

# 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

Republic of Moldova

\* 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)

The Criminal code of the Republic of Moldova (hereinafter “CC”) provides a separate sexual offence of sexual abuse by someone in a recognized authority or influence in Art. 173 (Sexual harassment), where the offender’s actions are “the claim of a sexual act or other sexual action” by a person “taking advantage of the victim’s dependency”, among other conditions. The article provides a minor as victim in Para. (2).

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

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

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

CC provides the following offences for the situation of child victim:

Article 171. Rape

Para. (2) letter c) committed against a family member;

(3) letter a) against a person who is under the care, protection, education or treatment of the perpetrator;

Article 172. Non-consensual actions of sexual character

Para. (2) Same actions: letter c) committed against a family member;

(3) Actions provided in para. (1) or (2): letter b) committed against a person who is under the care, protection, education or treatment of the perpetrator;

Article 174. Sexual act with a person who has not reached the age of 16

Para. (1/1) Same action: a) committed against a person who is under the care, protection, education or treatment of the perpetrator;

Article 175. Actions of sexual character with a person who has not reached the age of 16

Para. (2) Same actions committed:

letter a) against a person who is under the care, protection, education or treatment of the perpetrator;

c) against a family member;

Note: The definition of "sexual act" is provided in Article 132/2 Para. (1) as follows:

Sexual act means the action of vaginal, anal or oral penetration of sexual nature committed with any part of the body or with any object.

The definition of "actions of sexual character" is provided in Article 132/2 Para. (2) as follows:

Actions of sexual character means any other ways of obtaining sexual satisfaction other than those indicated in Para. (1), as well as actions other than those that fall under Art. 173 and 287 of this Code or Art. 354 of the Contravention Code.

Art. 175/1. Luring a minor for sexual purposes

Para. (2) Same actions committed:

b) by a member of the minor's family, by a person living with the minor, or by the person having the minor under one's care, custody, protection, education, or treatment;

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

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)

CC provides in Art. 133/1 the definition for term “family member”, as follows:

Article 133/1. Family member

Family member means:

- a) under the condition of cohabitation: persons in marriage, in divorce, persons in relation to whom a measure of judicial protection was established, the relatives, persons in affinity relations, husband/wife of relative, persons in relations similar to those between the spouses (cohabitation) or between parents and children;
- b) under the condition of separate habitation: persons in marriage, in divorce, the relatives, persons in affinity relations, adopted children, persons in relation to whom a measure of judicial protection was established, persons in relations similar to those between the spouses (cohabitation).

Further, Art. 134, provides the definition for term “kinship” (i.e. the situation of being a relative with somebody):

Article 134. Kinship

- (1) Kinship means the link based on the fact that a person is descent of another person or on the fact that several persons have a common ascendant. In the first case, kinship is in straight line, and in the second case - in a collateral line.
- (2) The degree of kinship is established by the number of births.
- (3) The relatives of one of the spouses are persons in affinity with the other spouse. The line and the degree of affinity are assimilated to the line and the degree of kinship.
- (4) The close relatives are parents, children, adoptive parents, adopted children, brothers and sisters, grandparents and grandchildren.

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

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

[9] *Ibid*

- Yes
- No

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

The legislation does not provide a definition of “circle of trust”.

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

## 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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.a Yes)

With reference to the articles listed as reply to Q.1.a, b and c, there are offences for the case of which the child up to 18 years of age is protected against the criminal offence of sexual abuse (CC: non-consensual offences) by someone in a recognised position of trust or authority in cases when the child is: a family member, under the care, protection, education or treatment of the perpetrator (Art. 171 - Rape and Art. 172 - Non-consensual actions of sexual character).  
Children up to 18 years of age are protected against the criminal offence of sexual abuse by someone in a recognised position of influence in Art. 173 - Sexual harassment.  
Further, according to Article 18 of the Convention, the age below which it is prohibited to engage in (CC: consensual) sexual activities with a child is set to 16 years (Art. 174 - Sexual act with a person who has not reached the age of 16 and Art. 175 - Actions of sexual character with a person who has not reached the age of 16).

