

# 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

Romania

\* 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

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

In Romanian legislation, the abuse of a recognized position of trust, authority or influence constitutes an aggravating circumstance for the standard form of sexual abuse crimes (art. 211, 213, 220, 221 of the Criminal code).

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

[7] *Ibid.*, Recommendation 2

- Yes  
 No

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

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

- Yes  
 No

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

The family members and the persons who live with the victim are automatically considered as being in a trust position.  
Also, the other categories listed are: adults that are responsible with the protection, education, guard or treatment of the child (art. 211, 213, 218, 219, 220, 221, 374 of the Criminal code).

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

[9] *Ibid*

- Yes  
 No

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

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

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

[10] *Ibid.*, Recommendation 6

- Yes  
 No

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b. **[for 22 Parties + North Macedonia and Ukraine]** indicate that the child's legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?<sup>[1]</sup> Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
- No

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

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

[12] *Ibid.*, Recommendation 1

- Yes
- No

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

The legislation attached is relevant (art. 213,218, 219, 220, 221, 374 of the Criminal code)

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

[13] *Ibid.*, Recommendation 7

- Yes
- No

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

[14] *Ibid.*, Recommendation 8

- Yes

No

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

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)

Romanian legislation has some specific incriminations, other than rape and sexual intercourse with a child:

- Pimping (art. 213 of the Criminal code)
- Using the services of an exploited person (ART. 216 of the Criminal code)
- The use of child prostitution (Art. 216ind1 of the Criminal code)
- Sexual assault (art. 219 of the Criminal code)
- Sexual corruption of minors (ART. 221 of the Criminal code)
- Recruitment of juveniles for sexual purposes (Art. 222 of the Criminal code)
- Child pornography (art. 374 of the Criminal code)

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

[16] *Ibid.*, Recommendation 11

Yes

No

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

7] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes  
 No

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

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

[18] *Ibid.*, Recommendation 57

- Yes  
 No

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

These cases are prosecuted ex officio. As a general rule of the Romanian system of criminal law, all crimes are prosecuted ex officio, except for the cases when specifically provided that prosecution depends on the formal complaint of the victim (art. 7 of Law 135/2010 – The Criminal procedure code).  
Such an exception is not provided for any of the crimes of sexual exploitation of children, so the prosecution is carried out ex officio.

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

[19] *Ibid*

- Yes  
 No

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

As detailed in the previous answer, prosecution is not dependent of the complaint of the victim.



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

[20] *Ibid.*, Recommendation 56

- Yes  
 No

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

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a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?[21]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 child offender who has not reached the age for criminal responsibility is subject to special protection measures, which are regulated by Law 272/2004 on the protection and promotion of children's rights (art. 59-60, 62-65, 84-88).

These special protection measures are placement and specialized supervision and they shall be taken having in mind especially the education of the child.

In disposing one of these measures the following criteria will be taken into consideration:

- the condition that favored the committing of the deed;
- the degree of social threat of the deed;
- the environment in which the child grew up and lived;
- the risk of committing a new deed stipulated by the penal deed by the child;
- any other elements that could characterize the child's situation.

The placement is temporary and it consists in of entrusting the custody of the child to a person or family, a foster family or a residential service licensed according to the law.

Specialized supervision consists in keeping the child in his family, under the condition of observing such an obligation, such as: attending school; use of day-care maintenance services; following medical treatments, counseling or psychotherapy; forbidding to attend some places or to have relationships with some persons. If the child cannot be kept in the family or if the child does not comply with the obligations set forth with the measure of specialized surveillance, his/her placement in the extended family or in the substitutive family can be ordered.

If the child represents a high degree of social threat or continues to commit offences, he/she can be placed in a residential-type service for a determined period of time.

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

[22] Question included for capacity-building purposes

- Yes  
 No

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

The law differentiates between adults and children above the age of criminal responsibility.

The age of criminal responsibility is 14 years.

