manner. The court may revoke the parental rights regarding all children or specifically regarding one of them.
9. Does your national legal framework provide for:
- a. [automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending?](#)²⁹ Please provide details. The Center for Social Work, when a child or a person unable to care for themselves, or a person whose legal capacity has been restricted or revoked, is identified as a victim, takes measures in accordance with the Family Law that pertain to the regulation of parental and child relationships, supervision of the exercise of parental rights, and guardianship, as well as in accordance with the Law on Juvenile Justice. In procedures for granting custody of the child to one of the parents, the Center for Social Work considers the child's best interest, ensuring that the rights and safety of the victim and/or children are not compromised. The Center for Social Work may temporarily restrict or prohibit personal relationships and direct contact between the child and the parent with whom they do not reside, if it is in the child's best interest, while the risk and consequences of the violence persist.

²⁸ *Ibid.*, Recommendation 32.

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

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

Please provide details. Article 90 of the Family Law establishes that a parent who abuses their parental rights or grossly neglects their parental duties may have their parental rights revoked by a court decision in non-contentious proceedings, based on an opinion from the Center for Social Work. Abuse or gross neglect of parental duties, according to this article, includes situations where the parent: Commits physical or emotional violence against the child; Sexually exploits the child; Forces the child to work inappropriately for their age; Allows the use of alcohol, drugs, or other psychoactive substances; Encourages the child to beg or uses the child for begging; Leads the child to socially unacceptable behaviours; Abandons the child and fails to care for them for more than three months; and Violates the child's rights in any other gross manner. The court may revoke the parental rights regarding all children or specifically regarding one of them. This answer is also for the question below a.

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](#)?³¹ According to the Family Law, every citizen, authority, and legal entity is required to inform the Center for Social Work immediately upon learning that a parent is not exercising parental rights or that protection of the person, rights, and interests of the child is needed for other reasons.

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](#)?³² The role, place, and responsibilities of the Center for Social Work (CSR) in recognizing, reporting, treating, and protecting child victims are regulated by the Law on Justice for Children through the Assistance and Protection Measures defined by the Regulation (Official Gazette No. 136/2008). This is carried out throughout all phases of the procedure, providing continuous psychosocial support to the child and family before, during, and after the prosecution of the perpetrator. Additionally, the Law on Social Protection enables the application of new social services by the CSR for this category of users that are not provided for in the aforementioned Regulation.
12. [When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of the other non-offending members of the family](#)?³³

³⁰ *Ibid*

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.

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

³³ *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?](#)³⁴ Please provide details. There is a Law for a special register of individuals convicted by a final judgment for criminal offenses related to the sexual abuse of minors and pedophilia. The aim is to implement and ensure the protection of children from sexual abuse, pedophilia, and trafficking in minors by providing access to information about individuals living in their vicinity who have been convicted of crimes related to the sexual abuse of minors, pedophilia, and trafficking in minors. The register includes the following information about convicted individuals: name and surname, date of birth, residential address, the criminal offense for which they were convicted, and a photograph. The data about convicted individuals entered into the register is publicly accessible, while the data about victims is not publicly available under any circumstances.
- b. [sharing with other countries data concerning persons convicted of child sexual abuse?](#)³⁵ Please provide details. In 2012, the Ministry of Labor and Social Policy adopted the Law on a Special Register for Individuals Convicted by Final Judgment of Crimes of Sexual Abuse of Minors and Pedophilia. The Special Register for individuals convicted by final judgment of crimes related to sexual abuse of minors and pedophilia is maintained electronically and is publicly accessible at www.registarnapedofili.mk. A total of 329 perpetrators are recorded in this register, of which 217 have been convicted of sexual assault against a child under 14 years of age.

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?](#)³⁶ Please provide details.
- b. [ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”³⁷ settings are held liable?](#)³⁸ Please provide details.
- c. [ensure that legal persons failing to protect children in their care from sexual abuse are held liable?](#)³⁹ Please provide details.

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:

³⁴ *Ibid.*, Recommendation 33.

³⁵ Based on Article 38 of the Lanzarote Convention.

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

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.

³⁹ *Ibid.*, see point 7.

