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## **LANZAROTE COMMITTEE / COMITÉ DE LANZAROTE**

### **FOCUSED QUESTIONNAIRE**

**aimed at gathering information for a forthcoming exchange of views  
to build capacity**

#### **Statute of Limitation**

Compilation of information received from State Parties  
and other stakeholders

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### **QUESTIONNAIRE CIBLÉ**

**visant à rassembler des informations pour un futur échange de vues destiné à  
renforcer les capacités**

#### **Prescription**

Compilation des informations reçues par les États parties  
et autres parties prenantes

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<sup>1</sup> This document compiles the information received from the Parties to the Lanzarote Convention which have agreed to respond to the Focused questionnaire. The Parties had no obligation to respond since this collection of information does not take place in the context of the monitoring of the implementation of the Convention but of an exchange of information, experiences and good practices. The replies are reproduced in the language version in which they were received (English or French) /

*Ce document compile les informations reçues des Parties à la Convention de Lanzarote qui ont accepté de répondre au Questionnaire ciblé. Les Parties n'avaient pas d'obligation de réponse puisque cette collecte d'information ne se fait pas dans le contexte du suivi de la mise en œuvre de la Convention mais d'un échange d'informations, d'expériences et de bonnes pratiques. Les réponses sont reproduites dans la version linguistique dans laquelle elles ont été reçues (anglais ou français).*

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## Background information

The Lanzarote Convention introduced a significant development with respect to the statute of limitation for sexual offences against children. Its Article 33 requires that the statute of limitation for initiating proceedings shall be long enough to allow the efficient starting of proceedings after the victim reached the age of majority.

In various countries, the duration of the statute of limitation in relation to sexual offences against children is being discussed: some argue that there should be no time-limit at all and that victims of child sexual offences should be allowed to start proceedings whenever they feel ready to do so; others argue that existing time-limits should be extended but not entirely abolished as undertaking proceedings excessively long after the facts alleged may not lead to any conclusion.

These debates provide for an opportunity to take stock of the different situations in Parties to understand whether there is a common trend and if so in what direction.

To this end, you are invited to briefly describe the situation in your country as regards the statute of limitation for initiating proceedings concerning sexual offences against children by answering the following questions:

### FOCUSED QUESTIONS

1. **If there is no time-limit foreseen in the legislation of your country for initiating proceedings with regards to sexual offences against children:**
  - a) Please specify whether there has never been a time-limit or when this was abolished.
  - b) Please specify whether there is no time-limit for all sexual offences against children or only for certain types of offences.
  - c) Please specify the sexual offences against children for which there is no time-limit.
2. **If there is a time-limit foreseen in the legislation of your country for initiating proceedings with regards to sexual offences against children:**
  - a) Please specify what are such limitation periods and to which specific offences they apply.
  - b) Please specify when the limitation period begins to run in practice (from the moment the offence was committed, when the child reaches the age of majority, or in the event of specific other circumstance?).
3. **Please add any other information you deem necessary to clarify the situation in your country as regards the statute of limitation for initiating proceedings concerning sexual offences against children.**

\*\*\*\*\*

## Contexte

La Convention de Lanzarote a introduit un point important en matière de prescription des infractions sexuelles contre des enfants. Son article 33 exige en effet que le délai de prescription pour engager des poursuites soit d'une durée suffisante pour permettre l'engagement effectif des poursuites après que la victime a atteint l'âge de la majorité.

Dans divers pays, le délai de prescription des infractions sexuelles contre des enfants fait l'objet de discussions : certains estiment qu'il ne devrait y avoir aucune prescription et que les victimes d'infractions sexuelles subies dans l'enfance devraient être autorisées à engager des poursuites lorsqu'elles se sentent prêtes à le faire ; d'autres considèrent que les délais de prescription en vigueur devraient être allongés mais pas complètement supprimés, car les poursuites risquent de ne pas aboutir lorsqu'elles sont engagées trop longtemps après les faits allégués.

Ces débats sont l'occasion de faire le point sur les situations différentes des Parties en vue de comprendre s'il existe une tendance commune et, dans l'affirmative, dans quelle direction.

À cette fin, vous êtes invité.e à décrire brièvement la situation dans votre pays en ce qui concerne la prescription pour engager des procédures concernant les infractions sexuelles contre les enfants en répondant aux questions suivantes :

## QUESTIONS CIBLÉES

1. **Si la législation de votre pays ne prévoit pas de délai de prescription pour engager des poursuites en cas d'infractions sexuelles contre des enfants :**
  - a) Veuillez préciser s'il n'y a jamais eu de prescription ou quand celle-ci a été abolie.
  - b) Veuillez préciser s'il n'y a pas de prescription pour toutes les infractions sexuelles contre les enfants ou seulement pour certains types d'infractions.
  - c) Veuillez préciser les infractions sexuelles contre les enfants pour lesquelles il n'y a pas de prescription.
2. **Si la législation de votre pays prévoit un délai de prescription pour engager des poursuites en cas d'infractions sexuelles contre des enfants :**
  - a) Veuillez préciser quels sont ces délais de prescription et à quelles infractions spécifiques ils s'appliquent.
  - b) Veuillez préciser quand le délai de prescription commence à courir dans la pratique (à partir du moment où l'infraction a été commise, lorsque l'enfant atteint l'âge de la majorité ou en cas d'autres circonstances spécifiques ?)
3. **Veuillez ajouter toute autre information que vous jugez nécessaire pour clarifier la situation dans votre pays en ce qui concerne la prescription pour engager des poursuites concernant les infractions sexuelles contre les enfants.**

**Question 1**

If there is no time-limit foreseen in the legislation of your country for initiating proceedings with regards to sexual offences against children:

- a) Please specify whether there has never been a time-limit or when this was abolished.
- b) Please specify whether there is no time-limit for all sexual offences against children or only for certain types of offences.
- c) Please specify the sexual offences against children for which there is no time-limit.

Si la législation de votre pays ne prévoit pas de délai de prescription pour engager des poursuites en cas d'infractions sexuelles contre des enfants :

- a) *Veillez préciser s'il n'y a jamais eu de prescription ou quand celle-ci a été abolie.*
- b) *Veillez préciser s'il n'y a pas de prescription pour toutes les infractions sexuelles contre les enfants ou seulement pour certains types d'infractions.*
- c) *Veillez préciser les infractions sexuelles contre les enfants pour lesquelles il n'y a pas de prescription.*

***Albania / Albanie***

No reply available / *Pas de réponse disponible*

***Andorra / Andorre***

L'article 81 du Code Pénal établit que l'action pénale éteint la responsabilité pénale au cours des délais suivants :

- a) Trente années par les délits qui aillent assignée une peine laquelle la limite maximale soit de dix années ou supérieur.
- b) Dix années par les autres délits majeurs.
- c) Quatre années par les délits mineurs.
- d) Six mois par les délits de calomnie, injurie et diffamation et par les contraventions pénales. L'action pénale par la persécution du génocide et les délits contre l'humanité ne prescrit pas en aucun cas.

### Armenia / Arménie

There is time limit foreseen in the legislation for initiating proceedings with regards to sexual offences against children. Time limitation for the prosecution is 15 or 20 (Criminal Code, article 83) years depending on the gravity of the crime, and the limitation begins to run after the age of 18, when the child reaches the age of majority.

a)

There is time limitation and in comparison with other crimes, it is longer 15- 20 years.

b)

There is time limitation for all types of offences.

c)

None

### Austria / Autriche

No reply available / *Pas de réponse disponible*

### Azerbaijan / Azerbaïdjan

No reply available / *Pas de réponse disponible*

### Belgium / Belgique

a)

La loi du 14 novembre 2019 modifie la loi du 17 avril 1878 contenant le titre préliminaire du Code de procédure pénale en vue de supprimer la prescription des infractions sexuelles graves commises sur des mineurs. Depuis lors et avec la nouvelle réforme du Code pénal en 2022, les infractions suivantes ne se prescrivent plus si elles ont visé une personne âgée de moins de 18 ans, en application du nouvel article 21bis, 2o, du titre préliminaire du Code de procédure pénale :

- atteinte à l'intégrité sexuelle (article 417/7 du Code pénal) ;
- voyeurisme (article 417/8 du Code pénal) ;
- diffusion non consentie de contenus à caractère sexuel (article 417/9 du Code pénal) ;
- diffusion non consentie avec une intention méchante ou dans un but lucratif de contenus à caractère sexuel (article 417/10 du Code pénal) ;
- viol (article 417/11 du Code pénal) ;
- actes à caractère sexuel non consentis ayant entraîné la mort (article 417/12) ;
- actes à caractère sexuel non consentis précédés ou accompagnés de torture, de séquestration ou de violence grave (article 417/13 du Code pénal) ;
- actes à caractère sexuel non consentis commis sous la menace d'une arme ou d'un objet qui y ressemble ou après administration de substances inhibitives ou désinhibitives (article 417/14 du Code pénal) ;