According to the Criminal Code (art. 113), children under 14 years do not have criminal responsibility, children aged between 14 and 16 years are criminally liable only if it is proved that they have committed the act with discernment, and children aged over 16 years are criminal responsible, unless proven the lack of discernment.

Children who are criminally responsible can be imposed educative measures. The educative measures can be either custodial, or non-custodial. As a rule, the child shall usually be subject to a non-custodial educational measure. The custodial educational measures can be imposed to child offenders in the following cases:

- he/she also committed another offense for which an educational measure was taken and served or the service of which started before the commission of the offense for which the juvenile is subject to trial;  
b) the penalty required by law for the committed offense is a term of imprisonment of seven years or more, or life imprisonment.

- The non-custodial educative measures are, in increasing order of their gravity:

a) civic traineeship;

The educational measure of the civic traineeship consists in the child's obligation to participate in a program lasting up to 4 months to help them understand the legal and social consequences they face in committing crimes and to make them more responsible to their future behaviour.

b) supervision;

Supervision consists in controlling and guiding the minor in his daily program, for a period of two to six months, under the coordination of the probation service, in order to ensure participation in school or vocational training and to prevent certain activities or the contact of the child with certain people which could affect the educational process.

c) weekend isolation;

This measure consists in the minor's obligation not to leave the home on Saturdays and Sundays for a period of between 4 and 12 weeks, unless he or she is required to attend certain programs or to carry out certain activities imposed by the court.

d) daily assistance.

Daily assistance consists in the obligation of the minor to observe a program established by the probation service, which contains the timetable and the conditions for carrying out the activities, as well as the prohibitions imposed on the minor for a period between 3 and 6 months.

- The custodial educative measures are:

- internment in an educative centre for a duration of one to 3 years

- internment in a detention centre, on a period from 2 to 5 years, or, exceptionally, from 5 to 15 years. The measure of internment in a detention centre shall be disposed on a period of 5 to 15 years only in the hypothesis of very serious crimes, for which the law stipulates life detention or prison for at least 20 years.

(Criminal code - art. 113-121, 124-126)

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## 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

If appropriate, please provide more information (7.a No)

Child protection professionals do not conduct exploratory interviews towards disclosure of sexual abuse. This type of interviews is conducted by law enforcement (police and prosecutors) and represents child hearing.

The scopes of the interviews conducted by child protection professionals are social and psychological assessments in the context of a detailed evaluation of the child and family situation, besides medical and legal assessments, in order to plan the necessary services for the child and his/her family.

All these interviews are held with the prior consent and in the presence of the parents/ legal guardian, unless the parent is the offender. Only over 14 years age, the child may decide to be interviewed alone.

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

[24] *Ibid*

- Yes  
 No

If appropriate, please provide more information (7.b No)

Child protection professionals do not conduct exploratory interviews towards disclosure of sexual abuse. This type of interviews is conducted by law enforcement (police and prosecutors) and represents child hearing.

The scopes of the interviews conducted by child protection professionals are social and psychological assessments in the context of a detailed evaluation of the child and family situation, besides medical and legal assessments, in order to plan the necessary services for the child and his/her family.

All these interviews are held with the prior consent and in the presence of the parents/ legal guardian, unless the parent is the offender. Only over 14 years age, the child may decide to be interviewed alone.

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

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

- Yes
- No

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

This can be done either during criminal proceedings, or by means of the protection order.

- During criminal proceedings:

The removal of the perpetrator from the family environment can be imposed by means of a preventive measure, as judicial control or preventive arrest.

The preventive measures can be ordered by the prosecutor (in some cases) or by the judge if there enough evidence that a person has committed a crime and if they are necessary for ensuring the proper conduct of the criminal process, of preventing the suspect or defendant from evading criminal prosecution or preventing a new crime (art. 202 of the Criminal procedure code).

o Judicial control

When ordering the measure of judicial control, the judicial authority can impose, as a component obligation, that the defendant shall not return to the family home (art. 215 of the Criminal procedure code).

o Preventive arrest

Preventive arrest can be imposed, among other cases, if there is a reasonable suspicion that the defendant committed an intentional for which the law provides a prison sentence of 5 years or more and the deprivation of liberty is necessary to remove a state of danger for public order (art. 223 of the Criminal procedure code).

