

Protection of Children against Sexual Abuse in the Circle of Trust: Legal Frameworks (Lanzarote Convention Monitoring Questionnaire)

Fields marked with * are mandatory.

Introduction

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

* Name of the Party responding or concerned by your response

Slovenia

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

a. [have a reference to “abuse of a recognised position of trust, authority or influence” as a separate sexual offence against children?](#)^[6] If yes, please provide a copy of the relevant provision(s).

[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)

Slovenian Criminal Code have two relevant provisions criminalizing sexual assault on children. In Art. 173 criminalizes sexual assault on children younger than 15 years of age. Furthermore, in paragraph 3 there is a special reference to the circle of trust. There is a reference to certain groups of professions and kinship ties (guardian, adoptive parent), however there is an open clause since it also refers to any other person who, by abusing their position commits such criminal offence. Furthermore in Art. 174 (Violation of sexual integrity by abuse of position) criminalizes any kind of abuse of position in regard of sexual violation. In second paragraph of this Article there is a special reference to the people from circle of trust abusing their position in regard of children above the age of fifteen. Furthermore in Art 132.a the Criminal Code criminalizes a forced marriage or establishing similar community.

Forced marriage or establishing similar communities

Article 132a

(1) Whoever, by force or threat of force or the exploitation of a subordinate or dependent position, forces another person to enter into a forced marriage or establishes a similar community that in accordance with an Act has the same legal consequences as if a marriage had been concluded, shall be sentenced to imprisonment for up to three years.

(2) Whoever commits an act referred to in the preceding paragraph against a minor or an infirm person shall be sentenced to imprisonment for up to five years.

Sexual assault on a person younger than fifteen years of age

Article 173

(1) Whoever has sexual intercourse or performs any other sexual act with a person of the same or opposite sex under the age of fifteen years shall be sentenced to imprisonment for between three and eight years.

(2) Whoever commits an act referred to in the preceding paragraph against a vulnerable person under the age of fifteen or by threatening him or her with a direct attack on life or body, or, by acting in such manner, commits the aforementioned act against another person, shall be sentenced to imprisonment for between five and fifteen years.

(3) A teacher, educator, guardian, adoptive parent, parent, clergyman, doctor or any other person who through the abuse of his or her position has sexual intercourse or performs any other sexual act with a person under the age of fifteen that has been entrusted to him or her for teaching, education, medical treatment, protection or care shall be sentenced to imprisonment for between three and ten years.

(4) Whoever in the circumstances referred to in paragraphs one, two or three of this Article violates the sexual integrity of a person under the age of fifteen years shall be sentenced to imprisonment for up to five years.

(5) The act referred to in paragraph one of this Article shall not be unlawful if it is committed with a person of comparable age and if it is appropriate to that person's mental and physical maturity.

Violation of sexual Integrity through abuse of authority

Article 174

(1) Whoever, by abusing his or her authority, induces his or her subordinate of the same or different sex who depends on him or her to have sexual intercourse with him or her or to perform or submit to any other sexual act, shall be sentenced to imprisonment for up to five years.

(2) A teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of his or her position has sexual intercourse or performs any other sexual act with a person above the age of fifteen whom he or she is entrusted to teach, educate, protect or care for, shall be sentenced to imprisonment for between one and eight years.

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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”?^[7] 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)

Yes, Art. 173 and 174/2 of Criminal Code.

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?^[8]

[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)

In Art 173, and 174 there is a list of specific professions and categories: teacher, educator, guardian, adoptive parent, parent, clergyman, doctor. However, the list is open since there is also a mentioning of “or any other person who through the abuse of his or her position has sexual intercourse or performs any lewd act with a person under / above the age of fifteen”.

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

d. define the notion of “circle of trust”?^[9]

[9] *Ibid*

- Yes
 No

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

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

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

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?**^[10]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)

There are two separate provisions Art. 173 and 174. Art 173 refers to children up to 15 years of age and Art 174/2 refers to children above the age of fifteen. The differentiation is made due to the age of consent of 15 years and possibility to conclude a marriage under the given permission granted by the court in case a child can understand the meaning and consequences of the rights and obligations arising from the marriage.

However, there is no consent in case of abuse of position.

Furthermore, Art. 173/5 is not criminalising sexual activities if they are committed with a person of comparable age and if it is appropriate to that person's mental and physical maturity. Legal age for consent is 15.

Family Code, Article 24

(adulthood and disregard of minors)

(1) Marriage cannot be entered into by children.

(2) For valid reasons, the court may allow the marriage of a child who has already reached the age of 15, if he has reached such physical and mental maturity that he can understand the meaning and consequences of the rights and obligations arising from the marriage.

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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?[1] 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)

Even in case a child is of age of legal consent (15 years of age) there is a provision in Art 174/2 protecting a child above 15 years of age from being sexually abused by persons abusing their position of trust.

Criminal Code: Art.174/2: A teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of his or her position has sexual intercourse or performs any other sexual act with a person above the age of fifteen whom he or she is entrusted to teach, educate, protect or care for, shall be sentenced to imprisonment for between one and eight years.

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:

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, it is recognised in Art 173, and 174.

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)

If the perpetrator of the sexual abuse is the victim's spouse or marital partner, prosecution shall be generally initiated upon a proposal (Art 170/6 and Art 174/6). If the victim is below 18 and emancipated through marriage, the provisions of this Code relating to the filing of a motion (proposal for prosecution) shall not apply to the method of criminal prosecution and the perpetrator shall be prosecuted ex officio (Art 15a). The fact, that the perpetrator is the victim's spouse or marital partner therefore does not constitute the exception to the definition of sexual abuse. In the Republic of Slovenia there is no "marital rape exception" since 1977.

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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

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

For committing the offence there is no need to use any force, threat, or coercion. Using a threat is an aggravating circumstance in case of vulnerable child under the 15 years of age, but not in connection with abuse of trust, authority or influence.