- actes à caractère sexuel non consentis commis au préjudice d'une personne dans une situation de vulnérabilité (article 417/15 du Code pénal) ;
- inceste (article 417/18 du Code pénal) ;
- actes à caractère sexuel intrafamiliaux non consentis (article 417/19 du Code pénal) ;
- actes à caractère sexuel non consentis commis avec un mobile discriminatoire (article 417/20 du Code pénal) ;
- actes à caractère sexuel non consentis commis par une personne qui se trouve en position d'autorité ou de confiance à l'égard de la victime (article 417/21 du Code pénal) ;
- actes à caractère sexuel non consentis commis avec l'aide ou en présence d'une ou de plusieurs personnes (article 417/22 du Code pénal) ;
- approche d'un mineur à des fins sexuelles (article 417/24 du Code pénal) ;
- incitation d'un mineur à la débauche ou à la prostitution (article 417/25 du Code pénal) ;
- recrutement d'un mineur à des fins de débauche ou de prostitution (article 417/27 du Code pénal) ;
- tenue d'une maison de débauche ou de prostitution où un mineur se livre à la débauche ou à la prostitution (article 417/29 du Code pénal) ;
- mise à disposition d'un local à un mineur à des fins de débauche ou de prostitution (article 417/31 du Code pénal) ;
- exploitation de la débauche ou de la prostitution d'un mineur (article 417/33 du Code pénal) ;
- obtention de la débauche ou de la prostitution d'un mineur (article 417/35 du Code pénal) ;
- Organisation de la débauche ou de la prostitution d'un mineur en association (article 417/37 du Code pénal) ;
- fait d'assister à la débauche ou à la prostitution d'un mineur (article 417/38 du Code pénal) ;
- production ou la diffusion d'images d'abus sexuel de mineurs (article 417/44 du Code pénal) ;
- refus de prêter son concours technique à la suppression de certaines images à caractère sexuel ou à caractère extrêmement pornographique ou violent (article 417/56 du Code pénal) ;
- excision (article 409 du Code pénal) ;
- traite des êtres humains à des fins d'exploitation sexuelle (article 433quinquies, § 1er, alinéa 1er, 1o, du Code pénal) et tentative de commettre cette infraction.

b)

Les infractions pour lesquelles il y a un délai de prescription sont les suivantes :

- exhibitionnisme (article 417/53 du Code pénal)
- publicité pour la débauche et la prostitution d'un mineur (article 417/39 du Code pénal) ;
- publicité aggravée pour la débauche ou la prostitution d'un mineur (article 417/40 du Code pénal) ;
- incitation à la débauche ou à l'exploitation de la prostitution d'un mineur en public ou par un moyen quelconque de publicité (article 417/41 du Code pénal) ;
- production ou la diffusion d'images d'abus sexuel de mineurs en association (article 417/45 du Code pénal) ;

- détention et l'acquisition d'images d'abus sexuels de mineurs (article 417/46 du Code pénal) ;
- accès à des images d'abus sexuels de mineurs (article 417/47 du Code pénal) ;
- production ou la diffusion de contenus à caractère extrêmement pornographique ou violent (article 417/51 du Code pénal).

Ces infractions sont régies par les délais classiques de prescription de l'action publique à savoir, à compter du jour où l'infraction a été commise un délai de :

- 1° après vingt ans s'il s'agit d'un crime punissable de la réclusion à perpétuité,
- 2° après dix ans s'il s'agit d'un autre crime,
- 3° après cinq ans s'il s'agit d'un autre délit.

c)

Voir réponse a).

### *Bosnia and Herzegovina / Bosnie-Herzégovine*

The statute of limitations applies to all types of sexual offences against children in all three criminal codes in Bosnia and Herzegovina.

### *Bulgaria / Bulgarie*

The Bulgarian legislation provides for a term for conducting the criminal investigation, information on which can be found in item 2.

### *Croatia / Croatie*

a)

In the Republic of Croatia there is no Statute of Limitations for criminal prosecution (and also for execution of sentence) for Serious Criminal Offences of Child Sexual Abuse and Exploitation prescribed by Article 166 Paragraph 3 of the Criminal Code.

This criminal offence was subject to Statute of Limitations, but the time-limit was abolished by the Act on Amendments to the Criminal Code (Official Gazette no. 118/18) which entered into force on 4<sup>th</sup> of January 2019.

b)

There is no time limit only for a certain type of sexual offences against children (Serious Criminal Offences of Child Sexual Abuse and Exploitation prescribed by Article 166 paragraph 3 of the Criminal Code). All other types of sexual offences against children are subject to Statute of Limitations.

c)

There is no time limit for Serious Criminal Offences of Child Sexual Abuse and Exploitation prescribed by Article 166 paragraph 3 of the Criminal Code, which states:

(3) If, as a result of the criminal offence referred to in Article 158 (Sexual Abuse of a Child under the Age of Fifteen), 162 (Child Pandering), 163 (Exploitation of Children for Pornography) or 164 (Exploitation of Children for Pornographic Performances) of this Code, a child dies, the perpetrator shall be punished by imprisonment not less than ten years or long-term imprisonment.

### Cyprus / Chypre

There is no time limit foreseen in the legislation for initiating proceedings with regards to sexual offences against children. The Law includes provisions for reporting suspicion of sexual exploitation and abuse of children and promotion of complaint in order to initiate proceedings immediately.

a)

There has never been a time limit.

b)

For all sexual offences.

c)

N/A

*"Hope For Children" CRC Policy Center Cyprus / "Hope For Children" CRC Policy Center Chypre*

a)

According to the Cypriot legislation, there was no time-limit for crimes in general until 2018. In 2018, there was one single provision for time-limit with regards to crimes for which there is prison sentence up to 3 months and the ones for which there is prison sentence up to 12 months. Therefore, sexual offences against children are not affected by the aforementioned provision because such sentences do not apply in these offences.

b)

There is no time-limit for all sexual offences against children.

Czech Republic / *République tchèque*

a)

N/A

b)

N/A

c)

N/A

Denmark / *Danemark*

a)

Under section 93 b of the Danish Criminal Code, there is no time-limit for initiating proceedings with regards to sexual offences against children. This section was adopted in February 2018, where the time-limit was thus abolished.

b)

Section 93 b applies to most sexual offences against children, but not all - for instance it does not apply in cases of indecency.

c)

- Incest (section 210)
- Rape (section 216)
- Exploitation of mental disorder or mental retardation (section 218)
- Exploitation of position or authority at inter alia the police, the Prison and Probation Service, a child or youth institution or psychiatric wards (section 219).
- Exploitation of a child's dependency of him or her for employment, financial dependence, or dependence on treatment or care (section 220).
- Inducing a child's mistake as to the offender's identity in order to engage in sexual activities (section 221).
- Any sexual intercourse with a child under 15 years of age (section 222).
- Sexual intercourse with a person under 18 years of age, who is the offender's stepchild or foster child, or with whose education or upbringing the offender has been entrusted (section 223 (1)).
- Exploitation of superior age and experience in order to seduce a person under 18 years of age (section 223(2)).
- Assisting in making a person under 18 years of age engage in sexual intercourse with a client for payment or a promise of payment (section 224).

- Offences under section 216-224 (mentioned above), in case of other sexual activities than sexual intercourse (section 225).
- Taking pornographic photographs or making pornographic films or recordings of a person under the age of 18 years with intent to sell or distribute (section 226).
- Using a person under 18 years of age in a pornographic performance or attending such a performance (section 227).

### *Estonia / Estonie*

No reply available / *Pas de réponse disponible*

### *Finland / Finlande*

No reply available / *Pas de réponse disponible*

### *France*

No reply available / *Pas de réponse disponible*

### *Georgia / Géorgie*

On 13 July 2020 the parliament of Georgia adopted the legislative changes in the Criminal Code of Georgia concerning the statute of limitation to the sexual offences against children. According to the legislative amendments the Criminal Code of Georgia (CCG) explicitly indicated that there is no statute of limitation for the following offences committed against a child:

- Rape (Article 137 of CCG);
- Another action of a sexual nature (Article 138 of CCG);
- Coercion into penetration of a sexual nature into the body of a person, or into another action of a sexual nature (Article 139 of CCG);
- Penetration of a sexual nature into the body of a person below 16 years of age (Article 140 of CCG);
- Lewd act (Article 141);
- Engagement in prostitution (article 253 of CCG);
- Promotion of prostitution (Article 254 of CCG), Illegal making or sale of a pornographic work or other items (Article 255 of CCG);
- Engagement of minors in illegal production and sale of pornographic works or other similar items (Article 255<sup>1</sup>);
- Offering a meeting of a sexual character to a person under 16 years of age (Article 255<sup>2</sup>).

Before the adoption of the legislative amendments the following general rule of Article 71 of

CCG on statute of limitation was applied to the sexual offences against a child:

A person shall be released from criminal liability if:

- a) two years have passed after committing a crime for which the maximum sentence provided for under the Special Part of CCG does not exceed a two-year term of imprisonment;
- b) six years have passed after committing another, less serious crime;
- c) ten years have passed after committing a serious crime;
- c<sup>1</sup>) fifteen years have passed after committing crimes provided for in Articles 332-342<sup>1</sup> of this Code, unless they constitute particularly serious crimes;
- c<sup>2</sup>) twenty years have passed after committing crimes provided for in Articles 137 -141 of this Code unless they constitute particularly serious crimes;
- d) thirty years have passed after committing a particularly serious crime.

### Germany / *Allemagne*

No reply available / *Pas de réponse disponible*

### Greece / *Grèce*

No reply available / *Pas de réponse disponible*

### Hungary / *Hongrie*

a)

Hungary applies a dualistic system, certain sexual crimes (punishable by more than 5 years of imprisonment) never become statute-barred, while for the less severe types of offences, the general rules for the statute of limitation apply.

Provisions of the Hungarian Criminal Code related to the statute of limitations of certain crimes has been modified in 2014. Since then, liability to punishment shall not become statute-barred, if the sexual offence is punishable by more than five years of imprisonment and if the aggrieved party had not attained the age of eighteen years when the criminal offence was committed.

b)

According to § 26 Section (3) c) of the Criminal Code of Hungary, liability to punishment shall not become statute-barred for criminal offences specified in Chapter XIX (Criminal offences against the freedom of sexual life and sexual morality), which are punishable by more than five years of imprisonment if the aggrieved party of the criminal offence had not attained the age of eighteen years when the criminal offence was committed.

The provision shall be applied to certain offences included under Chapter XIX, namely:

- § 196: sexual coercion
- § 197: sexual violence
- § 198: sexual abuse

- § 200: procuring
- § 201: facilitating prostitution
- § 203: exploitation of child prostitution
- § 204: child pornography.