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

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>[1]</sup> Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes  
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.b Yes)

With reference to the articles listed as reply to Q.1.a, b and c, the child's legal age for engaging in sexual activities (according to Article 18 of the Convention) is relevant only in the case of sexual offences committed with consent (Art. 174 - Sexual act with a person who has not reached the age of 16 and Art. 175 - Actions of sexual character with a person who has not reached the age of 16).

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

**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, as mentioned in the reply to Q.1.a and b.

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

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

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

Yes, as mentioned in the reply to Q.1.a, b and specifically c, the term of "family member" being defined and includes the spouse or marital partner.

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

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

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

Yes, the offences committed with consent (Art. 174 - Sexual act with a person who has not reached the age of 16 and Art. 175 - Actions of sexual character with a person who has not reached the age of 16).



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

## 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, in the following articles:  
Art. 173 - Sexual harassment;  
Art. 172 - Non-consensual actions of sexual character;  
Art. 175 - Actions of sexual character with a person who has not reached the age of 16.

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

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

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

The CC was amended by Law No. 316 of 17.11.2022 in force from 09.01.2023, which excluded the reference to "homosexual activities". Thus, the above-mentioned definitions of "sexual act" and "actions of sexual character" provided in Article 132/2 Para. (1) and (2) do not make any reference or distinction between heterosexual and homosexual sexual activity.

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

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

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

(As mentioned for Q.4.b)

The CC was amended by Law No. 316 of 17.11.2022 in force from 09.01.2023, which excluded the reference to “homosexual activities”. Thus, the above-mentioned definitions of “sexual act” and “actions of sexual character” provided in Article 132/2 Para. (1) and (2) do not make any reference or distinction between heterosexual and homosexual sexual activity.

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

## 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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.a Yes)

The Criminal Procedure Code of the Republic of Moldova (hereinafter “CPC”) provides in Art. 276 Para. (1) an exhaustive list of articles from the CC for the cases of which the criminal prosecution can be started only in case of a complaint from the victim or his/her legal representative. This list does not include the sexual abuse and exploitation offences. To mention, the Law No. 316 of 17.11.2022 in force from 09.01.2023 amending the CC also excluded Art. 173 (Sexual harassment) from this list. Thus, there is no such a requirement for the case of sexual abuse and exploitation of children.

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

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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.b Yes)

According to Art. 275 Point. 6) and Art. 276 Para. (5) of CPC, if the victim has withdrawn his/her complaint /statements or in case of reconciliation between the victim and the offender, for the cases of sexual abuse and exploitation of children, this cannot constitute the ground for termination of criminal prosecution. Thus, the procedures are continued.

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

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

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

## 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)

The national legislation provides a special normative framework with reference to the measures applied to children, who have committed any offence provided by CC and are did not reach the age of criminal liability. According to Art. 5 of Law No. 299/2018 “On measures and services intended for children with deviant behaviour”, in the case of children who committed an act provided by the criminal law, but who are not criminally liable, one of the following measures can be established:

- a) specialized supervision;
- b) placement in the guardianship service or in the family-type service;
- c) placement in residential service;
- d) placement in residential service with high specialization.

These measures are applied in accordance with the intersectoral cooperation mechanism, approved by the Government.

When ordering such measures, the following are considered:

- a) the conditions that favoured the commission of the act provided by the criminal law;
- b) the degree of social danger of the act committed by the child with deviant behaviour;
- c) the environment in which the child with deviant behaviour grew up and lived;
- d) the risk of the child to commit again an act provided for by the criminal law;
- e) any other elements likely to characterize the situation of the child with deviant behaviour.

In addition to the above legal provisions, on 19.07.2023, the Government has approved the Decision No. 498 /2023 “On approval of the draft law for the amendment of normative acts (The reform of the “Restart” social assistance system)”. Among the provisions submitted to the Parliament following its adoption, there are amendments proposed to the Law No. 140/2013 “On special protection of children at risk and children separated from their parents”, which add a new type of situation of child considered to be at risk, namely Art. 8 of the Law shall be supplemented by letter k) with the following content: “k) children are at risk of committing crimes or are in conflict with the law.”

Also, the definitions provided by Art. 3 of the Law shall be supplemented with the notion of “child in conflict with the law - child in one of the following situations:

- a) a child who has committed an act provided by criminal [...] law, but who, due to his/her age, is not liable; [...].”