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

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?**^[15]

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)

Criminal code in relevant Articles (173, 173a, 174) criminalizes all offences of abuse of children in the widest context possible. The wording is written in the context to cover all sexual offences committed to the child. The wording in Art 173 and 174/2 is: ...have a sexual intercourse or performs any other sexual act. As regards victims under the age of fifteen, the definition of criminalized sexual acts is extended to include also the violation of the sexual integrity in any other way. Please, see above-stated Article 173, Paragraph 4 of the Criminal Code.

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?^[16] 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)

There is no difference in regard of the sanctions between committing heterosexual or homosexual abuse.

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?^[17] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes
 No

If appropriate, please provide more information (4.c No)

There is no distinction.

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

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

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)

In line with Criminal Code, Art. 15 a) all criminal offences committed against minors in chapter regarding crimes against sexual integrity are prosecuted ex officio.

The method of prosecuting perpetrators of criminal offences committed to the detriment of minors
Article 15a

In cases concerning a criminal offence referred to in the chapters relating to criminal offence committed against life and limb, against human rights and freedoms, or against sexual integrity or other criminal offences referred to in this Code with elements of violence committed against minors, the provisions of this Code relating to the filing of a motion or bringing a private action shall not apply to the method of criminal prosecution and the perpetrator shall be prosecuted ex officio.

In Art 281 paragraph 2 of Criminal Code the failure to report a criminal offence or perpetrator by an official for offences which are prosecuted ex officio.

Failure to report a criminal offence or perpetrator
Art. 281

(1) Whoever has knowledge of a perpetrator of a criminal offence punishable by an Act by imprisonment for at least fifteen years, or whoever has knowledge of the commission of such an act and fails to inform the competent authorities thereof, even though such information is crucial for the timely identification of the perpetrator, shall be sentenced to imprisonment for up to three years.

(2) An official who consciously fails to report a criminal offence that he or she learns of in the performance of his or her official duties and which is punishable by an Act by imprisonment for three years or more and the perpetrator thereof is prosecuted ex officio, shall be sentenced to imprisonment for up to three years.

(3) No punishment shall be imposed on whoever fails to report a criminal offence if the perpetrator is his or her spouse, common-law partner, registered same-sex civil partner, lineal relative, brother, sister, adoptive parent, or adopted child, or if such person is the defence counsel, physician or confessor of the perpetrator. Since no person referred to in this paragraph, except the defence counsel, physician or confessor, is to be punished for failure to report a criminal offence referred to in paragraph one of this Article, no punishment shall be imposed on his or her spouse, common-law partner or registered same-sex civil partner for failing to report a criminal offence.

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)

Since the investigation and prosecution is lead ex officio there is a continuation of the procedure even in case if a victim withdraws his/her complaint or statements.

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?**^[20]

[20] *Ibid.*, Recommendation 56

- Yes
 No

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

As previously mentioned all criminal offences committed against minors in chapter regarding crimes against sexual integrity are prosecuted ex officio. It is not necessary that a victim files charges/lodge a complaint.

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:

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)

In 2023, MOLFSA co-finances 22 programs intended for children and young people who are deprived of a suitable family life or who have problems growing up. The programs include day centers for children and adolescents, counseling centers and a telephone for children and adolescents. The programs are intended for all children and adolescents in need and are not specialized in individual content (e.g. sexual abuse), but they offer a safe space and professional staff for advice, information and help in times of need.

The MOLFSA does not have information that the mentioned programs specifically highlight the topic of sexual abuse among children and adolescents in general or among those under the age of 14.

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?](#)^[22] 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)

Juvenile offenders are subject to specific sanctions under the 1994 Penal Code, which continues to apply to juvenile offenders until the adoption of a special law for this category of offenders.. Legal age for criminal responsibility is 14.

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

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CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

a. [provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?](#)^[23] 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)

In general, minors are invited through parents/legal guardians. Yet, there are also exceptions to this rule and not only in cases, when one of the parents/legal guardians is a suspect. Police Tasks And Powers Act stipulates that when summoning or informing parents or a guardian would be contrary to the best interests of a child or a minor, police officers shall notify the competent social work centre of the procedure (third paragraph of the article 36). Criminal Procedure Act further stipulates that minors under the age of sixteen shall be summoned as witnesses through their parents or legal representatives, unless this is not possible due to the need for urgency or other circumstances (second paragraph of the article 239).

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?**^[24] 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)

See answer under 7a.

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?**^[25] 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)

The Constitution of the Republic of Slovenia stipulates that children enjoy special protection and care. The State provides protection to children whenever their healthy development is at risk and other interests of children so require. Since 15 April 2019, the Family Code has been applicable in the Republic of Slovenia, which, among other things, regulates the system of measures for the protection of the best interests of the child.

The Family Code provides that parents have the right and obligation to protect the rights and best interests of their child before all others, and therefore the State shall only take measures to protect the rights and best interests of the child when parents fail to exercise or fulfil their rights and obligations in the best interests of the child.

The court will impose a measure to protect the best interests of the child if it finds that the child is at risk. A child is at risk if he or she has suffered or is likely to suffer harm and that harm or likelihood of harm is the result of an act or omission of the parents or of psychosocial problems of the child manifested by behavioural, emotional, learning or other difficulties in his or her upbringing. Damage includes damage to the child's physical or mental health and development or to the child's property.

Measures to protect the best interests of the child include, inter alia, urgent removal of the child, interim measures and measures of a more permanent nature.

Emergency removal of a child: in cases where it is likely that the child is in such serious danger that his or her best interests can only be safeguarded by immediately removing the child from his or her parents, the social work centre will remove the child (with the help of the police, if necessary) and place him or her with another person, in a crisis centre, in foster care or in an institution. In these cases, the social work centre must, within 12 hours, submit to the competent court an application for an interim order for the removal of the child; the court will have to decide on this application immediately, and at the latest within 24 hours. If the social work centre does not submit the application to the court within 12 hours, or if the court does not rule on the application within 24 hours, the child will be returned to the parents immediately.