The provision under § 26 Section (3) c) does not apply to:

- § 199: incest, as it is punishable with an imprisonment of maximum three years;
- § 202: living on the earnings of prostitution. If a perpetrator lives on the earnings acquired by children below the age of eighteen, it will not qualify based on § 202, but as exploitation of child prostitution under § 203;
- § 205: indecent exposure, as it is punishable with an imprisonment of maximum three years.

c)

Please see our answers above, under 1 b).

### Iceland / Islande

a)

According to article 81

- [Liability expires at the time, as follows:
  - o In 2 years, when the offense does not carry a heavier penalty than 1 year imprisonment or the penalty imposed does not exceed fines.
  - o Within 5 years, when the offense is not punishable by more than 4 years imprisonment.
  - o During 10 years, when the offense is not punishable by more than 10 years imprisonment.
  - o [In 15 years, when the heaviest punishment for an offense is more than 10 years of temporary imprisonment.] 1)

In 2007 legislation was amended and a new paragraph was added to article 81:

- [Despite the provisions of paragraph 1 time-barred for offenses according to the provisions of Article 194, paragraph 1. Article 200 and paragraph 1 Article 201 not when an offense is committed against a child under the age of 18. [The same applies to offenses according to Paragraph 1 Article 202] (*please see answer C for content of articles*).

b)

There is no time-limit for certain types of sexual offences, see answer C below.

c)

There is no time limit for the sexual offences against a child under following articles:

- Article 194 Anyone who has intercourse or other sexual relations with a person without his consent is guilty of rape and shall be imprisoned for not less than 1 year and up to 16 years.
- Article 200 [Any person who has sexual intercourse or other sexual relations with his or her

own child or other descendant shall be imprisoned for up to [8 years] 1) and up to [12 years] 1) if the child [is 15, 16 or 17 years of age].

- Article 201 [Any person who has sexual intercourse or other sexual relations with a child aged 15, 16 or 17 year who is his or her adopted child, step-child, foster-child or the child of his or her cohabiting partner, or is bound to him or her by similar family relationships in direct line of descent, or is a child who has been committed to his or her authority for education or upbringing, shall be imprisoned for up to 12 years.
- [Any person who has sexual intercourse or other sexual relations with a child under the age of [15 years],1) shall be imprisoned for [a minimum of 1 year and a maximum of 16 years].1) ...2)
- [Punishment may be reduced or waived if the perpetrator and the victim are of similar age or level of maturity.]

## *Ireland / Irlande*

### **Criminal Statute of Limitations**

There has never been a time-limit in Ireland for initiating criminal proceedings with regards to sexual offences against children. Section 7 of the Criminal Justice Act 1951, as amended by Section 177 of the Criminal Justice Act 2006, states that time limits that do not apply to an indictable offence that can be tried summarily. An indictable offence is tried by a judge and jury in the Circuit Court or the Central Criminal Court, and all sexual offences against children would fall under this category. Technically, therefore, there is no time limit for the commencement of criminal proceedings in the case of sexual offences against children.

However, if there is an excessively long delay in prosecuting an offence, the judge may decide not to hear the case. In making the decision, the judge considers whether the delay has reduced the accused's chances of a fair trial, for example, if the delay means that key witnesses are no longer available to give evidence or if the delay could have affected their memory of what happened.

### **Civil Statute of Limitations**

The Statute of Limitations Act 1957 details the time limits on persons who wish to take a civil claim for a wrong done to them. As amended by the Statute of Limitations (Amendment) Act 2000, this Act takes account of a person who may not have been in a position to report the abuse or pursue any action in respect of that abuse for a very long period of time. This was in recognition that the nature of sexual abuse, and in particular child sexual abuse, where the victim is often unable to speak about the abuse let alone bring a legal action in respect of it for many years. The law has made a special allowance for persons in that situation.

Section 48 of the Statute of Limitations Act 1957 provides an extended limitation period for victims of sexual abuse. Amending legislation enacted in 2000 inserted Section 48A into the 1957 Statute. Under Section 48A a person is deemed to be 'under a disability' while suffering from any psychological injury caused by the acts perpetrated by the wrongdoer which is of such significance that the victim's will to bring a case or ability to make a reasoned decision to bring a case is substantially impaired.

Section 49 permits for the extension of the period of limitation for up to six years 'from the

date when the person ceased to be under a disability or died, whichever event first occurred’.

However, a court still retains the power to dismiss an action on the ground of there being such delay between the accrual of the cause of action and the bringing of the action as, in the interests of justice, would warrant its dismissal.

#### Italy / *Italie*

No reply available / *Pas de réponse disponible*

#### Latvia / *Lettonie*

No reply available / *Pas de réponse disponible*

#### Liechtenstein

No reply available / *Pas de réponse disponible*

#### Lithuania / *Lituanie*

The Criminal Code of Lithuania Republic (CC) sets limits on how a person can be convicted of sexual offenses against children (for details see the answer in the next paragraph).

#### Luxembourg

No reply available / *Pas de réponse disponible*

#### Malta / *Malte*

No reply available / *Pas de réponse disponible*

#### Republic of Moldova / *République de Moldova*

No reply available / *Pas de réponse disponible*

#### Monaco

No reply available / *Pas de réponse disponible*

#### Montenegro / *Monténégro*

Prosecution for criminal offenses against sexual freedom, whether it is for adults or minors, has a statute of limitations in accordance with Article 124 of the Criminal Code of Montenegro, which refers to the statute of limitations for criminal prosecution.

Obsolescence of criminal prosecution Article 124 Criminal Code of Montenegro

Unless otherwise specified in this Code, criminal prosecution may not be undertaken when:

- 1) twenty-five years have elapsed from the commission of a criminal offense for which a long-term imprisonment sentence may be imposed by law;
- 2) twenty years from the commission of the criminal offense for which, according to the law, imprisonment of more than fifteen years can be imposed;
- 3) fifteen years from the commission of the criminal offense for which, according to the law, imprisonment of more than ten years can be imposed;
- 4) ten years from the commission of the criminal offense for which, according to the law, imprisonment of more than five years can be imposed;
- 5) five years from the commission of the criminal offense for which a prison sentence of more than three years may be imposed under the law;
- 6) three years from the commission of the criminal offense for which, according to the law, imprisonment of more than one year can be imposed;
- 7) two years from the commission of the criminal offense for which, according to the law, a prison sentence of up to one year or a fine may be imposed.

If multiple penalties are prescribed for a criminal offence, obsolescence is determined according to the most severe prescribed penalty.

### *Netherlands / Pays-Bas*

Update provided in 202 :

#### *Current legislation*

In principle, most offences and crimes are subject to a time-limit as mentioned before. However, there are two exceptions:

- a. As a rule, no time-limit applies for serious offences punishable by a term of imprisonment of twelve years or more. This, naturally, applies to the crime of rape (Article 242 Dutch Penal Code) and all sexual acts comprising or including sexual penetration of the body with a person who is under the age of twelve years (Article 244 DPC).
- b. Furthermore, no time-limit applies where specific offences punishable by a term of imprisonment of eight years or more were committed against a minor person (<18). This applies to the following offences:
  - Article 240b, Paragraph 2, DPC criminalises any person who makes a profession or habit of committing the act of child pornography.
  - Article 243 criminalises any person who engages in sexual acts comprising or including sexual penetration of the body with an unconscious or mentally ill person.
  - Article 245 criminalises any person who engages in lewd acts comprising or including sexual penetration of the body with a person who has reached the age of twelve years but not yet sixteen years.
  - Article 246 criminalises any person who by an act of violence or any other act or by threat of violence or threat of any other act, compels another person to engage in or to tolerate lewd acts.

This exception to the time-limit has not always been there. As of 1 April 2013, the time-limit for crimes punishable by imprisonment of 12 years or more was abolished. These are serious violent and sexual offences, such as manslaughter, aggravated assault with premeditation and rape. Since then, there is no time-limit for these offences.

At the time, the time-limit for specific sexual offences committed against minors was also abolished. These include the professional manufacture and distribution of child pornography.

#### *Draft bill on sexual offences*

In October 2022, a draft bill on sexual offences (in Dutch: wetsvoorstel seksuele misdrijven) has been submitted to Parliament. The current legislation with regard to sexual offences is being revised fundamentally in the Dutch Penal Code. During the parliamentary debate the draft bill can still change. The draft bill also has consequences for the statute of limitations for a number of offences, therefore information on the draft bill is included where relevant.

The draft bill law contains specific offenses of rape and sexual assault against minors.

The scope of the exception to the time-limit for sexual offences committed against children will be widened by the draft bill. The threshold will be set at offences with a maximum sentence of six years imprisonment or more (article 70 paragraph 2 under 2 of the draft bill), instead of the current threshold of offences with a maximum sentence of eight years imprisonment or more. This entails that intentional sexual assault and intentional rape committed against a person under the age of eighteen are not subject to a time-limit. The same is true for the basic offence of possessing child pornography and the sexual offence of attending a child pornographic performance.

#### *North Macedonia / Macédoine du Nord*

No reply available / *Pas de réponse disponible*

#### *Norway / Norvège*

In accordance with section 91 in the Norwegian Penal Code, the most serious sexual offences against children have no time limit, more specifically *Sexual assault on a child under 14 years of age* (section 299) and *Sexual activity with a child between 14 and 16 years of age* (section 302). Also, there is no time limit for the penal provision on *Sexual assault* (section 291), which is also applicable to children. Aggravated violations are similarly not subject to limitation. The time limits for the above-mentioned offences were removed in 2014.

#### *Poland / Pologne*

In Poland, crimes against sexual freedom and morality committed against either minors or adults have a statute of limitations (see Question 2).

#### *Portugal*

No reply available / *Pas de réponse disponible*

### Romania / Roumanie

a)

The time limit existed, but was abolished in 2020, by Law 217/2020 for the amendment and completion of Law no. 286/2009 on the Criminal Code, as well as for the amendment of art. 223 para. (2) of Law no. 135/2010 on the Code of Criminal Procedure.

b)

Only for certain types of offences.

c)

*De lege lata*, only rape and sexual act with a child have no time limit.