- Outside the criminal proceedings, by means of a protection order

Outside the criminal proceedings, the alleged aggressor can be removed from the family environment by means of a protection order (art. 31 and 38 from Law 217/2003 on preventing and fighting domestic violence).

The protection order can be emitted if a person's life, liberty or physical or psychical integrity is endangered by a family member.

It can be emitted either by the police, for up to 5 days (temporary protection order), or by a judge, for up to one year, with the possibility of being prolonged (protection order).

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

[26] *Ibid.*, Recommendation 27

- Yes  
 No

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

Removal of the child victim from the family environment is clearly stipulated by the Law no. 272/2004 regarding the protection and promotion of the child rights.  
When the child is in danger and parents agree, the child is removed through an emergency placement measure decided by the director of the General Department for Social Assistance and Child Protection (DGASPC) – article no. 100 line (2). When parents disagree, the decision is made by court through a presidential ordinance – article no. 100 line (3).  
The law does not stipulate the duration of the removal, but envisages that it is temporary.  
Further on, in cases of civil matter, the court will decide weather to withdraw parental rights, if it is in the superior interest of the child (art. 508 of the Civil code).

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

[27] *Ibid.*, Recommendation 25

- Yes  
 No

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

The extract of legislation is relevant: Governmental Decision no. 49/2011, annex 1

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

details.

[28] *Ibid.*, Recommendation 32

- Yes  
 No

Please provide information in support of your answer, if possible by referring to specific legal provisions and their exact wording (8 Yes)

As a result of a conviction, the withdrawal of parental rights can be ordered as a complementary sanction, together with the pronouncement of the main sanction (art. 56, 66 of the Criminal code).  
During criminal proceedings, the court can order the preventive measure of judicial control, which can include the obligation not to return to the family home, not to approach the injured person or their family members, and not to communicate with them directly or indirectly, by no means (art. 215 of the Criminal procedure code);  
These are the measures available in course of criminal proceedings, as described above.  
Independent from the criminal proceedings, parental rights can be suspended or withdrawn on a separate civil procedure, as described at Q7d.

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes  
 No

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

There is no automatic suspension, the procedures described in Q7d and 8 must be carried out.

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)

As described in Q8, the withdrawal of parental rights can be ordered as a complementary sanction, together with the pronouncement of the main sanction (art. 56, 66 of the Criminal code).

As a rule, in most of the sexual abuse crimes, according to the Criminal code, the complementary sanction of interdiction of certain rights is mandatory.

However, this does not operate by iure, the complementary sanction must be pronounced by the court, together with the main conviction.

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## 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 legislation does not allow prosecuting a person for reporting in good faith the suspected sexual abuse and sexual exploitation of a child. Art. 268 of the Criminal code, that criminalises the abusive denunciation, refers expressly to reporting to the judicial bodies the commission of an act, knowing that it is not real. This applies to any person, bound or not by confidentiality rules.

In what regards persons bound by professional confidentiality rules, they are also protected from being prosecuted for disclosing professional protected information. Art. 227 of the Criminal code criminalises the unlawful disclosure of data or information regarding a person's private life, by the person bound by confidentiality rules.

However, reporting a crime of child sexual abuse to the judicial bodies is not unlawful disclosure, as there is a legal obligation to report for any person who has knowledge about an act of sexual abuse against children. More than that, failure to report an act of sexual abuse against a child is criminalized according to art. 266 of the Criminal Code.

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## ASSISTANCE TO THIRD PARTIES Question 11.