Thus, the intersectoral cooperation mechanism, applied in the case of children at risk, shall also be applied for the case of children below the age of criminal responsibility who commit acts of sexual abuse towards other children.

The mentioned draft law is being examined by the Parliament.

After the adoption of the mentioned draft law, corresponding amendments shall also be made to the intersectoral cooperation mechanism, approved by Government Decision No. 270/2014.

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

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)

In order to treat children differently from adults, CC provides the following:

- Art. 21 Para. (2): children aged between 14 and 16 can be liable for committing crimes provided in Art. 171 (Rape), 172 (Non-consensual actions of sexual character) and 175 (Actions of sexual character with a person who has not reached the age of 16), among other types of offences. In case of other offences involving sexual abuse of children, they cannot be liable.

- Art. 54: children, who have committed a minor or less serious crime for the first time, can be released from criminal liability in accordance with the provisions of the criminal procedure if it was found that their correction is possible without being subject to criminal liability (Art. 54 of CC). Children, freed from criminal liability, are subject to coercive measures of educational nature, provided in Art. 104 of CC.

- Art. 93: children, convicted for committing a minor, less serious or serious crime, are released from punishment by the court if it is established that the goals of the punishment can be achieved by applying the coercive measures of educational nature provided in Art. 104 of CC.

The coercive measures of educational nature are applied to minors until they reach the age of majority, depending on the nature and degree of prejudicial nature of the act committed.

- Art. 109 Para. (1): in the case of children who have reached the age of criminal liability, unlike adults (in respect of whom reconciliation is not applied), the institution of reconciliation with the victim can be applied, resulting in the termination of the criminal process, for minor or less serious offenses provided in Chapter IV of the Special Part of the Penal Code - offenses regarding sexual life.

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. 77 of CPC provides the conditions for the admission of the person as the legal representative of the victim, including of the child victim. Para. (4) Point 1) of the article provides, for the case of victim [...], that the offender may not be admitted in the criminal process as a legal representative of the victim.

Also, the provisions of Government Decision No. 270/2014 do not provide any obligation to inform the parent or legal representative regarding the protection interview during the initial assessment of the child victim or potential victim.

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

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)

CPC provides in Art. 77 that in the event of a conflict of interests between the legal representative and the person represented (in our case – the child), the criminal prosecution body or the court shall appoint the guardianship authority as the legal representative.

Also, as mentioned as reply to letter a. of Q.7., the Government Decision No. 270/2014 even does not provide any obligation to inform the parent or legal representative regarding the protection interview during the initial assessment of the child victim or potential victim. Thus, the exploratory interviews may be conducted without acquiring the parents/legal guardians' prior consent. If a legal representative is appointed by the guardianship authority at request, this person is informed regarding the proceedings.

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

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)

CPC provides in Art. 215/1 that if during the criminal process it is found that the victim of sexual crimes (in our case – the child) is in danger of being subjected to violence or other illegal actions, the criminal prosecution body or the prosecutor is obliged to intervene without delay in order to ensure protective measures for the victim.

In the case of reporting a case of violence against the child, including sexual violence, an “Emergency restriction order” is issued, which is an administrative act issued only by the Police, and applies protective measures to ensure the immediate removal of the offender from home or family environment and to establish prohibitions provided by law. The Emergency restriction order is issued for a period of up to 10 days and may be followed by a court order that extends the period for up to 3 months.

The protective measures include obligations or prohibitions applied towards the offender, as follows:

- The obligation to temporarily leave the common home or to stay away from the victim’s home, regardless of the ownership right over the goods;

as well as:

- The obligation to stay away from victim’s location, at a distance that would ensure victim’s safety, and would exclude any visual contact between the victim and the offender;

- Prohibition of any contact, including by phone, by mail or in any other way, with the victim;

- Prohibition to approach certain places: child’s place of study, other specific places that the protected person frequents;

- Prohibition to carry or keep weapons;

- Limitation of offender’s rights regarding the goods which are in the possession and use of the victim;

- The obligation to participate in a special treatment or counselling program to reduce or eliminate violence;

Another measure that can be applied according to CPC is the arrest of the accused.