*De lege ferenda*, the Parliament has on its debate a draft law which also eliminates the time limit for offences of trafficking in human beings (including children), pimping (including in children), sexual assault (including of children) and child pornography.

### Russian Federation / Fédération de Russie

No reply available / *Pas de réponse disponible*

### San Marino / Saint-Marin

No reply available / *Pas de réponse disponible*

### Serbia / Serbie

a)

The time limit has been abolished with the adoption of the Law on special measures to prevent the commission of criminal acts against sexual freedom against minors "Official Gazette of RS", number 32 of April 8, 2013.

b)

The aforementioned Law in article 3 states that it applies to perpetrators who have committed the following crimes against minors:

1) Rape (Article 178, paragraphs 3 and 4 of the Criminal Code);

2) Sexual Intercourse with a Helpless Person (Article 179, paragraphs 2 and 3 of the Criminal Code);

- 3) Sexual Intercourse with a child (Article 180 of the Criminal Code);
- 4) Sexual Intercourse through Abuse of Position (Article 181 of the Criminal Code);
- 5) Prohibited sexual acts (Article 182 of the Criminal Code);
- 6) Pimping and procuring (Article 183 of the Criminal Code);
- 7) Mediation in prostitution (Article 184, paragraph 2 of the Criminal Code);
- 8) Showing, Procuring and Possessing Pornographic Material and Minor Person Pornography (Article 185 of the Criminal Code);
- 9) Inducing a Child to Attend Sexual Acts (Article 185a of the Criminal Code);
- 10) Abuse of Computer Networks or other Technical Means of Communication for Committing Criminal Offences against Sexual Freedom of the Minor (Article 185b of the Criminal Code).

In Article 5 paragraph 3 it is stated that „Criminal prosecution and the execution of the sentence do not expire for the criminal acts referred to in Article 3 of this law that were committed against minors”

c)

The answer is already given in the question number 2.

*Slovak Republic / République slovaque*

No reply available / *Pas de réponse disponible*

*Slovenia / Slovénie*

No reply available / *Pas de réponse disponible*

*Spain / Espagne*

In Spain there is a time-limit foreseen in the legislation for initiating proceedings with regards to sexual offences against children.

a)

The statute of limitation depends on the particular threat of punishment for a criminal offense. The general regulation of statutes of limitation is found in section 131 and 132 of the Criminal Code. The statute of limitation is not affected by the time period until the victim of sexual offence reaches the age of 35, if the victim was a minor at the time the offence was committed.



It applies to :

- a) sexual intercourse with a minor under 16 years old. Penalty and statute of limitation will be different in case of force, threat or deceit and in specific situations such as :

- when there are more than one perpetrators
- when the minor is specially vulnerable due to her/his age, illness, disability or any other similar circumstances or in case of minors under 4 years old
- when the perpetrator takes advantage of his/her position of influence or trust
- when the perpetrators uses weapons or any kind of dangerous object, ready to cause harm or death.
- when the perpetrator uses drugs, medicines or any kind of chemical or natural product to affect the capacity of the victim to give his/her consent
- when the crime is committed by an organization or criminal group dedicated to this kind of crimes.

- b) contact with a child for sexual purposes

- c) purchase of sexual services

- d) child pornography offence

- e) sexual exhibitionism

b)

The time limitation commences with completion of the offence or with cessation of the criminalized conduct. If the victim, however, at the time of the offence has been below the age of 18, the statute of limitation does not begin to run before the victim has reached the age of 35 or, in case of decease before reaching this age, the statute of limitation begins to run before the date of decease.

### Sweden / Suède

a)

In May 2020, the statute of limitations was abolished for certain serious sexual offences against children.

b)

It is only the most serious types of sexual offences against children that have no statute of limitations, namely

- *rape or gross rape* if the offence was committed against a person who had not attained eighteen years of age; and
- *rape of a child or gross rape of a child* (in this context a child refers to a person under fifteen years of age or a child who has attained fifteen but not eighteen years of age and

who is the perpetrator's descendant, or is being brought up by or has a comparable relationship with the perpetrator, or for whose care or supervision the perpetrator is responsible by decision of a public authority).

c)

Please refer to the answer above.

### Switzerland / Suisse

*English is not an official language of the Swiss Confederation. The translation of the cited articles of the Swiss criminal code are provided for information purposes only and have no legal force. Link to the English text: [SR 311.0 - Swiss Criminal Code of 21 December 1937 \(admin.ch\)](#)*

*Link to the official law text in French: [RS 311.0 - Code pénal suisse du 21 décembre 1937 \(admin.ch\)](#)*

a)

The Swiss criminal code provides a no time-limit for initiating proceedings with regards to certain sexual offences against children. The provision in question (art. 101 para. 1 lit. e CC) has been enacted on the 15<sup>th</sup> June 2012 and is in force since the 1<sup>st</sup> January 2013.

b)

Article 101 para. 1 lit. e CC provides an exclusion from limitation only for certain types of sexual offences (see 1. C)) if they are committed against children under the age of 12. According to art. 101 para. 3 CC, for the no-time-limit to be applied it is additionally required that the prosecution of the sentence has not become time barred by November 30<sup>th</sup>, 2008 in accordance with the law applicable until that point in time.

c)

If the aforementioned conditions are met, art. 101 para. 1 lit. e CC provides an exclusion from the limitation of the right to prosecute the following offences: sexual acts with children (art. 187 No. 1 CC), indecent assault (art. 189 CC), rape (art. 190 CC), sexual acts with persons incapable of judgment or resistance (art. 191 CC), sexual acts with persons in institutional care, prisoners and persons on remand (art. 92 para. 1 CC) and exploitation of a person in apposition of need or dependency (art. 193 para. 1 CC).

Tunisia / *Tunisie*

No reply available / *Pas de réponse disponible*

Turkey / *Turquie*

No reply available / *Pas de réponse disponible*

Ukraine

No reply available / *Pas de réponse disponible*

United Kingdom / *Royaume-Uni*

a)

With one negligible exception, there is not, and never has been, a time-limit in England and Wales for initiating criminal proceedings in respect of offences that are potentially serious enough to be tried in the Crown Court, including sexual offences against children.

The sole exception is the offence in section 6 of the Sexual Offences Act 1956 of unlawful (but consensual) sexual intercourse with a girl aged 13-15, which was subject to a requirement that a prosecution must be commenced within 12 months of the offence. The section 6 offence was replaced, when the Sexual Offences Act 2003 came into force on 1 May 2004, by new offences which are not subject to a time limit. The change was not retrospective, however. It follows that whilst conduct that took place before 1 May 2004 could be charged only as the section 6 offence, the 12-month requirement would still apply and a prosecution would now be statute-barred.

b)

With the exception described above, there is no time-limit for all sexual offences against children.

## Question 2

If there is a time-limit foreseen in the legislation of your country for initiating proceedings with regards to sexual offences against children:

- a) Please specify what are such limitation periods and to which specific offences they apply.
- b) Please specify when the limitation period begins to run in practice (from the moment the offence was committed, when the child reaches the age of majority, or in the event of specific other circumstance?).

Si la législation de votre pays prévoit un délai de prescription pour engager des poursuites en cas d'infractions sexuelles contre des enfants :

- a) *Veuillez préciser quels sont ces délais de prescription et à quelles infractions spécifiques ils s'appliquent.*
- b) *Veuillez préciser quand le délai de prescription commence à courir dans la pratique (à partir du moment où l'infraction a été commise, lorsque l'enfant atteint l'âge de la majorité ou en cas d'autres circonstances spécifiques ?)*

### *Albania / Albanie*

No reply available / *Pas de réponse disponible*

### *Andorra / Andorre*

D'après le Code pénale, le délai de prescription commence à se calculer à partir du jour auquel s'arrête l'action ou l'omission punissable. Néanmoins, dans les délits de résultat réalisé le calcul se vérifie à partir du moment auquel le résultat aille été produit, et dans les agressions et délits sexuels contre des mineurs, à partir du moment auquel la victime arrive aux 18 ans ou à partir de sa mort si elle n'arrive pas à cet âge.

Dans les cas d'infraction continuée, le délai se calcule depuis le jour auquel la dernière infraction aille été réalisée.

*Armenia / Arménie*

a)

The time limitation is 15 years, for the felony. And for the gravier/special severe crimes is 20 years.

b)

The limitation period begins to run after the child reaches the age of majority not depending on any other circumstance or the age of child when the offence was committed.

*Austria / Autriche*

a)

The statute of limitations depends on the particular threat of punishment for a criminal offense. The general regulation on the statute of limitations is found in Section 57 of the Criminal Code. The statute of limitation is not affected by the time period until the victim of an offence against limb and life, liberty, or sexual integrity and self-determination reaches the age of 28, if the victim was a minor at the time the offence was committed.

The following table is intended to provide a brief overview of the relevant limitation periods.

