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## **LANZAROTE COMMITTEE**

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

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### **Questionnaire**

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

Adopted by the Lanzarote Committee on 2 June 2023

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

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

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

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

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

### **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.<sup>2</sup>

### **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<sup>3</sup>. Since then, the Convention has been ratified by 22 other Parties,<sup>4</sup> 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.<sup>5</sup> 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.

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

<sup>2</sup> See [1<sup>st</sup> 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](#).

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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 1<sup>st</sup> 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?<sup>6</sup> 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”?<sup>7</sup> If yes, please indicate the specific legal provision.
  - c. list specific categories of adults in contact with children automatically qualifying as holding this position?<sup>8</sup> If yes, please list these categories in your response.

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<sup>6</sup> 1<sup>st</sup> 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.

<sup>7</sup> *Ibid.*, Recommendation 2.

<sup>8</sup> *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”?<sup>9</sup> 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?<sup>10</sup> 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?<sup>11</sup> 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?<sup>12</sup>
  - [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?<sup>13</sup>
  - [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?<sup>14</sup>
4. Does your national legal framework:
- 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.
  - [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.
  - [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>17</sup>

### 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?<sup>18</sup> Please refer to the specific legal provisions.
  - contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint/statements?<sup>19</sup> Please refer to the specific legal provision(s).

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<sup>9</sup> *Ibid*

<sup>10</sup> *Ibid.*, Recommendation 6.

<sup>11</sup> *Ibid.*, Recommendation 5.

<sup>12</sup> *Ibid.*, Recommendation 1.

<sup>13</sup> *Ibid.*, Recommendation 7.

<sup>14</sup> *Ibid.*, Recommendation 8.

<sup>15</sup> *Ibid.*, Recommendation 9.

<sup>16</sup> *Ibid.*, Recommendation 11.

<sup>17</sup> *Ibid.*, Recommendation 12.

<sup>18</sup> *Ibid.*, Recommendation 57.

<sup>19</sup> *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?<sup>20</sup>

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

6. Does your national legal framework:
  - a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?<sup>21</sup> Please provide details.
  - b. differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children? Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.<sup>22</sup>

**Child victims' rights to protection and parental rights**

7. Does your national legal framework:
  - a. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority 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.
  - 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.
  - 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.
  - 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.
  - 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.

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<sup>20</sup> *Ibid.*, Recommendation 56.

<sup>21</sup> 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.

<sup>22</sup> Question included for capacity-building purposes.

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

<sup>24</sup> *Ibid*

<sup>25</sup> 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 1<sup>st</sup> implementation report).

<sup>26</sup> *Ibid.*, Recommendation 27.

<sup>27</sup> *Ibid.*, Recommendation 25.

8. Does your national legal framework clearly distinguish:
- cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
  - cases of withdrawal of parental rights once the court has convicted the said parent?<sup>28</sup> Please provide details.
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?<sup>29</sup> Please provide details.
  - b. automatic withdrawal of parental rights of parents convicted of sexual abuse of own child?<sup>30</sup> Please provide details.

#### **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?<sup>31</sup>

#### **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?<sup>32</sup>
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?<sup>33</sup>

#### **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?<sup>34</sup> Please provide details.
  - b. sharing with other countries data concerning persons convicted of child sexual abuse?<sup>35</sup> Please provide details.

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<sup>28</sup> *Ibid.*, Recommendation 32.

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

<sup>30</sup> *Ibid.*

<sup>31</sup> 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.

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

<sup>33</sup> *Ibid.*, Recommendation 31.

<sup>34</sup> *Ibid.*, Recommendation 33.

<sup>35</sup> Based on Article 38 of the Lanzarote Convention.

### **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?<sup>36</sup> 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”<sup>37</sup> settings are held liable?<sup>38</sup> Please provide details.
  - c. ensure that legal persons failing to protect children in their care from sexual abuse are held liable?<sup>39</sup> 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:
- 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>
  - b. avoid combining the functions of a lawyer and guardian ad litem in one person?<sup>41</sup>
  - c. are provided free of charge for the child victim?<sup>42</sup>

### **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?<sup>43</sup> Please provide details.
- b. Is this person allowed to be present throughout the criminal proceedings?<sup>44</sup> Please provide details.

### **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?<sup>45</sup> Please provide details.
  - 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>

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<sup>36</sup> Based on Article 27§3(b) of the Lanzarote Convention.

<sup>37</sup> 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 25<sup>th</sup> 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).

<sup>38</sup> Based on the [Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse](#), point 6.

<sup>39</sup> *Ibid.*, see point 7.

<sup>40</sup> 1<sup>st</sup> Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”, Recommendation 35.

<sup>41</sup> *Ibid.*, Recommendation 36.

<sup>42</sup> *Ibid.*, Recommendation 37.

<sup>43</sup> *Ibid.*, Recommendation 34.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*, Recommendation 38.

<sup>46</sup> *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?<sup>47</sup>
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?<sup>48</sup> Please provide details.

*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.*

### 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?<sup>49</sup> Please provide details.
  - b. are all staff responsible for interviewing child victims required to undergo suitable qualifying training?<sup>50</sup> Please provide details.
  - 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.
  - 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>
  - 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.
  - 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.

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

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

<sup>49</sup> *Ibid.*, Recommendation 41.

<sup>50</sup> *Ibid.*, Recommendation 42.

<sup>51</sup> *Ibid.*, Recommendation 43.

<sup>52</sup> *Ibid.*, Recommendation 54.

<sup>53</sup> *Ibid.*, Recommendation 44.

<sup>54</sup> *Ibid.*, Recommendation 45.

### **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?<sup>55</sup> Please provide details.
- 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.
- 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.
- d. are video recordings of interviews of child victims regarded as admissible evidence?<sup>58</sup> Please provide details.
- 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>
- f. does your national legal framework allow taking the child's testimony without the presumed offender being present?<sup>60</sup> Please provide details.
- g. how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?<sup>61</sup>
- 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>
- 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.
- 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.
- 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>

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<sup>55</sup> *Ibid.*, Recommendation 46.

<sup>56</sup> *Ibid.*, Recommendation 59.

<sup>57</sup> *Ibid.*, Recommendation 60.

<sup>58</sup> *Ibid.*, Recommendation 47.

<sup>59</sup> *Ibid.*, Recommendation 48.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*, Recommendation 49.

<sup>63</sup> *Ibid.*, Recommendation 50.

<sup>64</sup> *Ibid.*, Recommendation 51.

<sup>65</sup> *Ibid.*, Recommendation 52.