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

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)

Art. 5 of Law 140/2013 provides the following:

(1) The guardianship authorities must undertake all necessary measures for the assistance and support of children and their families in order to prevent the separation of the child from the family environment or, as the case may be, in order to (re)integrate him/her into the family.

(2) The placement of the child can be ordered by the guardianship authorities only if, following the evaluations, it was found that keeping the child with the parents is not possible or is against the child's best interest.

Article 10 of the same Law provides that the procedure of taking the child from the parents or from the persons in whose care he/she is shall be carried out with the mandatory participation of the local guardianship authority, of the specialist for the protection of child rights, the community social worker, the doctor/family doctor's assistant and of the police sector officer.

The local guardianship authority, within 3 working days, shall initiate an action in court regarding the withdrawal of parental rights or regarding taking the child from the parents without withdrawal of parental rights.

The child separated from the parents can be placed urgently for a period of up to 72 hours, with the possibility of extending the placement period for up to 45 days, during which the complex assessment of the child's situation is carried out and the disposition is issued regarding the integration or re-integration of the child into the family, or regarding his planned placement.

The placement of the child can be extended by court for a term of up to 3 months.

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

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)

The coordination, collaboration, and exchange of data between the authorities concerning child sexual abuse is regulated by Government Decision No. 270/2014. The initial information is included in a Notification sheet, which is a special standardized form. Further, a multidisciplinary team of different specialists is formed, led by a Case manager.

In order to facilitate the data collection and exchange, and to avoid segmentations or overlaps, the action plan for the implementation of the National Child Protection Program for the years 2022-2026 provides the action of "Developing an automated information system in the field of child protection", in order to centralize and digitize the disaggregated data collection processes regarding the situation of children in a situation of at risk, children separated from their parents, adopted children, repatriated children and abducted children, to facilitate the registration, recording, assistance, referral, monitoring and reporting of child cases, data quality assurance and the calculation of useful national indicators for decision-making.

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



## 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 Law No. 140/2013 and the Family Code No. 1316/2000 do distinguish between the situation of children who are temporary left without parental protection and who are left without parental protection, as well as do distinguish between the situation before and after a convicting court decision. On the other hand, any of the two mentioned measures (temporary suspension of parental rights and permanent withdrawal of parental rights) can be applied at the stages before and after the court has convicted the said parent and the option is determined taking in account the best interest of the child and is decided by the court basing on the proposal of the child protection (guardianship) authority.

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

## 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)

There are no provisions for automatic suspension of parental, visitation, and child hosting rights for such cases. As mentioned before, these measures are issued by court.

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

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)

There are no provisions for automatic withdrawal of parental rights for such cases. As mentioned before, these measures are issued by court.

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 Government Decision No. 270/2014, approved for the application of Law No. 140/2013 “On special protection of children at risk and children separated from their parents” provides a clear reference through the text to the situation of child “victim or potential victim” and the reference to registration and examination of cases reported by any person of “suspected abuse and exploitation” (among other forms of violence and neglect). This excludes the responsibility of the reporting person or of the specialist to bring “sufficient” evidence of the offence, as this role of collecting evidence is further carried out by the police and the prosecutor.

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

## 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

By Government Decision No. 708/2019 “The Framework Regulation on the organization and operation of the Regional Center for integrated assistance to child victims/witnesses of crimes and the Minimum Quality Standards” (the Barnahus model) were approved. Further, in February 2022 the first of the 3 Regional Centers for integrated assistance to child victims/witnesses of crimes was opened for the Northern region of the country. It provides Integrated Assistance Services for child victims/witnesses of crimes – psychological, medical, social, and legal assistance under the same roof through immediate, coordinated, and professional interventions.

Also, the child’s trusted person (non-offending parent or other family member) can benefit from certain types of assistance such as psychological, crisis, and legal assistance.

The Standard No. 7 (Avoidance of unjustified delays) of the Minimum Quality Standards for the service provided within the Regional Integrated Assistance Center (Annex No. 2 to Government Decision No. 708 /2019) provides the following expected result: the child and the legal representative/trusted person benefits from the specialized assistance services provided without delay. The Performance indicator for this standard is: psychological assistance is provided to the child and, as the case may be, to the legal representative /trusted person within the terms and in the volume provided by the operational manual.