<b>Criminal offences in the CC</b>	<b>Statute of limitation</b>
Rape (sec 201)	depending on the qualification: 10 years, 20 years, no statute of limitation
Sexual coercion (sec 202)	depending on the qualification: 5 years, twenty years, no statute of limitation
Sexual abuse of a vulnerable or mentally impaired person (sec 205)	depending on the qualification: 5 years, 10 years, no statute of limitation
Violation of the right to sexual self-determination (sec 205a)	5 years
Serious sexual abuse of a person under the age of 14 (sec 206)	depending on the qualification: 10 years, 20 years, no statute of limitation
Sexual abuse of a person under the age of 14 (sec 207)	depending on the qualification: 5 years, 20 years, no statute of limitation
Pornographic images of a minor (sec 207a)	depending on the qualification: 3 years, 5 years, ten years
Sexual abuse of a person under the age of 16 (sec 207b)	depending on the qualification: 3 years, 5 years
Indecent endangerment of persons under the age of 16 (sec 208)	depending on the qualification: 3 years, 5 years
Initiating sexual contact with persons under the age of 14 (sec 208a)	depending on the qualification: 3 years, 5 years
Abuse of a position of authority (sec 212)	depending on the qualification: 3 years, 5 years
Procuring sexual contact with a minor for	5 years

payment (sec 214)	
Procuring engagement in prostitution and Pornographic performances by a minor (sec 215a)	depending on the qualification: 3 years, 5 years, ten years

Note that the start of the listed statute of limitations is postponed until the victim reaches the age of 28 in the case the victim was a minor.

b)

The time limitation commences with completion of the offence or with cessation of the criminalized conduct. If the victim, however, at the time of the offence has been below the age of 18, the statute of limitation does not begin to run before the victim has reached the age of 28.

#### *Azerbaijan / Azerbaïdjan*

No reply available / *Pas de réponse disponible*

#### *Belgium / Belgique*

Cf question 1b

#### *Bosnia and Herzegovina / Bosnie-Herzégovine*

According to Criminal Code of Republika Srpska statute of limitations for criminal prosecution in sexual criminal offences made against a child shall start running as of the day when the injured party comes of age maturity (18 years of age).

Criminal codes of the Federation of BiH and the Brčko District in terms of criminal offences of sexual violence against children prescribe that deadline for statute of limitations starts running as of the day when the criminal offence was committed.

#### *Bulgaria / Bulgarie*

National law requires that the criminal proceedings are commenced (or initiated), if there is sufficient evidence of a crime. There is a sufficient period for conducting the criminal proceedings, which commensurate with the gravity of the crime. The statute of limitations for prosecution begins to run from the completion of the crime.

The limitation periods are reduced when the perpetrator is an underage.

We explicitly state that the limitation periods apply to all crimes in the category of "Debauchery".

*Croatia / Croatie*

## a)

The statute of limitations applies to all types of sexual offences against children, except the criminal offence prescribed by Article 166 Paragraph 3 of the Criminal Code. Time-limits for the criminal prosecution are prescribed by Article 81 Paragraph 1 of the Criminal Code.

Criminal prosecution shall become statute-barred after:

40 years- for criminal offences referred to in Article 154 paragraph 3 (Serious criminal offences against sexual freedom) and Article 166 paragraph 2 (Serious criminal offences of Child Sexual Abuse and Exploitation) of the Criminal Code

25 years- for criminal offences referred to in Article 154 paragraph 2 (Serious criminal offences against sexual freedom), Article 158 Paragraphs 1 and 5 (Sexual Abuse of a Child under the Age of Fifteen), Article 162 paragraphs 1 and 3 (Child Pandering), Article 163 paragraph 3 (Exploitation of Children for Pornography), Article 164 paragraph 2 and 3 (Exploitation of Children for Pornographic Performances), Article 166 paragraph 1 (Serious criminal offences of Child Sexual Abuse and Exploitation) of the Criminal Code

20 years- for criminal offences referred to in Article 154 paragraph 1 (Serious criminal offences against sexual freedom), Article 158 Paragraphs 2 , 4 (in relation to paragraph 1) and 6 (Sexual Abuse of a Child under the Age of Fifteen), Article 159 (Sexual Abuse of a Child over the Age of Fifteen), Article 162 paragraphs 2 and 4 (Child Pandering), Article 163 paragraphs 1 and 2 (Exploitation of Children for Pornography), Article 164 paragraph 1 and 4 (Exploitation of Children for Pornographic Performances) of the Criminal Code

15 years- for criminal offences referred to in Article 155 paragraph 3 (Lewd Acts), Article 158 paragraph 4 (in relation to paragraph 2) (Sexual Abuse of a Child under the Age of Fifteen), Article 160 paragraph 2 (Satisfying Lust in the Presence of a Child under the Age of Fifteen), Article 161 paragraph 1 (Child Enticement for the Purpose of Satisfying Sexual Needs), Article 165 paragraph 1 (Introducing Pornography to Children) of the Criminal Code

10 years- for criminal offences referred to in Article 160 paragraph 1 (Satisfying Lust in the Presence of a Child under the Age of Fifteen), Article 161 paragraph 2 (Child Enticement for the Purpose of Satisfying Sexual Needs) of the Criminal Code.

If, before the end of the periods of limitation, a first-instance judgment has been rendered, the period of limitation on criminal prosecution shall be extended by two years.

## b)

Running of the Statute of Limitations for Criminal Prosecution is prescribed by Article 82 of the Criminal Code. The period of limitation for criminal prosecution generally commences on the date a criminal offence is committed. If a consequence which is a material element of a criminal offence arises later, the statute of limitations commences from that moment.

As an exception to this rule, the statute of limitations for criminal prosecution for criminal offences referred to in Article 105, paragraph 3 (Slavery), Article 106, paragraphs 2 and 3 (Trafficking in Human Beings), Articles 110 (Murder), 111 (Aggravated Murder), Article 112, paragraph 1 (Manslaughter), Articles 114, paragraph 2 (Participation in Suicide), Article 115 (Unlawful Termination of Pregnancy), Article 116, paragraph 3 (Female Genital Mutilation), Article 118 (Serious Bodily Injury), Article 119 (Particularly Serious Bodily Injury), Article 154 (Serious Criminal Offences against Sexual Freedom), Article 155 paragraph 2 (Lewd Acts), Article 156 (Sexual Harassment), Articles 158 (Sexual Abuse of a Child under the Age of Fifteen), 159 (Sexual Abuse of a Child over the Age of Fifteen), 160 (Satisfying Lust in the Presence of a Child under the Age of Fifteen), 162 (Child Pandering), 163 (Exploitation of Children for Pornography), 164 (Exploitation of Children for Pornographic Performances), Article 166 paragraphs 1 and 2 (Serious Criminal Offence of Child Sexual Abuse and Exploitation), Articles 169 (Forced Marriage), 170 (Enabling Nonmarital Cohabitation with a Child), 171 (Abandonment of a Close Person in a Situation of Distress), 176 (Child Desertion) and 177 (Violation of the Rights of a Child) of this Code committed against a child shall start running when the victim reaches legal age( 18 years of age).

### Cyprus / Chypre

No reply available / *Pas de réponse disponible*

"Hope For Children" CRC Policy Center Cyprus / "Hope For Children" CRC Policy Center Chypre

No reply available / *Pas de réponse disponible*

### Czech Republic / République tchèque

a)

According to Section 34 paragraph 1 of the Czech Criminal Code criminal liability for a criminal offence will expire upon the lapse of the period of limitation, which amounts to

- a) **thirty years** where a criminal offence is concerned for which the Criminal Code stipulates imposition of an exceptional sentence of imprisonment, and a criminal offence committed as part of the drafting or approving of a privatisation project according to another legal regulation,
- b) **fifteen years** where the upper limit of a sentence of imprisonment amounts to a minimum of ten years,
- c) **ten years** where the upper limit of a sentence of imprisonment amounts to a minimum of five years,
- d) **five years** where the upper limit of a sentence of imprisonment amounts to a minimum of three years,
- e) **three years** for other criminal offenses.

Based on above-mentioned provision the statute of limitation in relation to respective criminal offences in question is following:

**Fifteen years:**

- rape (committed on a child)
- sexual duress (committed on a child under the age of fifteen)
- sexual abuse (committed on a child under fifteen years of age entrusted to offender's supervision, while abusing child's dependence or the offender's position and child's credibility or influence derived therefrom)

**Ten years:**

- sexual duress (committed on a child)
- sexual abuse (performing a sexual intercourse with a child under the age of fifteen or other sexual abuse of a child)
- abuse of a child for production of pornography

**Five years:**

- production and other disposal with child pornography (production, import, export, transport, offer, making publicly available, providing, putting into circulation, selling or other procurement of a pornographic work that display or otherwise use a child or a person that appears to be a child)

**Three years:**

- prostitution threatening moral development of children
- production and other disposal with child pornography (handling of a pornographic work displaying or otherwise using a child or a person that appears to be a child)
- attending a pornographic performance
- engaging in forbidden contacts with a child

b)

Generally, period of limitation starts upon completion of the respective criminal conduct. However, according to Section 34 paragraph 3 lit. c) the period of time during which a victim of any of the criminal offences referred to in Chapter III of the Special Part of the Criminal Code (criminal offences against human dignity in sexual sphere) was younger than 18 years is not being counted into the period of limitation. In other words, in case of sexual offences against children the limitation period begins to run when the child reaches the age of majority (18 years in the Czech Republic).

*Denmark / Danemark*

a)

For acts of indecency towards a child the time-limit is 5 years. If the indecency was committed towards a child under the age of 15, the time limit does not begin to run until the child reaches

the age of 21 (section 95). In all other cases the time limit runs from the moment the offence was committed.

b)

See above.

### *Estonia / Estonie*

a)

According to §§ 81 of the Penal Code No one shall be convicted of or punished for a criminal offence if the following terms have expired between the completion of the criminal offence and the entry into force of the corresponding court judgment:

1) ten years in the case of a criminal offence in the first degree; (these include acts such as rape and act of sexual nature against will);

2) five years in the case of a criminal offence in the second degree (such as §§ 143 of the Penal Code - Compelling person to engage in sexual intercourse or other act of sexual nature);

The exceptions to this general rule can be found in subsection 2 of §§ 81, according to which crimes of aggression, crimes of genocide, crimes against humanity, war crimes and criminal offences for which life imprisonment (this includes rape and acts of sexual nature against will if they have been committed by a person who has been punished for a similar act) is prescribed do not expire.