Interim orders: The Family Code lists, by way of example, the interim orders that can be made to temporarily protect the best interests of the child, in particular an injunction to remove a child from the parents and place them in the care of another person, a crisis centre, a foster carer or an institution, a warrant allowing access to the dwelling or other premises where the child is, against the will of the parents, an injunction prohibiting or restricting contacts, an injunction on the manner of carrying out contacts, an injunction on custody of the child, an injunction on the child's maintenance, an injunction prohibiting crossing of the state border with the child, an injunction on evicting a violent family member from the common dwelling, an injunction prohibiting persons that endanger the child from approaching the child, an injunction on freezing of parents' or child's property, an injunction on medical examination or treatment.

Measures of a more permanent nature: the Family Code sets out a list of measures of a more permanent nature, including restriction of parental responsibility, restriction or withdrawal of right to contacts, removal of child from parents, placing a child in an institution, withdrawal of parental responsibility.

Measures to protect the best interests of the child last for the maximum period provided for in the Family Code for each measure, unless the court extends the measure imposed.

Additional info in in attached file.

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?^[26] 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)

Within the chapter dealing with Measures to protect the interests of the child the Family Code grants several measures which are imposed by the court. The embedded principle is the best interest of a child. The imposed measures can be as follows: temporary orders, emergency removal of the child and measures of a more permanent nature.

The emergency removal of child (Art.167 of Family Code) is an emergency measure in case the child is in imminent danger. In such situation the center for social work removes child from the family (by the help of police) and places him in a safe placement. According to Art.168 the center for social work must within 12 hours after the removal propose to the court the issuance of a temporary order on the removal of the child. The court must decide within 24 hours.

To further protect the best interests of the child, the court can issue an interim order removing the child from the parents and placing him or her with another person, in a crisis centre, foster care or in an institution. The court shall issue a provisional order if it is likely to be shown that the child is at risk. The further protection of the best interests of the child is ensured by a measure of a more permanent nature, the removal of the child from the parents. In deciding on a measure of a more permanent nature for the protection of the best interests of the child, the court shall take into account the opinion of the social work centre. Before the court decides on a measure of a more permanent nature, the social work centre shall draw up a family and child support plan. A report on the implementation of the assistance plan shall be submitted to the court once a year. The assistance plan shall contain a description of the situation, the needs of the children, the possibilities of the family, the method of monitoring, the forms of assistance and a description of the implementation of the measure. The social work centre may include in the assistance plan for the family and the child a programme of family therapy, psychiatric treatment, treatment for alcohol or illicit drug dependence and other health, educational and psychosocial programmes if it appears that the parents will be able to take up the child's upbringing and care again after the therapy or treatment, or in other cases where it is in the best interests of the child to do so.

The rules of court proceedings are governed by the Non-Contentious Civil Procedure Act, which, in Article 106, establishes the petitioners for the initiation of proceedings for the adoption of measures for the protection of the best interests of the child, including, inter alia, the social work centre; the court may also initiate proceedings for the adoption of measures for the protection of the best interests of the child of a more permanent nature ex officio. Pursuant to Article 108 of the Non-Contentious Civil Procedure Act, the social work centre is a party to the proceedings even when it is not the initiator of the proceedings. Statements made by the social work centre in the proposal, opinion and other documents, as well as the hearing of an expert worker of the social work centre, are considered to be the testimony of a person who has special expertise in the facts.

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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?^[27] 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 Domestic Violence Prevention Act, inter alia, the role and tasks of state authorities, holders of public powers, public service providers and other service providers in the fields of social welfare, health care, education and training, local self-governing authorities (hereinafter referred to as "authorities and organisations") and non-governmental organisations (hereinafter referred to as "NGOs"). The Domestic Violence Prevention Act explicitly defines the tasks of social work centres as holders of public powers: provides the victim and the perpetrator of violence with services under the law regulating social protection, takes special care in cases of violence where the victim of violence is a child, in particular where there is suspicion of child sexual abuse. At the request of the victim, the The social work centre may obtain information from the penitentiary institution on available exits, possible escapes from imprisonment and the expected date of release of the convicted person who has perpetrated violence against the victim or the victim's children. The social work centre may refer the perpetrator of violence to appropriate social, educational, psychosocial or health programmes run by authorities, organisations and NGOs.

The social work centres shall process personal data and maintain databases of persons treated as victims and perpetrators of violence under this Act for the purposes of victim assistance, treatment of the perpetrator of violence, drawing up a victim assistance plan, its implementation and monitoring, for scientific research purposes and for statistical purposes, as provided for in Article 30 of The Domestic Violence Prevention Act. As far as police involvement – in such cases, the police most often cooperate with experts from social work centers (hereafter referred to as CSW). The police immediately informs the CSW in case of child endangerment in accordance with Article 91 of the Social Welfare Act. In this case, the police provide basic information regarding the danger to the child, which of course also contains personal data. In specific cases, the police, on the basis of: Article 148 of the Criminal Procedure Act, Article 115 of the Police Duties and Powers Act and in the manner prescribed by Article 39 of the Personal Data Protection Act-2, also forwards other personal data to the CSW, or on the basis of these provisions, requests a report from the CSW regarding the treatment of persons in a specific case. The CSW can call a team meeting at the proposal (also of the police) where the danger to the child or measures for its protection. The team meeting can include the police, representatives of CSW, healthcare, a child psychiatrist, a representative of the school... At the team meeting, it is essential that the professional services also share the personal data of the specific case with each other, because only in this way can they properly set goals for the protection of the child.