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

## 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

According to the “Working methodology for the intervention team for the cases of sexual violence”, adopted by Government Decision No. 223/2023, if the sexual violence took place in the presence of or with regard to children, the Police employee will immediately take the necessary actions to remove the imminent danger to his/her life, health, physical and mental integrity, will ensure non-acceptance of child revictimization and will act according to the “Instructions regarding the intersectoral cooperation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking”, approved by Government Decision No. 270/2014.

Art. 110/1 of CPC also provides the hearing of the minor witness (and victim) under special conditions. According to Para. (1) of the article, “The hearing of the minor witness in criminal cases regarding crimes of a sexual nature, regarding child trafficking or family violence, as well as in other cases where the interests of justice or the minor require it, under the conditions of art. 109 paragraph (5), will be carried out by the investigating judge in specially arranged spaces, equipped with audio/video recording means, by means of an interviewer. The hearing of the minor will be carried out in limited terms.” In this context, the investigating judge and the prosecutor will ensure that in this process situations are excluded in which the disclosure of the child worsens his/her situation and of the other non-offending family members.

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

## 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

If appropriate, please provide more information (13.a No)

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

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

If appropriate, please provide more information (13.b No)

No, if speaking about sharing information about all the persons convicted for child sexual abuse. According to Law 133/2011 “On protection of personal data”, data on conviction constitutes personal data. It is protected according to the GDPR standards. However, on request concerning concrete individuals as convicted person(s), personal data can be shared according to Art. 32 of the law, with EEA countries and with the countries which provide a sufficient level of personal data protection – the second list is adopted and reviewed by the national data protection authority.

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)

The Government Decision No. 270/2014 provides in point 16 of the Instructions regarding the intersectoral cooperation mechanism for the identification, evaluation, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking, the following:  
If, following the initial assessment, it is found that there is an imminent danger to child's life and health from the employees of the family type or residential services, or medical institutions, the local and territorial guardianship authority shall take the decision, by mutual agreement, for the application of protective measures for the child.  
There are no such provisions for the cases of volunteers.

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

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)

The general provisions on Negligent Performance of Duties are applied in such cases.

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)

The general provisions on Negligent Performance of Duties are applied in such cases.

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

Several guidelines were elaborated and approved in the area of child protection:

- Training material on intervention in cases of sexual exploitation and sexual abuse of children, available online in Romanian:

<https://social.gov.md/wp-content/uploads/2022/02/Materiale-de-instruire-privind-interven%C8%9Bia-%C3%AEn-cazurile-de-exploatare-sexual%C4%83-%C8%99i-abuz-sexual-asupra-copiilor.pdf>

- The guide for practical application of the mechanism of intersectoral cooperation for identifying, evaluating, reference, assistance and monitoring of victims and potential victims of violence, neglect, exploitation and traffic was approved in 2021 by a common order of the Ministry of Labor and Social Protection, Ministry of Health, Ministry of Internal Affairs and Ministry of Education and Research.

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

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

[41] Ibid., Recommendation 36

The function of a lawyer and of the guardian are separate functions and always conducted by different persons. Thus, a guardian is an employee of child protection services which does not provide legal assistance. The legal assistance may be provided by a lawyer appointed by the state, or one from partner NGOs.

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 Law No. 140/2013 “On special protection of children at risk and children separated from their parents” provides the obligation of state authorities to provide guardianship free of charge.

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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.a Yes)

CPC provides in Art. 77 that in the event of a conflict of interests between the legal representative and the person represented (in our case – the child), the criminal prosecution body or the court shall appoint the guardianship authority as the legal representative.

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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.b Yes)

Yes, allowed, and present during the criminal proceedings involving participation of the child victim and during the court proceedings.

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

According to Law No. 140/2013 the protective measures are available for all children, regardless of their age.

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

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

The above-mentioned provisions of Law No. 140/2013 “On special protection of children at risk and children separated from their parents”.

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

The above-mentioned provisions of Law No. 140/2013 “On special protection of children at risk and children separated from their parents”.