Also §§ 81 subsection 7 states that the limitation period of offence is interrupted:

1) in the case a suspect, accused or person subject to proceedings absconds from pre-trial proceedings, extra-judicial proceedings or court, until the person is detained or appears before the body conducting the proceedings;

2) upon commencement of criminal proceedings in a matter of an act with elements of a misdemeanour, until the termination of the criminal proceedings;

3) in the case of marriage against will, disabling female genital mutilation, illegal termination of pregnancy and criminal offence against sexual self-determination against a person younger than eighteen years of age, until the victim attains eighteen years of age, unless the reason for the criminal proceedings became evident before the victim attained such age.

b)

According to §§ 81 of the Penal Code No one shall be convicted of or punished for a criminal offence if the following terms have expired between the completion of the criminal offence and the entry into force of the corresponding court judgment:

1) ten years in the case of a criminal offence in the first degree; (these include acts such as rape and act of sexual nature against will);

2) five years in the case of a criminal offence in the second degree (such as §§ 143 of the Penal Code - Compelling person to engage in sexual intercourse or other act of sexual nature);

The exceptions to this general rule can be found in subsection 2 of §§ 81, according to which crimes of aggression, crimes of genocide, crimes against humanity, war crimes and criminal offences for which life imprisonment (this includes rape and acts of sexual nature against will if they have been committed by a person who has been punished for a similar act) is prescribed do not expire.

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2) upon commencement of criminal proceedings in a matter of an act with elements of a misdemeanour, until the termination of the criminal proceedings;

3) in the case of marriage against will, disabling female genital mutilation, illegal termination of pregnancy and criminal offence against sexual self-determination against a person younger than eighteen years of age, until the victim attains eighteen years of age, unless the reason for the criminal proceedings became evident before the victim attained such age.

### Finland / Finlande

a)

Please see reply under question 3 below.

b)

Please see reply under question 3 below.

### France

a)

Les délais de prescription de l'action publique en matière d'infractions sexuelles commises sur la personne d'un mineur sont les suivants (article 7 et 8 du code de procédure pénale) :

- 30 ans pour les crimes de viol imposés à un mineur ;
- 20 ans pour les délits d'agressions sexuelles imposés à un mineur de 15 ans et pour les délits d'atteintes sexuelles, commises hors les cas de viol et agression sexuelle, imposés à un mineur de 15 ans et aggravés par une circonstance. L'article 227-26 du

code pénal énumère ces circonstances aggravantes (notamment les faits commis par un ascendant ou une personne ayant sur la victime une autorité de droit ou de fait, par plusieurs personnes, ou par une personne en état d'ivresse manifeste ou sous l'emprise manifeste de produits stupéfiants...).

- 10 ans pour les autres délits d'agressions sexuelles imposés à un mineur.
- La loi n° 2021-478 du 21 avril 2021 visant à protéger les mineurs des crimes et délits sexuels et de l'inceste a allongé la prescription du délit de non information des autorités judiciaires ou administratives d'agressions ou atteintes sexuelles infligés à un mineur : délai de 20 ans si défaut d'information concerne un viol et 10 ans si concerne une agression ou une atteinte sexuelle.

b)

Le point de départ de l'ensemble des délais de prescription ci-dessus détaillés est reporté au jour de la majorité de la victime. Ces délais ne commencent donc pas à courir dès la date de commission des faits.

### *Georgia / Géorgie*

As mentioned above, there is no statute of limitation for specific types of sexual offences against a child under CCG. This rule does not apply to Article 143<sup>2</sup> of CCG that criminalizes child sexual exploitation (child trafficking). Child sexual exploitation is a particular serious crime and in case of commission of such act the statute of limitation expires after 30 years. The limitation period shall be calculated starting from the day when the crime is committed up to the day when formal charges are brought against the person. If another crime is committed, the limitation period shall be calculated for each individual crime. The running of the limitation period shall be suspended if the offender absconds during the investigation or trial. In this case, the running of the limitation period shall be resumed from the moment the offender gets arrested or appears with the confession of guilt.

### *Germany / Allemagne*

a)

The main offences and their limitation periods are:

The sexual abuse of children under section 176 subsection 1 and 2 of the German Criminal Code has a 10-year limitation period according to section 78 subsection 3 number 3 of the German Criminal Code.

The aggravated sexual abuse of children under section 176a of the German Criminal Code has a 20-year limitation period according to section 78 subsection 3 number 2 of the German Criminal Code.

The sexual abuse of children resulting in death under section 176b of the German Criminal Code has a 30-year limitation period according to section 78 subsection 3 number 1 of the

German Criminal Code.

The sexual abuse of juveniles under section 182 of the German Criminal Code has a 5-year limitation period according to section 78 subsection 3 number 4 of the German Criminal Code.

b)

According to section 78b subsection 1 number 1 of the German Criminal Code, the limitation period is stayed until the victim has reached the age of 30 years for offences which include but are not limited to: sections 174 to 174c, 176 to 178 and section 182 of the German Criminal Code.

The aggravated abuse of children under section 176a of the German Criminal Code has a 20-year limitation period, for example; this means that the offence will not expire until the victim has turned 50 years of age.

In addition, many investigation measures, such as the order for the first examination of the accused or the notice that a preliminary investigation has been initiated against the accused, interrupt the limitation period and let it begin to run anew, see section 78c subsection 1 and 3 of the German Criminal Code, which can prolong the limitation period until the victim has reached 70 years of age.

See Appendix / *Voir l'Annexe*

**Updated in 2022:**

Questions 2 and 3 are answered together as follows:

The period of the statute of limitations for prosecution depends on the severity of the respective offence as expressed in the level of the threat of punishment (section 78 of the Criminal Code). In the case of offences punishable by a maximum term of imprisonment of more than ten years, the statute of limitations under section 78 (3) no. 2 of the Criminal Code is 20 years. This lengthy statute of limitations applies not only to the cases of “Aggravated sexual abuse of children” (see section 176c of the Criminal Code) but also to the basic offence of “Sexual abuse of children”, which is punishable by a term of imprisonment of one year to fifteen years (see section 176 of the Criminal Code as amended by the Act to Combat Sexualised Violence against Children of June 16, 2021, Federal Law Gazette I 2021, p. 1810). For the offences of “Sexual abuse of children without physical contact with the child” and “Preparing sexual abuse of children” (sections 176a and 176b of the Criminal Code) the statute of limitations is 10 and 5 years respectively (section 78 (3) nos. 3 and 4 of the Criminal Code). Section 78b (1) no. 1 of the Criminal Code has stipulated since 27 January 2015 that the statute of limitations for sexual offences under sections 174 to 174c, 176 to 178, section 182 of the Criminal Code is suspended until the victim reaches the age of 30. This means that when the victim reaches the age of 30, the statute of limitations first begins to run. This relatively new rule means that for all serious sexual offences subject to a 20-year statute of limitations, the limitation period can never expire before the victim reaches the age of 50.

The period outlined can be extended until the victim reaches the age of 70 in the case of corresponding interrupting acts under section 78c of the Criminal Code, such as ordering the

first interrogation of the accused.

### Greece / Grèce

No reply available / *Pas de réponse disponible*

### Hungary / Hongrie

a)

According to § 26 Section (3) c) of the Criminal Code of Hungary, liability to punishment shall not become statute-barred for criminal offences specified in Chapter XIX (Criminal offences against the freedom of sexual life and sexual morality), which are punishable by more than five years of imprisonment if the aggrieved party of the criminal offence had not attained the age of eighteen years when the criminal offence was committed.

The provision under § 26 Section (3) c) does not apply to:

- § 199: incest, as it is punishable with an imprisonment of maximum three years, which means that the statute of limitations is 3 years accordingly;
- § 202: living on the earnings of prostitution. If a perpetrator lives on the earnings acquired by children below the age of eighteen, it will not qualify based on § 202, but as exploitation of child prostitution under § 203;
- § 205: indecent exposure, as it is punishable with an imprisonment of maximum three years, which means that the statute of limitations is 3 years accordingly.

b)

According to § 28 Section (1) of the Criminal Code, if the aggrieved party of a criminal offence against the freedom of sexual life and sexual morality had not yet attained the age of eighteen years when the criminal offence was committed, the limitation period shall not include the period left until the aggrieved party attains or would have attained the age of **twenty-one years**. The above provision has been introduced to the Criminal Code in 2013, at that time it specified that the limitation period does not include the period until the aggrieved party attains the age of eighteen years. This provision was modified in 2021, since then, limitation period of sexual offences starts when the aggrieved party attains the age of 21 years.

### Iceland / Islande

a)

- Article 197 [If a supervisor or an employee in a prison, another institution run by the police, prison authorities or child welfare authorities, a psychiatric ward of a hospital, a home for mentally disabled people or another such institution has intercourse or other sexual relations with an inmate in the institution, it is punishable by up to 4 years in prison.]
- Article 198 [Anyone who has intercourse or other sexual relations with a man... ) by blatantly abusing his position that he is dependent on him financially, in his work or as his client in a confidential relationship shall be imprisoned for up to 3 years or, if the man is younger than

18 years old, up to 6 years. ... )

- Article 199 [Anyone guilty of sexual harassment shall be imprisoned for up to 2 years. Sexual harassment includes i.a. in stroking, fondling or touching another person's genitals or breasts inside or outside of clothing, moreover in symbolic behavior or language that is very hurtful, repeated or likely to cause fear.]

- Article 200

- o [Sexual harassment of a person towards his child or other descendants other than that described in paragraph 1 concerns up to 4 years in prison, provided the child is 15 or older.]

- o Intercourse or other sexual relations between siblings is punishable by up to 4 years in prison. If one or both of the siblings did not reach the age of 18 when the act took place, it can be decided that the punishment will be canceled as far as they are concerned.] 3)

- Article 201 Sexual harassment other than the one described in paragraph 1. concerns Imprisonment of up to 4 years.]

- Article 202

- o [Sexual harassment other than that described in paragraph 1. involves imprisonment up to [6 years].