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

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

Member of the victim's family have the right to benefit of the same assistance as the victim, including therapeutic assistance, when needed. (Law no. 211/2004 regarding certain measures for ensuring information, support and protection of the victims of crimes - article no. 1 and 7)

Emergency psychological care is not clearly stipulated in the child protection legislation. Nevertheless, the Governmental Decision no. 49/2011, annex 1 stipulates that the psychologist is mandatory part of the mobile team who evaluates in the field the emergency cases of violence against children, together with the police, and sexual abuse and sexual exploitation are considered as emergencies. As part of their professional standards and duties, psychologists offer emotional support and emergency psychological care during the evaluation in the field for the child and his/her family.

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

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## ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

The Criminal procedure Code (art. 111 and 113) provides that:

- The hearing of the child by the judicial body that registered the complaint takes place immediately, and is considered evidence;
- The re-hearing of the child victim is performed only if this is strictly necessary for the conduct of the criminal trial;

The hearing of the injured person aged up to 14 takes place in the presence of one of the parents, the guardian or the person or the representative of the institution to which the minor is entrusted for growth and education, as well as in the presence of a psychologist, established by the judicial body. The psychologist will provide specialized counseling to the minor throughout the judicial proceedings.

If the above-mentioned persons cannot be present or have the capacity of suspect, defendant, injured person, civil party, civilly responsible party or witness in the case or there is reasonable suspicion that they can influence the minor's statement, his hearing takes place in the presence of a representative of the authority guardianship or of a relative with full legal capacity, as well as in the presence of a psychologist, established by the judicial body. The psychologist will provide specialized counselling to the minor throughout the judicial proceedings.

- The hearing of the child must avoid any negative effect on the child's mental health.
- Also, the judicial body may order, as a special protection measure, that the hearing of the child takes place through or in the presence of a psychologist or other victim counselling specialist;

During criminal proceedings, judicial bodies can adopt protection measures for the victim and the victim's family members, depending on the concrete situation of each case, if necessary for their protection, such as:

- supervising and guarding their home or providing a temporary home;
- accompanying and ensuring the protection of the victim or their family members during the journeys;
- protection of identity data;
- hearing without them being present, by means of audiovisual means of transmission, with the voice and image distorted;
- non-publicity of the court hearing during the hearing of the witness;

(Art. 126, 127 of the Criminal procedure code)

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes  
 No

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

On the 20th of June 2019, Law No. 118 on the National Automated Register of Persons who have committed sexual offenses, exploitation of individuals, or offenses against minors was adopted. This legal act created the national legal framework for the knowledge, surveillance, and operative identification of individuals who have committed the following offenses as stipulated in Article 1, paragraph (2) of the law, including offenses against freedom and sexual integrity, regardless of the age of the victims.

Thus, the Register maintains records of:

- a. Individuals who have been convicted or against whom other criminal measures have been taken under the provisions of the Criminal Code, as well as those against whom procedural measures related to the offenses specified in Article 1, paragraph (2) have been ordered by the competent Romanian authorities.
- b. Romanian citizens for whom notifications of registration have been received from the central authorities of other EU member states and competent authorities of third countries regarding the commission of offenses listed in Article 1, paragraph (2).
- c. Individuals born abroad for whom notifications have been received from the competent authorities of other states regarding the commission of offenses listed in Article 1, paragraph (2), and information indicating that they are traveling or may travel within the territory of Romania.

Additionally, the monitoring mechanism inquired about in the questionnaire is outlined in the aforementioned legal act, specifically in Article 12, where the legal obligations for individuals registered in the database are listed, as well as the activities carried out by the police authorities concerning these individuals.

In concrete terms, Law No. 118/2019 states in Article 12, paragraph (1) that individuals registered in the Register are obligated to periodically report to the police authorities within the jurisdiction of their domicile or residence, but not later than every 3 months, to provide relevant information regarding:

- Their profession, occupation, or activity.
- Means of subsistence.
- Minors, elderly persons, individuals with disabilities, or vulnerable individuals with whom they live or have had direct and systematic contact.
- Schools or preschool educational institutions, children's camps, children's hospitals, or any locations predominantly frequented by children to which they have had access during this period.
- Their address of residence.
- Their way of communication with the police authorities.