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CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

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

The Family Code provides for the measure of deprivation of parental care, without distinguishing between cases of deprivation of parental care before or after the decision convicting the parent. The court shall deprive one or both parents of parental care if the child is in danger and the circumstances of the case show that it is not likely that they will or will be able to resume responsibility for his or her upbringing and care, in particular if they have seriously breached obligations or abused rights deriving from parental care, or have abandoned the child, or have manifestly shown by their conduct that they will not care for him or her, as one of the measures to protect the best interests of the child, as provided for in Article 176 of the Family Code. Parental care shall be restored by a court decision if the reason for which it was withdrawn ceases to exist, unless the child has been adopted in the meantime.

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:

- a. automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending?^[29] Please provide details.

[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

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (9.a Yes)

The Family Code does not provide for the automatic deprivation of parental rights and the right of access to the child for parents who are subject to criminal proceedings for sexual abuse of a child, but for a procedure for the imposition of a measure to protect the best interests of the child. If it is likely that the child is

endangered, the court will in any event issue an interim order, e.g. prohibiting or restricting contact, prohibiting the person endangering the child from approaching the child.

Similarly, the court may decide to restrict or withdraw the right of access by means of a measure of a more permanent nature if the child is endangered by the contact and only by restricting or withdrawing the right of access can the child's best interests be sufficiently safeguarded. The court may also decide that contact shall not be exercised by means of personal meeting and companionship, but in other ways, if this is the only way of safeguarding the best interests of the child, as provided for in Article 173 of the Family Code. The Family Code also provides that the decision to exercise supervised contact with the child may only be made by way of an interim order. In a measure of a more permanent nature, the court shall deprive one or both parents of parental care if the child is in danger and it appears from the circumstances of the case that it is unlikely that they will or will be able to resume responsibility for his or her upbringing and care, in particular if they have seriously breached their obligations or abused their rights deriving from parental care, or have abandoned the child or have manifestly shown by their conduct that they will not care for him or her.

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

[30] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (9.b Yes)

The Family Code does not provide for the automatic withdrawal of parental rights from parents convicted of sexual abuse of a child, but for a procedure for the imposition of measures to protect the best interests of the child. The answer is the same as the answer to point 9.a.

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

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?^[31]

[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.

Doctors, social workers, psychologists etc. are in principle exempt from the duty to testify, which binds

witnesses in general. This exemption covers the facts they learned in a professional capacity, if they are bound by the duty of maintaining the confidentiality of information acquired in their professional capacity. Yet, by the wording of the law, this exemption doesn't apply in cases of sexual abuses and other sexual violence against the child. Hence, professionals are obliged to testify in such cases, while the general rules on exemption also make possible for any person, to which the exemption applies (also relatives of the suspect) to waive the privilege. Therefore, no one, who testifies in good faith can be condemned for such testimony.

It should be also emphasized that in Slovene legal order there is a provision that criminalises a false reporting for all criminal acts which are prosecuted ex officio. Of course, such a provision cannot be used against someone testifying in good faith.

Article 236

(1) The following persons shall be exempt from the duty to testify:

- 1) the spouse of the accused person or the person with whom they live in extra-marital cohabitation;
- 2) the accused person's blood relatives in the direct line, relatives in the collateral line up to the third degree and relatives by marriage up to the second degree;
- 3) the adopter or adoptee of the accused person;
- 4) a religious confessor, on matters confessed to him or her by the accused person or by another person;
- 5) an attorney, doctor, social worker, psychologist or another person, on the facts they learned in a professional capacity, if bound by the duty of maintaining the confidentiality of information acquired in their professional capacity, except in the cases referred to in paragraph three of Article 65 of this Act, or unless conditions prescribed by an Act are fulfilled under which such persons are released from the duty of protecting confidentiality and/or are bound to disclose confidential information to the competent bodies;
- 6) an editor, journalist or author of a contribution regarding the disclosure of a source of information, unless the disclosure is necessary to prevent imminent danger to life or human health or to prevent the commission of a criminal offence punishable by a sentence of three or more years of imprisonment, or the criminal offence of solicitation of persons under fifteen years of age for sexual purposes under Article 173a, or the presentation, manufacture, possession and distribution of pornographic material under Article 176, or abuse of office or official rights under Article 257 of the Criminal Code.

(2) The court conducting the proceedings shall be bound to instruct the persons referred to in the preceding paragraph each time before hearing them, that they are not obliged to testify, when the court learns of the existence of circumstances releasing the said persons from the duty to testify. If a witness declares that he or she waives that right and wishes to testify, he or she must be warned that the court might rest its decision on his or her testimony even if the witness declines to testify at the main hearing. The instruction and the reply thereto shall be entered in the record.

(1) All state authorities and organisations with public authority shall be obliged to report criminal offences which are prosecutable ex officio if they have been informed of them or if they have been brought to their notice in some other way.

(2) In submitting criminal complaints, authorities and organisations referred to in the preceding paragraph must indicate the evidence known to them and undertake measures to preserve the traces of the criminal offence and the objects on which or by means of which the criminal offence was committed, as well as other evidence.

...

False criminal complaint

Article 283

(1) Whoever reports that a person has committed a criminal offence that is prosecuted ex officio and knows that the accusation is false shall be sentenced to imprisonment for up to two years.

- (2) The same punishment shall be imposed on whoever plants the traces of a criminal offence on another person or otherwise causes the initiation of criminal proceedings against such person ex officio and is aware that that person is not the perpetrator of the criminal offence concerned.
- (3) Whoever falsely reports that he or she has committed a criminal offence that is prosecuted ex officio shall be punished by a fine.
- (4) The same punishment as referred to in the preceding paragraph shall be imposed on whoever reports a criminal offence that is prosecuted ex officio, thus initiating action by the competent state authorities, despite knowing that the allegation is false.
- (5) If an act referred to in paragraph one or two of this Article is committed by an official through abuse of office, he or she shall be sentenced to imprisonment for up to three years.

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

ASSISTANCE TO THIRD PARTIES Question 11.