- o Anyone who by deception, gifts or in any other way entices [a child] 1) [younger than 18 years of age] 2) to have intercourse or another sexual partner shall be imprisoned for up to 4 years.]

- o [Anyone who through communication on the Internet, other information or electronic technology or by any other means approaches a child under the age of 15 in order to have intercourse or other sexual relations with the child or to sexually harass him in any other way shall be imprisoned for the whole to 2 years.]

- Article 206

- o Anyone who pays or promises a payment or other form of compensation for the prostitution of a child under the age of 18 shall be fined or imprisoned for up to 2 years.]

- o The same punishment applies to soliciting, encouraging or assisting a child under the age of 18 to engage in prostitution.

b)

When the victim reaches the age of 18.]

### Ireland / Irlande

No reply available / *Pas de réponse disponible*

### Italy / Italie

The time to exercise the prosecution of a criminal offence (and start a criminal proceedings) is determined by the statute of limitation, which establishes the time limit within which the offence can be charged. In fact, the only criminal offence that can always be charged is homicide (for which life imprisonment is provided).

Law No. 251 of 5 December 2005 (the so-called Cirielli law) has changed the limitation period of criminal offences as follows.

**Art. 157, paragraph 1, of the Italian Criminal Code** provides for the following general rule: “Prosecution of an offence shall be time-barred after a period equal to the maximum duration of the penalty laid down by law for the offence itself; the foregoing notwithstanding, the limitation period shall be no less than six years for serious offences and four years for other offences, even where the latter are punishable only by a fine.”

Paragraph VI of the same article (as amended in 2016) also establishes that:

“The limitation periods referred to in the previous paragraphs are doubled for offences established under articles 375, para. 3, 449 and 589, paras 2 and 3, and 589 bis, as well as for the offences provided for in Art. 51, paras 3-bis and 3-quater of the Code of Criminal Procedure. The above-mentioned limitation periods are also doubled for the offences provided for in Title VI-bis of the Second Book, as well as for the offence established by art. 572 and for those offences provided for in Section I of Chapter III of Title XII of Book II and articles 609 bis, 609 quater, 609 quinquies and 609 octies, with the exception of those cases where mitigating circumstances provided for by art. 609 bis para. 3, and article 609 quater para. 4 apply”. This means that the limitation period for child sexual abuse offences is usually 24 years.

An interruption of the limitation period may give rise to an extension of that period by no more than one quarter of the maximum prescribed period (e.g., for supervision measures, questionings, or summon to appear, etc.), which means that the limitation period for child sexual abuse offences can be increased to 30 years.

Such period can be further increased based on the victim’s age: if the victim is aged less than 14 years, the sentence provided for by art. 609 bis of the Criminal Code (up to 12 years imprisonment) is increased by one quarter; if the victim is aged less than 10, the sentence is increased by a half.

It is particularly worth mentioning that Law No. 103 of 23 June 2017 amended art. 158 of the Criminal Code establishing, in the last paragraph, that for some criminal offences against minors (such as, inter alia, maltreatments, child pornography, sexual abuse, reduction into slavery, child grooming, group sexual violence, and stalking) the period of limitation starts to run (not from the day the offence was committed, but) from the day the victim turns 18, except if the proceedings has already been taken previously; in this last case, the limitation period starts to run from the day the suspected offence is reported.

Such legislation has been issued in compliance with the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence), ratified by Italy through Law No. 77 of 27 June 2013, which requires State Parties to take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences related to sexual violence “shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority”.

Therefore, we can definitely say that the offences related to child sexual abuse, as a matter of fact, are not subject to any time limit.

Before the adoption of the so-called Cirielli Law, the maximum limitation period for child sexual abuse offences was equal to 15 years from the day the offence was committed (and

were punished with over 10 years imprisonment due to the victim's minority), except for the interruption cases for which the period was increased by a quarter.

It is however important to underline that offences related to child sexual abuse are always prosecutable on an ex-officio basis.

### Latvia / Lettonie

#### a)

According to Paragraph 1.<sup>1</sup> of Section 56 of the Criminal law, a person may not be held criminally liable if **twenty years have elapsed from the day when the victim of the criminal offence against morality and sexual inviolability of a minor has attained eighteen years of age**, except for the crime for which, in accordance with the Law, life imprisonment may be adjudged.

According to Paragraph 3 of this Section of the Criminal law, the limitation period is interrupted if, before expiry of the time periods laid down in Paragraph 1.<sup>1</sup> of this Section, the person who has committed the criminal offence commits a new criminal offence. In such case, the limitation period provided for the more serious of the committed criminal offences shall be calculated from the time of the committing the new criminal offence.

In addition, in accordance with Paragraph 4 of this Section of the Criminal law, the issue of application of a limitation period to a person who has committed a crime for which life imprisonment may be adjudged, shall be decided by a court, if from the day of committing the crime or from the day when the victim of a crime against morality and sexual inviolability of a minor, has attained eighteen years of age, thirty years have elapsed.

#### b)

According to Paragraph 2 of the Section 56 of the Criminal law, the limitation period in the case provided for in Paragraph 1.<sup>1</sup> of this Section **shall be calculated from the day when the victim has attained eighteen years of age**, until when charges are brought or the accused has been issued an official extradition request if the accused resides in another state and has been declared as wanted.

### Liechtenstein

No reply available / *Pas de réponse disponible*

### Lithuania / Lituanie

#### a)

It should be noted that Article 11 of the CC ("Crime") provides that:

- a minor crime is an intentional crime for which the maximum penalty provided for in the criminal law does not exceed three years' imprisonment;
- a semi-serious crime is an intentional offense punishable by a maximum term of imprisonment of more than three years but not more than six years' imprisonment;
- a serious crime is an intentional crime for which the maximum penalty provided for in the criminal law exceeds six years' imprisonment but does not exceed ten years' imprisonment;
- very serious crime means an intentional offense punishable by a maximum term of imprisonment of more than ten years.

Liability for crimes against children's freedom of sexual expression and inviolability is determined by:

Paragraph 3 of Article 149 of the CC ("Rape") provides for the imprisonment of a person for rape of a underage (sexual intercourse with a person against his or her will by physical violence or threatening to use it immediately, or otherwise depriving the victim of his or her helpless condition) is punished from 3 up to ten years in prison (serious crime), and Paragraph 4 – rape of a minor – punished of imprisonment up fifteen years (a very serious crime).

Paragraph 3 of Article 150 of the CC ("Sexual Rape") for sexual abuse of a underage (satisfaction of sexual passion with a person against this will by anal, oral or other physical contact using physical violence or threatening to use it immediately, or otherwise depriving him or her of the opportunity to resist, or under the helplessness of the victim) provides for a term of imprisonment of two to ten years (a serious crime) and paragraph 4 for the sexual abuse of a minor to a term of imprisonment of three to thirteen years (a very serious crime).

Paragraph 2 of Article 151 of the CC ("Coercion to Have Sex") provides for the coercion of an underage to have sex (threatening to use violence, using other mental coercion or using a person's addiction to have sex or otherwise satisfy sexual passion with the perpetrator or another person) punished for up to eight years' imprisonment (serious crime).

Paragraph 1 of Article 151<sup>1</sup> of the CC ("Satisfaction of sexual passion in violation of a minor's freedom of sexual self-determination and (or) inviolability") provides that an adult who has had sexual intercourse or otherwise satisfied sexual passion with a person under the age of sixteen signs of coercion to have sex, punishable by a fine or restriction of liberty, or arrest, or imprisonment for up to five years (a felony). Paragraph 2 - a person who has had sexual intercourse or otherwise satisfied sexual passion with a minor, offered, promised or given to him or another person in return for money or another form of reward, if there were no signs of rape, sexual abuse or coercion, is punished by public works, or a fine, or a restriction of liberty, or an arrest, or imprisonment for up to five years (a semi-serious crime). Paragraph 3 - a father, mother, guardian, custodian or other legal representative of a child or a person with statutory powers in relation to a minor, or a person who has abused trust, authority or influence over a minor, had sexual intercourse or otherwise had sexual passion with that minor if there was no rape, signs of sexual assault or coercion, is punishable by a fine or restriction of liberty, or arrest, or imprisonment for up to six years (a serious crime).

Article 152<sup>1</sup> of the CC (“Seduction of a person under the age of 16”) stipulates that an adult who offers a person under the age of sixteen to meet for the purpose of sexual intercourse or otherwise satisfy sexual passion or exploit it for the production of pornographic products shall take specific action to meeting would take place, punishable by a fine or restriction of liberty, or arrest, or imprisonment for up to one year (a semi-serious crime).

Article 153 of the CC (“Abuse of a person under the age of sixteen”) provides that a person who has committed acts of abuse to a person under the age of sixteen is punishable by deprivation of liberty or arrest, or imprisonment for up to five years (a serious crime).

Paragraph 1 of Article 157 of the CC (“Purchase or sale of a child”) establishes that a person who offered to buy, otherwise acquire, sell, buy, otherwise transfer, acquire, recruit, transport or hold a child in custody knowing or seeking to take into account the child’s prostitution, pornography, other forms of sexual exploitation, forced, sham marriage, forced labour or services, including begging, (a very serious crime). Paragraph 2 means anyone who has committed the offense set forth in paragraph 1 with two or more children or a minor, or endangering the life of the victim, or participating in an organized group, or knowing or seeking the removal of an organ, tissue or cell from the victim, or being a civil servant or a person performing public administration functions and, in the exercise of his or her powers, is punishable by imprisonment from five to fifteen years (a very serious crime).

Article 162 of the CC (“Exploitation of a child for pornography”) provides that a person who recruits, values or involves a child to participate in pornographic events, or exploits a child for such purposes, or exploits a child for the production of pornographic performances, or profits from such activities up to eight years (serious crime).

Paragraph 3 of Article 307 of the CC (“Profiting from prostitution of another person”) stipulates that a person who profited from the prostitution of a minor or organized or directed the prostitution of an underage, or otherwise exploited a minor for the purposes of prostitution, is punishable by three to ten years (serious crime).