Additionally, according to Article 12, paragraph (2), individuals registered in the database are obligated to:

- Notify the police authority within their domicile area in advance if they intend to undertake any trips away from their place of residence lasting longer than 15 days, including details about the destination, purpose of the trip, duration, and mode of transportation,
- Register their place of residence with the police authority within 3 days upon establishing it.

Furthermore, the police authorities are obligated to conduct periodic, but no less than every 3 months, home visits to the actual residence, domicile, or property where the registered individuals live, in order to obtain data and information regarding their behavior and means of subsistence, as well as to update, as necessary, the data in the Register or other databases of the Romanian Police.

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

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

- Yes  
 No

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

Most of the multilateral and bilateral treaties ratified by RO include provisions regulating the exchange of information from the criminal record.  
In their application, there is the possibility of informing other states about their own citizens convicted on the territory of another state party.

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)

RO: According to Law no. 52/2003 regarding the Labor Code, the employment contract is automatically suspended if the employee is arrested.  
Also, the employment contract can be suspended by the employer when the employee has been sent to court for criminal acts incompatible with the position held.

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

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

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

- Yes  
 No

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

Failure to report an act of sexual abuse against a child, by any person, is an offence, according to art. 266 of the Criminal Code.  
Also, the person failing to report can be held liable for abuse in service or negligence in service (art. 297 and 298 of the Criminal code) .

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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)

Legal persons can be held liable, according to Romanian legislation, for any crime that was committed in the pursuit of the object of activity or in the interest or on behalf of the legal person (art. 135 of the Criminal code).

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**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

According to art. 58 of the Civil procedure code, the special representative appointed by the court is a lawyer, member of the National Bar.

The legislation does provide for lawyers' obligation of training in specific fields. It does, however, provide for a general obligation of due diligence in their activity. Also, any lawyer can attend training in fields they consider relevant.

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

[41] *Ibid.*, Recommendation 36

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 provides expressly that the representation granted according to art. 58 of the Civil procedure code is free of charge for children in these cases. (art. 49 par. (3) of Emergency ordinance No. 80/2013 regarding judicial stamp duties, and art. 14 of Law 211/2004 regarding some measures to ensure information, support and protection of crime victims).

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

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

[43] *Ibid.*, Recommendation 34

- Yes  
 No

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

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

[44] *Ibid*

- Yes  
 No

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

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

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

[45] *Ibid.*, Recommendation 38

Legal provisions regarding special protection measures for vulnerable witnesses any victims are applicable irrespective of the victim's age, as there is no provision that states otherwise. Any child (meaning person under 18 years old is considered a vulnerable witness/inured person in criminal judicial proceedings). (Art. 113 of the Criminal procedure code)  
However, the measure of hearing the child in the presence of one of the parents, the guardian or the person or the representative of the institution to which the minor is entrusted for growth and education, as well as in the presence of a psychologist is applicable only for children younger than 14 years old (Art. 124 of the Criminal procedure code).

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

[46] *Ibid.*, Recommendation 39

Protection measures decided by judicial bodies during criminal proceedings consider the particularities of each case, being designated to protect the victim (art. 111, 113 of the Criminal procedure code).  
An evaluation report is drawn up by the social assistance service for each victim.  
It will include mentions regarding the type of injury suffered by the victim, their physical and mental condition,

as well as the specific protection needs of the victim (art. 3<sup>9</sup>, 3<sup>10</sup> of Law no. 211/2004 on some measures to ensure information, support and the protection of crime victims).

The social assistance service is obliged to make the report available to the judicial bodies, upon their request (art. 3<sup>11</sup> of Law no. 211/2004).

When deciding on one of the protection measures they can order in favour of the victim, the judicial bodies will take into account all aspects of the case, including the evaluation report.

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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 child under the age of 14 is heard only in the presence of a psychologist, who will provide support to the child in all criminal proceedings.