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

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

The Slovene definition of a victim is very wide and in principle covers all persons, who are suffering as a consequence of a criminal offence. Such persons have a role in criminal procedure and can during the procedure ask for damages, while help and support, which is provided to victims by social centers is not bound by the fact that they are (not) part of the criminal procedure. Republic of Slovenia otherwise has a public health system, which provides psychiatric and similar help to any person in needs already in accordance with the general rules.

The injured party, denoting either a male or female, shall mean the person whose personal or property rights have been violated or threatened by a criminal offence. Where a direct consequence of the crime is the death of a person, the spouse or the person with whom he or she lived in extra-marital cohabitation, blood relatives in direct line, his or her adopted child or adoptive parent, his or her brothers or sisters and the persons that he or she supported or was obliged to support shall also be considered injured persons pursuant to this Act (point 6 of article 144 of the Criminal Procedure Act).

In accordance with the Social Security Act, social welfare service support for victims of crime, carried out by the Social work centres (SWC), is intended for persons directly affected by a criminal offence. Anyone who is a victim of a criminal offence committed in the Republic of Slovenia, regardless of whether they reported the crime, is entitled to the service. When the crime is committed outside the territory of the Republic of Slovenia, the beneficiary is a person who has permanent or temporary residence in the Republic of Slovenia. Where the crime results in the death of a person, his or her spouse or cohabiting partner, blood relatives in the direct ascending line, adopted child or adoptive parent, siblings, and persons whom that person has maintained or was obliged to maintain are also entitled to the service. Special attention is paid to the most vulnerable groups of beneficiaries (i.e. especially children, the disabled, the elderly, victims of sexual violence and victims who are likely to be reoffended). The service includes professional support and expert

advice with the purpose of identifying the distress of the beneficiary, informing about the rights and forms of assistance and services provided by the SWC and by the established network of programmes and services for the assistance of victims of crime, informing about the competences of other stakeholders (e.g. police, judicial authorities, NGOs) and directing the beneficiary to relevant specialist programmes and other forms of assistance, which are available.

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ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

Social work centres offers to victims of violence services in accordance with the act regulating social security, where the elimination of direct threat is the goal of their involvement, as well as working to ensure the victim's long-term safety by eliminating the causes or circumstances in which violence is present, by resolving their social and material living needs.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities, among others, co-finances social welfare programs aimed at children and young people, within the framework of which help and support is also offered to alleged victims of abuse. The programs offer support to all children and young people who are deprived of a suitable family life and young people with growing up problems. Children from less encouraging environments, with problems growing up, with problems in family relationships (violence, addictions...), with learning difficulties are included in the mentioned programs. Other children and young people with various problems in the family or community can also be involved in community actions.

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

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

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

There is no specific mechanism to supervise persons convicted of child after the sentence is executed. Part of the sentence could be also precautionary measures as stated in Art. 69 of Criminal Code.

However, in cases of criminal offences of sexual violence the data on convictions are permanently available to kindergardens, schools, associations and similar organizations, who try to verify the past of their potential employee – since such person would work with minors.

In institutions for serving prison sentences, there are established special programs for those convicted of crimes against sexual integrity. The programs are carried out by psychologists. The program is offered to all convicted of a crime against sexual integrity. Most of those convicted of such crimes serve their sentences in the central prison Dob pri Mirna, where a continuous educational group is held regularly (usually two cycles of group meetings are held in a year). Group participants have 15 meetings lasting 1 hour, which usually take place once a week. After the end of the group meetings, there is also an individual treatment for all participants.

In the rest of the prisons, where there are not enough people incarcerated with such crimes to form a group, individual treatment takes place.

Types of precautionary measures

Article 69

The following precautionary measures may be imposed on perpetrators of criminal offences:

- compulsory psychiatric treatment and confinement in a mental health institution;
- compulsory psychiatric treatment without confinement;
- a prohibition on pursuing a profession;
- a restraining order and prohibition on communicating with the victim;
- driving licence suspension;
- the seizure of objects.

Provision of information from the criminal record

Article 84

(1) Information on judgments shall be kept in a criminal record. The extent of information and the provision of information from the criminal record before expunction therefrom shall be determined by an Act.

(2) Upon a reasonable request from institutions or associations entrusted with the education, guidance, protection or care of children or minors, information from the criminal record shall also be provided regarding the expunged convictions for criminal offences under Article 170, Article 171, Article 172, Article 173, Article 173a, paragraph two of Article 174, and paragraph two of Article 175, committed against a minor, and under Article 176 of this Code.

(3) It shall be determined by an Act that convictions for criminal offences referred to in the preceding paragraph shall be entered in a special record and that the conditions, limitations and procedure for providing information on such convictions shall be determined; in cases not covered by the preceding paragraph, the conviction shall be deemed expunged despite being preserved in a special record (paragraph one of this Article).

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b. **sharing with other countries data concerning persons convicted of child sexual abuse?**^[35] 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)

Criminal Records information concerning persons convicted of child sexual abuse may be shared with other countries.

After the expiration of rehabilitation period the criminal records are expunged. Criminal records concerning convictions for child sexual abuse are relocated into Record of Expunged Convictions. Expunged Convictions Records may only be provided on request of institutions, societies or groups to which children or minors are entrusted for learning, education, or care (e. g. schools, kindergartens etc.). Request must be based on (Slovene national) law. Currently there is no legal provision enabling sharing of data on expunged convictions concerning persons convicted of child sexual abuse with other countries.

Relevant Articles:

250.a/8 ZIKS-1

84/2,3 KZ-1

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MEASURES IN RESPECT OF PROFESSIONALS AND LEGAL PERSONS Question 14. Does your national legal framework:

a. **allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?**^[36] Please provide details.

[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)

If the conditions from the Criminal Procedure Act are fulfilled, it is possible to detain a person who is suspected of an officially prosecutable crime. The measure can last a maximum of 48 hours.