- a. receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?⁴⁰ According to the Child justice law, all individuals involved in the protection and work with the victim must undergo training on children's rights
- b. avoid combining the functions of a lawyer and guardian ad litem in one person?⁴¹ According to the Family Law, the responsibilities related to guardianship are carried out by the Center for Social Work directly through guardians or other individuals engaged in guardianship-related tasks. For minors, a guardian is most often appointed from among the employees of the center or a person who is a family relative of the minor.
- c. are provided free of charge for the child victim?⁴² Yes, the child has the right to a guardian and to a lawyer, who is provided to them free of charge.

16. [For 22 Parties + Malta]

- a. Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?⁴³ Please provide details. According to the Family Law, a minor without parental care will be placed under guardianship. A child without parental care is defined as a child whose parents are deceased, missing, unknown, or whose residence has been unknown for more than a year, as well as a child whose parents, regardless of the reasons, temporarily or permanently do not exercise their parental rights and duties. The guardian of a minor is obligated to care for the minor as a parent would, particularly regarding their health, upbringing, education, and preparation for independent living and work.
- b. Is this person allowed to be present throughout the criminal proceedings?⁴⁴ Please provide details. The parents or the guardian of the child may attend all actions throughout the entire procedure, unless the court determines that such presence could have harmful consequences for the child's development.

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?⁴⁵ Please provide details. According to the child justice law, a child is defined as any person under the age of 18 and all protective measures are available to them.
 - b. specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child?⁴⁶

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

⁴¹ *Ibid.*, Recommendation 36.

⁴² *Ibid.*, Recommendation 37.

⁴³ *Ibid.*, Recommendation 34.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, Recommendation 38.

⁴⁶ *Ibid.*, Recommendation 39.

- c. a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being?⁴⁷ According to the Law on Juvenile Justice, all professionals involved in proceedings concerning children must possess the necessary competencies, knowledge, and skills, and must have undergone specialized training.
18. Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?⁴⁸ Please provide details.

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.

Investigation

19. In the investigation phase:
- a. are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?⁴⁹ Please provide details. According to the child justice law, conversations with the child are conducted in special rooms that are suitable for discussions with a child of their age.
 - b. are all staff responsible for interviewing child victims required to undergo suitable qualifying training?⁵⁰ Please provide details. According to the child justice law all individuals involved in the proceedings are required to have completed training on how to conduct conversations with children.
 - c. does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child's age and attention span?⁵¹ Please provide details. According to the child justice law, the child has the right to special protection of their safety and the safety of their family. Authorities and entities involved in the criminal proceedings dedicate special care and attention, ensuring that statements are taken in conditions adapted to the child's needs and development in a safe environment. The child is to provide a statement without unjustified delays after the criminal report is filed, which is recorded in accordance with the provisions of this law and used as evidence during the proceedings.

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

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

⁴⁹ *Ibid.*, Recommendation 41.

⁵⁰ *Ibid.*, Recommendation 42.

⁵¹ *Ibid.*, Recommendation 43.

- d. **[for Serbia]** how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?⁵²
- e. where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?⁵³ Please provide details. When the child is a victim of trafficking or sexual abuse, as well as crimes against humanity and international law, the court may order, either individually or alongside another special measure of procedural protection, to record the child's statement using video and audio recordings, which will be used as evidence in the subsequent proceedings. In exceptional cases, in order to achieve the best interest of the child and if new circumstances arise, the court may examine the child victim again, but no more than once, using technical communication means.
- f. does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?⁵⁴ Please provide details. For all actions defined by law as criminal offenses in which the child is identified as a victim, the court and other authorities involved in the procedure are obligated to take measures for assistance and protection, ensuring that possible harmful consequences for the child's person and development are avoided. The proceedings for criminal offenses in which the child is a victim are urgent. The court excludes the public from the part of the proceedings where the recording of the child victim's testimony is reproduced or where other special protective measures are applied during the taking of testimony or questioning, or where procedural actions may harm the child's person and development. The child victim is heard as a witness in a manner that does not adversely affect their psychophysical development, with the application of special protective measures. During the taking of testimony and questioning of a child as a witness or victim, the police, prosecutor's office, and court must consider the child's personal characteristics and attributes to protect their interests and ensure proper development. The authority conducting the proceedings limits the number of examinations of the child victim to what is necessary for their special protection.