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)

By Government Decision No. 708/2019 "The Framework Regulation on the organization and operation of the Regional Center for integrated assistance to child victims/witnesses of crimes and the Minimum Quality Standards" (the Barnahus model) were approved. Further, in February 2022 the first of the 3 Regional Centers for integrated assistance to child victims/witnesses of crimes was opened for the Northern region of the country. It provides Integrated Assistance Services for child victims/witnesses of crimes – psychological, medical, social, and legal assistance under the same roof through immediate, coordinated, and professional interventions.

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

## INVESTIGATION Question 19. In the investigation phase:

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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. 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)

The interviews of child victims are arranged in different facilities depending on the availability of premises separate from those usual. In the northern region of the country, the interviews are conducted in the established Barnahus center. The Barnahus centers for the other two regions – center and south – are under development. Thus, in other regions, the interview may be conducted in the special hearing rooms of the partner NGOs. In other cases, the interviews are conducted in special rooms of the courts.

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

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 law and other normative acts do not provide such a requirement for all the interviewers. In most of the cases, the interviewers are chosen among the specialists with the best experience in the area of child psychology or child protection/education.

However, for the case of interweavers from the Barnahus, the Standard 22 (Annex No. 2 to the Government Decision No. 708/2019) provides:

1. The provider ensures the initial and continuous training of the staff within the Center.
2. The expected result: the training of the Center's staff contributes to the quality of the service.
3. Performance indicators:
  - 1) upon employment, the Center's specialized staff benefit from an initial training program lasting at least 40 hours;
  - 2) the provider organizes continuous training courses for the specialized staff annually with a duration of at least 20 hours;
  - 3) the manager of the Center identifies the training needs of the staff in order to increase their competence in the process of providing the service and develops the annual plan for continuous training of the staff.

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)

CPC provides in Article 110/1 that hearing of the minor is carried out within limited terms (i.e. as soon as possible after the offence).

Hearing of the minor victim cannot last longer than:

- a) 1 hour without interruption, and in total cannot exceed 2 hours during a day, in the case of the minor who

has not reached the age of 14;

b) 2 hours without interruption, and in total cannot exceed 4 hours during a day, in the case of minors who have reached the age of 14 years.

If the state of health of the minor victim does not allow the hearing in the intervals provided by law, the duration of the hearing is determined considering the doctor's instructions.

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)

CPC provides in Article 110/1 that repeated hearing of the minor should be avoided as possible. The additional hearing is attended by the same persons who participated in the first hearing of the minor.

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

If appropriate, please provide more information (19.f No)

First, we should mention that interview (hearing) of the minor is carried out without the presence of the offender. He is represented by his defence attorney.

If the suspect or the accused wants to ask questions to the minor victim, based on a reasoned request, an additional hearing is organized. Repeated hearing of the minor should be avoided as possible. The additional hearing is attended by the same persons who participated in the first hearing of the minor.

If a suspect was not identified at the time of the hearing, after identifying the person and assigning him the status of a suspect, in the shortest possible time, the criminal prosecution body brings to the attention of the suspect or his/her defence attorney the minutes of the hearing, presenting a copy of its audio and video recording. If the suspect or his/her defence wants to ask questions to the minor, based on a reasoned request, minor's additional hearing is organized.

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

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

***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)

CPC provides in Article 1101/1 Para.(7) the following:  
The statements of the minor shall be recorded by audio and video means and included in minutes.

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

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)

CPC provides in Art. 371 Para.(1/1) the following:  
Reading minor's statements and the reproduction of their audio/video recording shall replace the personal hearing of the minor in order to reduce his possible trauma, except in cases where, based on the circumstances of the case, the court considers that the minor shall give statements in court. Repeated hearing of the minor should be avoided as far as possible.

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)

The CPC was amended by Law No. 316 of 17.11.2022 in force from 09.01.2023, which provides hearing in special facilities for children of all ages.  
Before this amendment, hearing in special facilities was mandatory only for children younger than 14 and it was optional for the case of children of the age between 14 and 18.

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)

CPC provides in Art. 371 Para.(1/1) the following:  
Reading minor's statements and the reproduction of their audio/video recording shall replace the personal hearing of the minor in order to reduce his possible trauma, except in cases where, based on the circumstances of the case, the court considers that the minor shall give statements in court. Repeated hearing of the minor should be avoided as far as possible.