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”^[37] settings are held liable?^[38] 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)

All state authorities and organisations with public authority shall be obliged to report criminal offences which are prosecutable ex officio if they have been informed of them or if they have been brought to their notice in some other way (first paragraph of article 145 of the Criminal Procedure Act). Any person may report a criminal offence which is prosecutable ex officio (first paragraph of article 146 of the Criminal Procedure Act).

Whoever has knowledge of a perpetrator of a criminal offence punishable by an Act by imprisonment for at least fifteen years, or whoever has knowledge of the commission of such an act and fails to inform the competent authorities thereof, even though such information is crucial for the timely identification of the perpetrator, shall be sentenced to imprisonment for up to three years. An official who consciously fails to report a criminal offence that he or she learns of in the performance of his or her official duties and which is punishable by an Act by imprisonment for three years or more and the perpetrator thereof is prosecuted ex officio, shall be sentenced to imprisonment for up to three years (first and second paragraph of article 281 of the Criminal code).

Domestic violence prevention act stipulates that authorities and organizations as well as non-governmental organizations which in their work encounter circumstances on basis of which it is possible to conclude that violence is being inflicted, shall be obliged to immediately inform a social work centre, except in cases where the victims themselves expressly oppose this and there is no suspicion of criminal offence that should be prosecuted ex officio. Anyone, and in particular professional healthcare staff and personnel working in care institutions, educational and social institutions, as well as providers of activities for children within sports and culture associations shall – regardless of the provisions on the protection of business secrets – immediately inform a social work centre, the police or the State Prosecutor’s Office where there is a suspicion that a child or a person who due to personal circumstances is not capable of taking care of him or herself, is the victim of violence

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?^[39] 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 person can be liable for criminal act (of sexual abuse of child by its employee) in line with Liability of Legal Persons for Criminal Offences Act.

Art 4/ para 4 of the latter Act stipulates that legal person is liable if its management or supervisory bodies have omitted their duty to supervise the legality of the conduct of their subordinate workers.

Art 8/para 3 also- incriminates attempt - If a management or supervisory body voluntarily prevents a perpetrator from completing a criminal offence that he or she began to commit, the legal person's sentence may be waived.

Grounds for the liability of a legal person

Article 4

A legal person shall be liable for a criminal offence committed by the perpetrator in the name of, on behalf of or to the benefit of said legal person:

1. if the criminal offence committed entails carrying out an illegal resolution, order or endorsement of its management or supervisory bodies;
2. if its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. if the perpetrator obtained illegal proceeds from the criminal offence or items that are the result of the criminal offence;
4. if its management or supervisory bodies have omitted obligatory supervision of the legality of the actions of employees subordinate thereto.

Attempt

Article 8

(1) If the perpetrator began to commit an intentional criminal offence but did not complete it, the legal person shall also be liable for the attempt under the conditions referred to in Article 4 of this Act if the attempt is defined by an Act as a criminal act.

(2) The sentence imposed on a legal person for an attempt shall be the same as for a completed criminal offence, although a lenient sentence may also be imposed.

(3) If a management or supervisory body voluntarily prevents a perpetrator from completing a criminal offence that he or she began to commit, the legal person's sentence may be waived.

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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:

- a. receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?^[40]

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

According to the valid regulation in criminal proceedings conducted for crimes against sexual integrity and similar crimes, an injured party who is a minor must have, throughout the criminal proceedings, a counsel to ensure his or her rights, particularly regarding the protection of his or her integrity during the hearing before the court and the enforcement of pecuniary claims. Minors as victims must also have a counsel during the hearing in pre-trial proceedings. Minors as victims who do not have a counsel shall be assigned one by the court ex officio from among the attorneys (third paragraph of the article 65). Hence, the safeguarding the best interest of the child during the criminal procedure is primarily guaranteed by a counsel.

If the injured party is a minor his or her legal representative (parent or could be also ad litem guardian) shall be entitled to submit all statements and perform all procedural acts which the injured party is entitled to submit or perform. An injured party who has attained the age of sixteen shall be entitled to submit statements and perform procedural acts by himself or herself (first and second paragraph of the article 64).

The Family Code regulates tri types of guardianship: guardianship of children, guardianship of adults and guardianship in special cases.

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- b. avoid combining the functions of a lawyer and guardian ad litem in one person?^[41]

[41] Ibid., Recommendation 36

See the answer to the previous answer (the minor, who is a victim of a crime offence of sexual nature is entitled to the ex officio attorney). As in all cases, the client (the minor and guardian ad litem) and the attorney must consult and form a strategy before entering the procedure.

There are two different legal bases for both functions, so they can not interfere.

For the determining guardianship the legal frame is provided within Family Code, for the appointing the legal

counsel/lawyer the legal provision is part of the Criminal Code. The Criminal Procedure Act also foresees the possibility to bring a person of trust to support the minor during the process (not as a procedural role, but in the relation to the minor – encouraging him, increasing the feeling of safety etc.). This person of trust could be also guardian ad litem.

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c. **are provided free of charge for the child victim?**^[42]

[42] *Ibid.*, Recommendation 37

Yes. According to Family Code the function of a legal guardian is honourable and free. Ex officio attorneys are paid for by the state.

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

a. **Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?**^[43] Please provide details.

[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?**^[44] 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, see the answers to the previous questions. Support for child victims in investigative and judicial 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:

- a. [protection measures are available to all children irrespective of their age](#)?^[45] Please provide details.

[45] *Ibid.*, Recommendation 38

The protection measures (i.e. with regard to child's relation to his family) are set by the legislation and the protection measures are provided through cooperation of police and centres for social work. Some of the protection measures must be decided also by the court – i.e. removal of the child.