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?⁵⁵ Please provide details. According to the Child Justice Law, as special measures for procedural protection when giving testimony, the court may determine: - the use of screens to protect the victim and witness from the defendant's view, - concealing the identity or appearance, - giving testimony via videoconference, - removal of robes and hats, - exclusion of the public, - video and audio recording of the testimony to be used as evidence, - video and audio recording of the questioning to be used as evidence, - taking testimony through the mediation of a

⁵² *Ibid.*, Recommendation 54.

⁵³ *Ibid.*, Recommendation 44.

⁵⁴ *Ibid.*, Recommendation 45.

⁵⁵ *Ibid.*, Recommendation 46.

professional, - use of special technical means for communication, and - protection of the child's and the family's privacy

- b. [does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?](#)⁵⁶ Please provide details. According to the law on criminal procedure when the authority conducting the proceedings assesses that, due to other circumstances in the case, a minor who is a victim of human trafficking, violence, or sexual abuse is particularly vulnerable, and that the examination in the premises of the authority conducting the proceedings could have harmful effects on their mental or physical health, it may appoint a representative during the examination for the assistance of the victim or witness. Questions for the victim and witness can only be posed through the authority conducting the proceedings, which must treat such individuals with special care to avoid harmful effects of the criminal proceedings on their personality, physical, and mental health. The examination of the victim and witness may be conducted with the assistance of a psychologist, social worker, or other professional. The authority conducting the proceedings may decide that the individual be examined using technical means for transmitting audio and video, without the presence of the parties and other participants in the room where the victim or witness is located. In this way, the parties, defence attorney, and individuals authorized to ask questions do so through the authority conducting the proceedings, a psychologist, educator, social worker, or other professional.
- c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)⁵⁷ Please provide details.
- d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)⁵⁸ Please provide details. According to the Criminal Procedure Law when a child is a victim of human trafficking, violence, or sexual abuse, the court must determine, either individually or together with another special protective measure, the video and audio recording of the child's testimony and examination to be used as evidence in the proceedings. In exceptional cases, due to new circumstances in the case, the court may order the child victim to be re-examined no more than once using technical means of communication.
- e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)⁵⁹ The victim or witness who is a minor, a victim of human trafficking, violence, or sexual abuse must not confront the defendant, and may only face other witnesses at their request.
- f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)⁶⁰ Please provide details. According to the Criminal Procedure Law, a minor victim of human trafficking, violence, or sexual abuse must not face the accused. During the questioning of the victim or witness, the court may exclude the public.
- g. [how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?](#)⁶¹ According to Article 174 of the child justice law, a child victim and a child witness of trafficking, violence, or sexual abuse, as well as acts defined by

⁵⁶ *Ibid.*, Recommendation 59.

⁵⁷ *Ibid.*, Recommendation 60.

⁵⁸ *Ibid.*, Recommendation 47.

⁵⁹ *Ibid.*, Recommendation 48.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

law as crimes against humanity and international law, and other acts classified as criminal offenses, which due to their nature, consequences, or other circumstances make the child particularly vulnerable, should not be confronted with the suspect or the accused.

- h. [what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?](#)⁶² According to the Law on Personal Data Protection, when the data subject is a child, there is always protection in place, and the data is not shared with the public
- i. [does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?](#)⁶³ Please provide details. According to the Law on Free Legal Aid, citizens can receive free legal assistance for property disputes, debtor-creditor relations, issues related to pension and disability insurance, representation of victims of domestic violence, obtaining social assistance, disputes with insurance companies, and for other needs as well. In our country there are associations that provide free legal assistance to children in cases of violations of children's rights.
- j. [does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?](#)⁶⁴ Please provide details. According to the children's justice law legal assistance is provided to child victims. As a rule, a lawyer from the list of attorneys who have undergone training on children's rights and juvenile delinquency is appointed.
- k. [what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?](#)⁶⁵ Child victims at the social work center are treated in accordance with the children's justice law and the provisions for at-risk children and child victims. They are also supported under the Law on Social Protection concerning services, psycho-social treatment, and the implementation of measures for assistance and protection, as well as under the Law on the Protection of Children and the Family Law, particularly regarding procedures involving parents.

⁶² *Ibid.*, Recommendation 49.

⁶³ *Ibid.*, Recommendation 50.

⁶⁴ *Ibid.*, Recommendation 51.

⁶⁵ *Ibid.*, Recommendation 52.