Also, in the case of all child victims, the judicial body can order their hearing through or in the presence of a psychologist or other specialist in victim counselling (art. 111 and 113 of the Criminal procedure code).

Also, judicial organs that have contact with the children are specialized in this matter, as will be detailed at Q19.

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

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## 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)

Many steps have been taken by Romanian legislation in order 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.



For example, Law no 135/2010 regarding the Criminal procedure code (especially art. 111 and 113) was amended in order to ensure a more specific protection of the needs of child victims. New protection measures were introduced, such as:

- hearing them in rooms designed or adapted for this purpose;
- hearing them through or in the presence of a psychologist or other specialist in victim counselling;
- rehearing being carried out by the same person that carried out the first hearing;
- hearing carried out by a person of the same sex as the injured person;
- hearing the child in the presence of a psychologist;
- considering the statement given by the injured person as evidence even if it was administered before the beginning of the criminal investigation;
- setting child victims as presumed victims, which are therefore entitled to benefit of the protection measures provided by the Criminal procedure code etc.

Also, Law 211/2004 regarding measures to ensure information, support and protection of crime victims was amended and new protection measures for victims of crimes were introduced.

A new procedure for the evaluation of victims by the social service was established, together with the obligation of this service to make the evaluation available to the judicial bodies at their request.

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## INVESTIGATION Question 19. In the investigation phase:

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

- a. **are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?**<sup>[49]</sup> Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes  
 No

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

In case of child victims, the judicial body may order, where possible, that the hearing of the child takes place in rooms designed or adapted for this purpose (art. 111 of the Criminal procedure code).

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b. [are all staff responsible for interviewing child victims required to undergo suitable qualifying training?](#)<sup>[50]</sup>

Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes  
 No

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

The National Institute of Magistracy is the public institution, under the coordination of the Superior Council of Magistracy, which carries out the initial training of judges and prosecutors, the continuous professional training of judges and prosecutors in office and the training of trainers.

INM organized courses to meet the specialization needs of judges and prosecutors in interviewing child victims, fulfilling its role in the implementation of the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse, according to its powers established by law.

Thus, regarding the criminal investigation phase, considering the fact that at the level of the Public Ministry there are prosecutors specifically designated for this type of cases, INM organized professional training activities especially for these prosecutors.

On the other hand, certain professional training activities addressed both prosecutors and judges, considering their role in the final resolution of cases.

The detailed description of the training programmes is to be found attached.

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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)

The Criminal procedure Code (art. 111 and 113) provides that:

- The hearing of the child by the judicial body that registered the complaint takes place immediately, and is considered evidence;
- The re-hearing of the child victim is performed only if this is strictly necessary for the conduct of the criminal trial;

The hearing of the injured person aged up to 14 takes place in the presence of one of the parents, the guardian or the person or the representative of the institution to which the minor is entrusted for growth and education, as well as in the presence of a psychologist, established by the judicial body. The psychologist will provide specialized counseling to the minor throughout the judicial proceedings.

If the above-mentioned persons cannot be present or have the capacity of suspect, defendant, injured

person, civil party, civilly responsible party or witness in the case or there is reasonable suspicion that they can influence the minor's statement, his hearing takes place in the presence of a representative of the authority guardianship or of a relative with full legal capacity, as well as in the presence of a psychologist, established by the judicial body. The psychologist will provide specialized counselling to the minor throughout the judicial proceedings.

- The hearing of the child must avoid any negative effect on the child's mental health.
- Also, the judicial body may order, as a special protection measure, that the hearing of the child takes place through or in the presence of a psychologist or other victim counselling specialist;

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

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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)

The Criminal procedure code (art. 111 par. (6) ) provides that the judicial body may order, where possible and when it considers that the proper conduct of the proceedings or the rights and interests of the parties are not affected, that eventual re-hearing of the victim is carried out by the same person that carried out the first hearing.