Otherwise, procedural protective measures are typically ordered by the criminal court during the procedure. Please note that according to the Slovene Criminal Procedure Act, each victim is evaluated from the point of danger of the repeated and second victimisation, revenge etc. Such evaluations are routinely performed by the police and updated by the state prosecutor, while they are eventually used by the courts, when deciding upon protective measures. The law clearly stipulates that when a victim is a minor, it is always presumed (*praesumptio iuris et de iure*) that he or she is endangered, so the only estimation is made with regard to which concrete protective measures are proposed and eventually chosen. Such measures are mostly intended to prevent unwished contact between the suspect and the victim, when it is not necessary (such contact must be prevented – fifth paragraph of the article 65 of the Criminal Procedure Act). They can include e.g. invitation at different time, taping of the hearing in the investigative phase and replaying it during the trial, hearing through videoconference from the so-called safe room etc. Please note that Republic of Slovenia has implemented its own Barnahus safe house (which is regulated by a specific law) and which can be used for hearings of minor victims of offences with sexual and similar offences.

The rest of the answer is provided in attachemnt.

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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](#)?^[46] Please provide details.

[46] *Ibid.*, Recommendation 39

See the answer to the previous question.

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?^[47] Please provide details.

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

The hearing of a minor, especially if such person has suffered harm from the criminal offence concerned, must be conducted with particular care in order to avoid possible detrimental consequences to his or her mental state. If necessary, the hearing of a minor shall be carried out with the assistance of an educational or other expert (fourth paragraph of the article 240 of the Criminal Procedure Act). Such victims can be heard also in so-called Barnahus house for children, where there is not only an expert for the performance of the interview, but there are also experts, which take care of psychological well being of the child. See also the answer to the next question.

A child who is a presumed victim of sexual abuse can be further supported by professionals in social welfare programs in the field of violence prevention, which offer programs for the prevention of violence, or programs of maternity homes and safe houses, as well as the services of Crisis Centers for children and adolescents in the jurisdiction of Centers for Social Work.

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

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 18.

Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?^[48] Please provide details.

[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)

Since Slovenia has submitted the above mentioned questionnaire we provide just basic info about Barnahus model set in Slovenia. At some of the questions we have provided additional information.

Child protection in criminal proceedings and comprehensive treatment of children in the children's house act was unanimously adopted in March 2021.

This law establishes the institutional framework, principles and procedures for the protection of minor victims and witnesses of criminal acts defined in criminal proceedings, and their comprehensive treatment. For ensuring best interests of the child comprehensive treatment of children, as stipulated in this law, may also be used in the process of treating juvenile offenders. According to international standards, a child is defined as a person under the age of 18.

This law provides for the protection of minor victims and witnesses of crimes from the chapters covering criminal offences against humanity (chapter fourteen), life and limb (chapter fifteen), against sexual integrity (chapter nineteen), against marriage, family and youth (chapter twenty-one), and 131. to Articles 138, 140, 141, 143, 283, 284, 286, 296, 323, 324 of the Criminal Code. If the court deems that this is necessary for the protection of the child's interests, the law can also be used for interviews and comprehensive treatment of a child who is a victim or witness of another criminal act

The law defines a comprehensive treatment of children as a public service provided by the state through the establishment of a public institution (Children's House).

The tasks of the Children's House are:

- organising the forensic interview, technical and spatial capacities for the interview and professional assistance to the court during the interview
- when children are physically examined, organising the examination and providing technical and spatial capacities for the examination
- providing the child with the support of a counsellor as part of the crisis support during an interview or physical examination
- providing psychological, social and practical support as part of the psychosocial support to the child and their family members
- developing and adopting programmes and carrying out the training and assessments of knowledge of professionals
- ensuring the uniformity and development of professional methods and procedures of the comprehensive treatment of children and developing and implementing multidisciplinary and interagency training programmes for this purpose
- providing spaces for the police and social work centres (CPS) to perform their duties in the proceedings concerning minor victims of and witnesses to criminal offences

The Public Institution Children's House is organized currently in Ljubljana for the entire area of Slovenia, however the law gives ground for organizing Children's Houses also in other parts of country if needed. The Public Institution's activities are financed from the budget of the Republic of Slovenia. The project of establishing Children's House in Slovenia was conducted in cooperation with European Union, Council of Europe, Norwegian Financial Mechanism Promise Barnahus Network. The services provided at the Children's House are multidisciplinary and are following the Barnahus Standards set up by the Promise Barnahus Network.

The procedural solutions proposed in this law strive for uniform, comprehensive treatment of the child during the hearing, either in the role of a witness or as a victim. Therefore, procedural solutions are designed in such a way that the court, by ordering a hearing under this law, also decides on the use of all measures to protect the child's integrity: avoiding contact with the defendant, using adapted rooms, hearing with the help of an expert, and minimizing the number of hearings (i.e. one-stop-shop approach).

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

INVESTIGATION Question 19. In the investigation phase:

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?^[49] 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)

Please look to the Barnahus questioner and our general response.

The hearing of a witness who is younger than 15 years and who is the victim of the criminal offence of sexual (or similar) nature shall be carried out in specially adapted premises, unless this is not necessary for justifiable reasons that must be specifically substantiated by the court (sixth paragraph of the article 240 of the Criminal Procedure Act). Such safe rooms are available across the country (and there is also Barnahus safe house for children in the capital Ljubljana).

The investigating judge may order that an investigative act be recorded with appropriate technical audio or audiovisual recording equipment, while the testimony of a witness under the age of 15 who was the victim of the crime of sexual (or similar) nature is always taped (first paragraph of the article 84 of the Criminal Procedure Act).

Direct questioning of persons under 15 years of age who are victims of criminal offences of sexual (or similar) nature shall not be permitted at the main hearing. In such cases, the court must decide that the record of the previous questioning of such persons be read out. In such cases parties may ask indirect questions (fifth and sixth paragraph of the article 331 of the Criminal Procedure Act). In cases, when the child, victim of the crime offence of the sexual or similar nature was heard already during the investigation, the panel may, if necessary, decide that in addition to reading the record, an audio or video recording shall also be reproduced at the main hearing (article 341 of the Criminal Procedure Act).

