

## Question 11

11. 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>[1]</sup>

All measures applied to the children have an objective to ensure all the rights of the children.

In all situations where children's rights are harmed (or where there is a suspicion of harm), as is the case when they are victims of actions that offend their freedom and sexual self-determination, the set of rules that make up family and children's law (whether those that refer to the system of promotion and protection, or those that more directly concern the exercise of parental responsibilities) are always called upon to intervene, simultaneously and without prejudice to the effects of the intervention provided for in criminal law and criminal procedure.

The Portuguese legal system aims for the considered and coordinated intervention of the criminal jurisdiction and the family and children's jurisdiction, in order to take into account all relevant aspects of the life of the child victim of a sexual offence, namely their relevant emotional relationships, thus seeking a solution that reduces any possible negative impacts on the child - art. 4, e), g) and h) LPCYD

### **Article 4 of Law on protection of children and youth at danger**

[https://www.pgdlisboa.pt/leis/lei\\_busca\\_assunto\\_diploma.php?buscajur=4&artigo\\_id=&pagina=1&ficha=1&nid=545&tabela=leis](https://www.pgdlisboa.pt/leis/lei_busca_assunto_diploma.php?buscajur=4&artigo_id=&pagina=1&ficha=1&nid=545&tabela=leis)

#### Guiding principles of intervention

Intervention to promote the rights and protection of children and young people in danger is based on the following principles:

- a) the best interests of the child and young person - intervention must prioritise the interests and rights of the child and young person, namely the continuity of quality and meaningful relationships of affection, without prejudice to the consideration that is due to other legitimate interests in the context of the plurality of interests present in the specific case;
- b) Privacy - the promotion of the rights and protection of children and young people must be carried out with respect for their privacy, their right to an image and their private life;
- c) Early intervention - intervention must be carried out as soon as the situation of danger is known;

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<sup>[1]</sup> *Ibid.*, Recommendation 31.

d) Minimum intervention - intervention must be carried out exclusively by organisations and institutions whose action is essential to the effective promotion of the rights and protection of children and young people in danger;

**e) Proportionality and timeliness - intervention must be necessary and appropriate to the situation of danger the child or young person is in at the time the decision is taken and may only interfere in their life and that of their family to the extent strictly necessary for that purpose;**

f) Parental responsibility - the intervention must be carried out in such a way that the parents fulfil their duties towards the child or young person;

**g) Primacy of the continuity of deep psychological relationships - intervention must respect the child's right to preserve affective relationships of great significance and reference for their healthy and harmonious development, and measures that guarantee the continuity of a secure attachment must prevail;**

**h) Prevalence of the family - in promoting the rights and protection of children and young people, preference should be given to measures that integrate them into a family, either their biological family or by promoting adoption or another form of stable family integration;**

i) Mandatory information - children and young people, their parents, legal representative or carers have the right to be informed of their rights, the reasons for the intervention and how it is carried out;

j) Compulsory hearing and participation - children and young people, either separately or in the company of their parents or a person of their choice, as well as their parents, legal representative or the person who has custody of them, have the right to be heard and to participate in the acts and definition of the rights promotion and protection measure;

k) Subsidiarity - intervention must be carried out successively by the entities with competence in matters of children and youth, by the child and youth protection committees and, ultimately, by the courts.