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

CPC provides in Art. 215/1 that if during the criminal process it is found that the victim of sexual crimes (in our case – the child) is in danger of being subjected to violence or other illegal actions, the criminal prosecution body or the prosecutor is obliged to intervene without delay in order to ensure protective measures for the victim.

In the case of reporting a case of violence against the child, including sexual violence, an “Emergency restriction order” is issued, which is an administrative act issued only by the Police, which applies protective measures to ensure the immediate removal of the offender from the home or family environment and to establish prohibitions provided by law. The Emergency restriction order is issued for a period of up to 10 days and may be followed by a court order that extends the period for up to 3 months.

The protective measures include obligations or prohibitions applied towards the offender, as follows:

- The obligation to temporarily leave the common home or to stay away from the victim’s home, regardless of the ownership right over the goods;

as well as:

- The obligation to stay away from victim’s location, at a distance that would ensure victim’s safety, and would exclude any visual contact between the victim and the offender;
- Prohibition of any contact, including by phone, by mail or in any other way, with the victim;
- Prohibition to approach certain places: child’s place of study, other specific places that the protected person frequents;

Another measure that can be applied according to CPC is the arrest of the accused.

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)

CPC provides in Article 110/1 that the suspect is not present during the hearing. He is represented by his defence attorney.

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

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*

CPC provides in Article 110/1 that the suspect is not present during the hearing. He is represented by his defence attorney.

Also, Art. 113 Para. (6) provides that no minor shall be forced to participate in the confrontation with the person accused of crimes against his physical and/or moral integrity.

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

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

CPC provides in Art. 18 Para. (2/1) that in the process where a minor is a victim or witness, the court shall hear his/her statements in a closed session.

The Law 30/2013 "On protection of children against the negative impact of information" also provides in Art. 4 the following:

Article 4. Prohibition of dissemination of information containing personal data with a negative impact on children

(1) It is prohibited to publish information containing personal data in the mass media in cases where:

a) personal data [...] of a child who is the victim of a crime or contravention is made public, which allows his identification;

d) any clues that could lead to the identification of children involved in situations with negative connotations (accidents, crimes, sexual abuse, physical or mental abuse, family disputes, suicides, drug use, alcohol abuse, etc.), including as victims or witnesses. An exception is the situations in which the journalist acts with the consent of the parents (guardians) in the best interests of the child;

(3) In the case of [...] children who are victims or witnesses of physical, mental or sexual abuse, they may appear in audiovisual programs if the following conditions are cumulatively met:

a) there is the written consent of the child;

b) measures were taken to protect child's identity.

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

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)

According to Art. 58 Para. (4) of CPC and the Law No. 198/2007 “On state-guaranteed legal assistance”, child victims of sexual abuse and exploitation crimes can require (personally or via their legal representative) and receive legal assistance free of charge from a state-guaranteed lawyer.  
In order to provide qualified assistance, the National Council for State-Guaranteed Legal Assistance has also developed the “Guide for the lawyer who provides state-guaranteed legal assistance to child victims and witnesses in the criminal process”.

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

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)

CPC provides in Art. 484/1 the right of the witness (i.e. and of the victim) to be represented by a lawyer at all stages of the process.  
According to Art. 58 Para. (4) of CPC and the Law No. 198/2007 “On state-guaranteed legal assistance”, child victims of sexual abuse and exploitation crimes can require (personally or via their legal representative) and receive legal assistance free of charge from a state-guaranteed lawyer.  
In order to provide qualified assistance, the National Council for State-Guaranteed Legal Assistance has also developed the “Guide for the lawyer who provides state-guaranteed legal assistance to child victims and witnesses in the criminal process”.

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

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

Law No. 140/2013 “On special protection of children at risk and children separated from their parents” continues to be applied even after the criminal justice decision has been taken.  
CPC provides in Art. 58 the right of the victim of a crime of sexual nature (among other violent crimes) to be



informed about the support services he/she can benefit from (medical assistance, psychological counselling, shelter services, legal assistance) and about the general conditions for such to be provided.

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

## **Contact**

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