In general, the investigating judge may order that the accused person be removed from the hearing if the witness is unwilling to testify in his or her presence or if the circumstances indicate that the witness will not tell the truth in his or her presence. The accused person may not be present during the examination of a witness younger than 15 years who is the injured party of any of the criminal offences against sexual integrity (and similar offences – fourth paragraph of the article 178 of the Criminal Procedure Act).

In the pre-criminal procedure (police investigation of the incident), based on the report of suspicion of sexual abuse, the police collect information (it is not an interrogation, however, for the purposes of the pre-criminal procedure, the police need the victim's statement) from a child who was a victim or a witness of sexual abuse. The premises to carry out the interview is determined and adapted according to child in terms of his age, understanding, in terms of who the suspect is... the main goal is for the child to feel safe (it can be a place that is therefore intended for the CSW, it can also be in the premises schools, in the premises of NGOs, in rare cases also in a suitable area of the police station...).

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?](#)^[50]
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)

Please look at the questioner for the Barnahus mapping.

The hearing of a minor, especially if such person has suffered harm from the criminal offence concerned, must be conducted with particular care in order to avoid possible detrimental consequences to his or her mental state. If necessary, the hearing of a minor shall be carried out with the assistance of an educational or other expert (fourth paragraph of the article 240 of the Criminal Procedure Act). Note also, that judges, who generally perform such hearings (as well as state prosecutors) are regularly trained for such interviews.

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?](#)^[51] 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)

See the answers to the previous questions. The law is formed in such a manner that the victim is ideally heard already by the investigative judge (as soon as possible) and such hearing takes place via video-conference from the so-called safe room, is taped and in the trial phase the record of the hearing is read and /or the tape of the hearing is played. Public is also excluded from such hearings and the unnecessary contact between the victim and the suspect is prevented.

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?^[52]

[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?^[53] 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)

Please look at the questioner for the Barnahus mapping.

Information provided by the victim of a criminal offence against sexual integrity shall be collected by the same person, and if the victim so wishes, the information from him or her shall be collected by a person of the same gender. The provisions of this Article shall not apply where the collection of information cannot be delayed or if such collection is prevented by temporary reasons of an organisational nature (article 148.a of the Criminal Procedure Act).

Please note that the solution described in the previous paragraph is possible only, when it comes to the police, as in judicial phase, the judge (who is chosen by rules, guaranteeing coincidence – i.e. the standard of the so-called natural judge, which is required by the Constitution and binding international contracts) is primarily the same for the whole investigation, while there is another judge for the whole trial – such is namely the national regulation, which includes the possibility of judicial investigation before the eventual trial. In some cases, where e.g. the judge has been excluded due to partiality issues etc., the case is of course as a consequence given to another judge.

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?^[54] 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)

Please look at the questioner for the Barnahus mapping.

See the answers to the previous questions.

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?**^[55] 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)

The hearing of a witness who is younger than 15 years and who is the victim of the criminal offence of sexual (or similar) nature shall be carried out in specially adapted premises, unless this is not necessary for justifiable reasons that must be specifically substantiated by the court (sixth paragraph of the article 240 of the Criminal Procedure Act).

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?**^[56] Please provide details.

[56] *Ibid.*, Recommendation 59

- Yes
 No

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?](#)^[57]
Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
 No

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?](#)^[58] 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)

Yes. See the answers to the previous questions.

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?](#)^[59]

[59] *Ibid.*, Recommendation 48

Protective measures are mostly intended to prevent unwished contact between the suspect and the victim, when it is not necessary (such contact must be prevented – fifth paragraph of the article 65 of the Criminal Procedure Act). They can include e.g. invitation at different time, taping of the hearing in the investigative phase and replaying it during the trial, hearing through videoconference from the so-called safe room etc. Please note that Republic of Slovenia has implemented its own Barnahus safe house (which is regulated by a specific law) and which can be used for hearings of minor victims of offences with sexual and similar offences.

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?](#)^[60] Please provide details.

[60] *Ibid*

- Yes
 No

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?](#)^[61]

[61] *Ibid*

Art 65/4 states that along the procedure the measures should be taken that the unwanted contact between victim and the suspect or defendant is avoided, unless the contact is absolutely necessary for the successful implementation of the pre-trial or criminal proceeding.

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?](#)^[62]

[62] *Ibid.*, Recommendation 49

From the opening of the session until the conclusion of the main hearing, the panel may, ex officio or upon a motion of the parties, at any time but always after hearing the parties, exclude the public from all or part of the trial, if this is necessary for the protection of confidentiality, maintenance of law, order and morals, the protection of the personal or family life of the defendant, the injured party or the witness, or the interests of a minor, or, if in the panel's opinion, a public trial would be prejudicial to the interests of justice (article 296 of the Criminal Procedure Act).

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?](#)^[63] 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. 65/3 of Criminal Procedure Act the child victim who does not have an attorney the court appoints the attorney ex officio. Such attorney is appointed ex officio (by the court) and paid for by the state – hence without burdening the victim.

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?](#)^[64] 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)

See the answer to the previous question. They can access free legal help (in any legal matters) as provided by the general rules on such help (Legal Aid Act). Application for such help is made by their parents or guardians.

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?](#)^[65]

[65] *Ibid.*, Recommendation 52

The Ministry of Labour, Family, Social Affairs and Equal Opportunities, among others, co-finances social welfare programs aimed at children and young people, within the framework of which help and support is also offered to alleged victims of abuse. The programs offer support to all children and young people who are deprived of a suitable family life and young people with growing up problems. Children from less encouraging environments, with problems growing up, with problems in family relationships (violence, addictions...), with learning difficulties are included in the mentioned programs. Other children and young people with various problems in the family or community can also be involved in community actions. Victim can ask to be informed about the end of the prison sentence of the perpetrator, or about any of his exits from the prison before the end of the prison sentence (as well as about his eventual escape from prison); article 30.b of the Enforcement of Criminal Sanctions Act.

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

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