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f. **does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room**

during the proceedings?<sup>[54]</sup> Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes  
 No

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

The national legislation does not go into such specific description of investigation. The defendant can make any requests during the criminal proceedings (including that of the child being present in the courtroom), but it is the judicial body that determines whether the hearing of the child will take place without them being present in the courtroom or not, based on the circumstances of the case, as detailed in the precedent questions.

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

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

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

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

[55] *Ibid.*, Recommendation 46

- Yes  
 No

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

In cases where the victim is a child, the recording of their hearing by audio or audio-video technical means is mandatory. Where registration is not possible, the specific indication of why registration was not possible will be recorded (art. 111 (6) of the Criminal procedure code).

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

provide details.

[56] *Ibid.*, Recommendation 59

- Yes  
 No

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

According to the Criminal procedure code (art. 113, 127), in cases of child victims of any crime, the hearing of the child can take place without the child being present in the court, as a special protection measure.

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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 abovementioned legal provision refers to child victims, without reference to age.

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

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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)

According to art. 111 (9) of the Criminal procedure code, the statement given by the injured person under the conditions of par. (9) constitutes evidence even if it was administered before the beginning of the criminal investigation.

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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

According to art. 111 of the Criminal procedure code, the hearing of the child by the judicial body that registered the complaint is considered evidence which means that it can also be used in court, with no further presence of the child. The re-hearing of the child victim is performed only if this is strictly necessary for the conduct of the criminal trial.

Also, as mentioned at Q b, the child can give testimony by means of telecommunication, as a special protection measure if the judicial body considers it necessary (art. 113, 127).

Also, in the year of 2018, Law 211/2004 was amended with a new provision which stipulates that, starting from June 1, 2018, the newly built courthouses will be equipped with separate waiting rooms for crime victims and also, starting from January 1, 2019, separate waiting areas for victims of crimes will be set up in existing courts.

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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)

During the trial, the defendant has the right to be present at the proceedings, in order to meet the standards for a fair trial, which means that, if the victim is heard at this stage, the defender can be present. However, if the child gives the testimony by means of telecommunication, as described at the previous points, the defendant will not be present in the same room with the child, but in the court.

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

[61] *Ibid*

As mentioned at the previous points, According to art. 111 of the Criminal procedure code, the hearing of the child by the judicial body that registered the complaint is considered evidence which means that it can also be used in court, with no further presence of the child. The re-hearing of the child victim is performed only if this is strictly necessary for the conduct of the criminal trial.

Also, the child can give testimony by means of telecommunication, as a special protection measure if the judicial body considers it necessary (art. 113, 127).

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

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

[62] *Ibid.*, Recommendation 49

The Code of criminal procedure enshrines as a principle of the criminal trial the respect of the human dignity and private life. Any person who is subject to criminal investigation or trial has to be treated with respect to human dignity. The respect of private life, inviolability of domicile and secrecy of correspondence are guaranteed. The limitation of the exercise of these rights is only permitted according with applicable legislation and if it is necessary in a democratic society. (art. 11 of the Criminal procedure code)

The criminal investigation is not public (art. 285 para. (2) Criminal procedure Code), so that the criminal prosecution bodies take measures for the protection of private life, victim's identity and image and keep the confidentiality of personal data which they process.

During the criminal prosecution, the defender has the obligation to keep the confidentiality or secrecy of the data and documents he got access to while looking at the file (art. 94 para. (5) of the Criminal procedure code).

Persons who are called to technically assist within the enforcement of surveillance measures have the obligation to keep the secrecy of the operation performed, in all other cases they may be held criminally liable (art. 142 para. (3) of the Criminal procedure code).

As regards the trial (which is public as a general rule), the Criminal procedure code (art. 352) provides that if the public trial could affect the moral, dignity or private life of a person or the interests of children, the court can, upon request of the prosecutor, parties or ex officio, declare the hearing not-public for its entire duration or just for a certain part of the trial.

The court can also declare the hearing not public upon request of a witness, if through the hearing of that witness within a public hearing the safety or dignity or private life of the witness or of his family would be affected, or upon request of the prosecutor, injured person or parties in case a public hearing could jeopardize the confidentiality of some information.

The president of the panel has the obligation to inform the parties who are involved in the non-public hearing about the obligation to keep the confidentiality of the information they get during the trial.

During the trial, the court can forbid the publication and dissemination, by any written or audiovisual means, of texts, photographs or images which can reveal the identity of the victim, civil party, person liable in civil law or of the witnesses, if the hearing was declared non-public.

According with art. 59 of Law No. 254/2013 concerning the enforcement of penalties and measures involving deprivation of liberty ordered by judicial bodies during the criminal trial, convicted persons can communicate with the media only if there are no grounded reasons to forbid this, with a view to protecting the victim. The unauthorized release of information concerning the private life of persons, as well as the unauthorized release of confidential information from criminal cases are considered offences and sanctioned by the Criminal code (art. 227 of the Criminal code).

The identity and private life of child victims of sexual abuse are also protected by virtue of the applicable provisions in the audio-visual field.

According with the Code for the regulation of the audio-visual content, as approved by the decision of the National Council of the Audio-visual No. 220/2011, the release of any information which could lead to the identification of the child under the age of 14 who has been a victim of sexual abuse or accused of having committed some offences or has been a witness is, however, forbidden. (ART. 4 para. (1))

The child aged between 14 and 16 years who has been a victim of an offence or sexual abuse can be presented in the news programs, talk-shows or audiovisual reports only if all the following conditions are fulfilled:

- a) the victim's written consent;
- b) the prior consent of the parents or of the legal representative, in written form;
- c) the assistance during the broadcasting or recording by one parent or by the legal representative. The child cannot be assisted by the parent who is the alleged offender.
- d) elimination of any elements which can lead to the identification of the child.

In case of the child aged between 16 and 18 who is a victim or witness an offence being committed or who has been sexually abused, the following is necessary:

- a) his explicit agreement;
- b) elimination of any elements which can lead to the identification of the child, upon their request, the parents' request or upon the request of their legal representative.

(art. 6 of the Code for the regulation of the audio-visual content)

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

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

[63] *Ibid.*, Recommendation 50

- Yes
- No

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

According with art. 93 para. (4) of the Criminal procedure code, legal assistance is mandatory if the injured person or the civil party is a person without capacity of exercise or with restricted capacity of exercise (children are part of this category).

In cases in which the legal assistance is mandatory it is also free of charge if the person entitled to it does



not hire a defender and an ex officio defender is to be appointed.

Also, in other cases in which the judicial authority considers that out of certain reasons the injured person could not defend itself, it will order measures for the appointment of an ex officio defender (art. 93 para. (5) of the new Code of criminal procedure).

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

[64] *Ibid.*, Recommendation 51

- Yes  
 No

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

The legislation does provide for lawyers' obligation of training in specific fields. It does, however, provide for a general obligation of due diligence in their activity. Also, any lawyer can attend training in fields they consider relevant.

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

[65] *Ibid.*, Recommendation 52

According to art. 7 of Law 211/2004 regarding certain measures for ensuring information, support and protection of the victims of crimes, victims of crimes (including child victims of sexual crimes) benefit from assistance, regardless of the duration of judicial proceedings.

This means that the assistance is granted even if the judicial proceedings are finalised.

The assistance measures can include, according to the child's needs:

- information on the rights of the victim;
- psychological counseling, counseling regarding the risks of secondary and repeated victimization or of intimidation and revenge;
- counseling regarding the financial and practical aspects subsequent to the crime;
- social insertion/reinsertion services;
- emotional and social support for the purpose of social reintegration;
- information and counseling regarding the role of the victim in criminal proceedings, including preparation for participation in the trial.
- referring the victim to other specialized services, when appropriate: social services, medical services,

employment services, education services or other services of general interest granted under the law.

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## Contact

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