Paragraph 3 of Article 308 of the CC (“Involvement in prostitution”) stipulates that a person who has recruited, engages in prostitution or has involved a minor in prostitution in any way is punishable by three to ten years' imprisonment (serious crime).

**Article 95 of the CC (“Limitation period for the adoption of a conviction”) establishes the terms and conditions of the limitation period for a conviction for a committed criminal offense.**

Paragraph 1 of Article 95 of the CC stipulates that a person who has committed a criminal offense may not be convicted if 1) the following: eight years have elapsed when a minor intentional crime has been committed; twelve years in which a semi-serious intentional crime was committed; fifteen years when a serious crime was committed; twenty-five years when a very serious crime has been committed and 2) if the person has not absconded from the pre-trial investigation or trial and has not committed a new intentional criminal offense within that prescribed period.

It should be noted that the limitation period is calculated from the commission of the criminal offense until the day of sentencing (Paragraph 2 of Article 95 of the CC).

In addition, if an underage child was the victim of a criminal offense provided in CC articles 149, 150, 151, 151<sup>1</sup>, 152<sup>1</sup>, 153, 157, 162, 307 and 308, the limitation period may not expire before this person reaches the age of twenty-five (Article 95 (3) of the CC).

It is also provided that if the offender has absconded from the pre-trial investigation or court, the limitation period stops. The limitation period shall begin to run again from the date on which the person is apprehended or appears before the pre-trial investigation officer, the public prosecutor or the court. However, a conviction cannot be passed if twenty-five years have elapsed since the person committed the criminal offense and the limitation period has not been interrupted due to the commission of a new intentional criminal offense (Article 95 (4) of the CC).

If a person commits a new intentional criminal offense before the expiry of the time limits referred to in that Article, the limitation period shall be interrupted. In this case, the limitation period for the first criminal offense starts to run from the day when a new intentional crime or criminal offense was committed (Paragraph 8 of Article 95 of the CC).

b)

See the answer given to point (a).

## Luxembourg

a)

Le régime des délais de prescription à l'égard des mineurs victimes d'infractions sexuelles est prévu aux articles 637 et 638 du Code de procédure pénale luxembourgeois.

L'article 637, paragraphe 2, du Code de procédure pénale, est applicable au délai de prescription de l'action publique **des crimes** commis contre les mineurs.

L'article 637, paragraphe 2, dispose que le délai de prescription ne commence à courir pour les mineurs qu'à partir de leur majorité, pour les infractions inscrites aux articles 348 (*avortement forcé*), 372 à 377 (*l'attentat à la pudeur et du viol*), 382-1, 382 -2 (*traite des êtres humains*) et 409bis, paragraphes 3 à 5 (*mutilation des organes génitaux*) du Code pénal.

L'article 638 du Code de procédure pénale étend le délai de prescription de l'action publique à certains **délits** commis à l'égard des mineurs, délai qui ne commence à courir qu'à partir de leur majorité, aux infractions visées aux articles 372 (*attentat à la pudeur*), 379, 379bis (*exploitation de la prostitution et du proxénétisme*), 389 (*contrainte de contracter un mariage ou un partenariat*), 400 (*coups et blessures provoquant une maladie, la perte de l'usage d'un organe ou une mutilation grave*), 401bis (*coups et blessures à un enfant en-dessous de l'âge de 14 ans*), 402 (*coups et blessures ayant causé à autrui une maladie ou une incapacité de travail*), 405 (*la tentative d'administrer des substances dangereuses*) et 409bis, paragraphes 1

et 2 (*excision, infibulation ou toute autre mutilation*) du Code pénal.

b)

Pour les infractions mentionnées au point a), le délai de prescription commence à courir à partir du moment où le mineur a atteint l'âge de la majorité.

### Malta / *Malte*

a)

Please see below.

b)

A change in prescription was introduced under Maltese law so that when a person who has suffered abuse while underage, can now report said crime up to twenty years after it was committed. Therefore the prescription period commences from the moment the victim turns twenty-three (23) years old and not 18.

The amendment is seen as a compromise following calls and pressure from NGOs to government to abolish prescription with regards to offences involving children, to ensure that survivors are given further opportunity to seek remedy and have some form of closure to the ordeal that they have been subjected to. The concept of prescription itself was retained as it is intrinsically part of Maltese legal system, which is based on a statute of limitations.

### Republic of Moldova / *République de Moldova*

a)

The time-limit depends on the severity of the crime, which is determined by the sentence maximum in years of imprisonment. It applies to all sexual offences against children individually, and is not less than 5 years.

b)

The period begins from the moment the offence was committed and is suspended in the case if the person tries to avoid criminal liability/sentence i.e. for wanted persons.

### Monaco

a)

Le troisième alinéa de l'article 12 du Code de procédure pénale prévoit que « *L'action publique résultant de tout crime commis sur la personne d'un mineur est prescrite après trente années révolues à compter du jour de la majorité de ce dernier* ». Applicable à « *tout crime* », ce délai de prescription est par conséquent applicable aux attentats à la pudeur (articles 261,

263, 264 du Code pénal), au viol (article 262 du Code pénal), à la corruption de mineur au-dessous de l'âge de seize ans accomplis (article 266, second alinéa, du Code pénal) et au proxénétisme commis à l'égard d'un mineur au-dessous de l'âge de seize ans accomplis (article 269, second alinéa, du Code pénal).

S'agissant des infractions sexuelles qui ne seraient pas des crimes, l'article 13 du Code de procédure pénale prévoit que « *L'action publique résultant d'un délit est prescrite après trois années révolues, à compter du jour où le délit a été commis* ». Ce délai s'applique par conséquent à la corruption d'enfants de seize ans accomplis (articles 265 et 266 du Code pénal), au proxénétisme commis à l'égard d'un mineur de seize ans accomplis (articles 268 et 269 du Code pénal), au recours à la prostitution d'un enfant (article 269-1 du Code pénal), à la pornographie infantile (article 294-3 du Code pénal), aux infractions se rapportant à la participation d'un enfant à des spectacles pornographiques (article 294-5 du Code pénal) et à la sollicitation d'enfants à des fins sexuelles (article 294-6 du Code pénal).

b)

*Cf. supra.*

Le point de départ du délai est fixé au jour de la majorité de la victime, pour les infractions sexuelles de nature criminelle, et à la date où le délit a été commis, pour les infractions sexuelles de nature délictuelle.

### Montenegro / Monténégro

Criminal prosecution cannot be initiated when:

- 1) twenty-five years from the commission of a criminal offense for which a long-term prison sentence may be imposed by law;
- 2) twenty years from the commission of a criminal offense for which a prison sentence of more than fifteen years can be imposed by law;
- 3) fifteen years from the commission of a criminal offense for which a prison sentence of over ten years can be imposed by law;
- 4) ten years from the commission of a criminal offense for which a prison sentence of more than five years can be imposed by law;
- 5) five years from the commission of a criminal offense for which a prison sentence of more than three years can be imposed by law;
- 6) three years from the commission of a criminal offense for which a prison sentence of more than one year can be imposed by law;
- 7) two years from the commission of a criminal offense for which a prison sentence of up to one year or a fine may be imposed by law.

(2) If multiple penalties are prescribed for the criminal offense, the statute of limitations is determined according to the heaviest prescribed penalty.

In accordance with Article 125 paragraph 3 of the Criminal Code of Montenegro, the statute of limitations for criminal prosecution for an offense committed to the detriment of a minor does not run until that person turns eighteen.

### Netherlands / Pays-Bas

#### a)

As a rule, no statute of limitations applies for serious offences punishable by a term of imprisonment of twelve years or more. This, naturally, applies to the crime of rape (Article 242 Dutch Penal Code) and all sexual acts comprising or including sexual penetration of the body with a person who is under the age of twelve years (Article 244 DPC). Furthermore, no time-limit applies where the offences laid down in Articles 240b DPC, Paragraph 2, 243, 245 and 246 DPC were committed against a minor person (<18).

Article 240b, Paragraph 2, DPC criminalises any person who makes a profession or habit of committing the act of child pornography.

Article 243 criminalises, inter alia, sexual acts comprising or including sexual penetration of the body an unconscious or mentally ill person.

Article 245 criminalises any person who engages in lewd acts comprising or including sexual penetration of the body with a person who has reached the age of twelve years but not yet sixteen years.

Article 246 criminalises any person who by an act of violence or any other act or by threat of violence or threat of any other act, compels another person to engage in or to tolerate lewd acts.

For other sexual crimes it depends on the term of imprisonment what rules with regard to the statute of limitations apply. For the sexual assaults laid down in the Articles 240a, 248d, 248e and 250, Paragraph 2, DPC the right to instigate criminal proceedings will be precluded after six years. Article 240a criminalises any person who supplies, offers or shows harmful images or objects to a person under the age of sixteen years. Article 248d criminalises any person who, with lascivious intentions, induces a person under the age of sixteen years to witness sexual acts. Article 248e criminalises 'grooming' of a person under the age of sixteen years. Article 250, Paragraph 2, criminalises any person who intentionally arranges or encourages the sexual abuse of a minor (<18) by a third party.

The right to instigate criminal proceedings will be precluded after twelve years for sexual offences laid down in:

Article 240b, Paragraph 1 (child pornography);

Article 247 (criminalises any person who engages in lewd acts with a person under the age of

sixteen years, or who entices such a person into engaging in or tolerating such acts with a third party);

Article 248a (criminalises any person who by means of gifts, etc. or by abuse of the authority, intentionally induces a person under the age of eighteen years to engage in lewd acts or to tolerate such acts);

Article 248b (criminalises sexual acts with a person, between the age of sixteen and eighteen years, who makes himself available for the performance of sexual acts for remuneration);

Article 248c (criminalises any person who intentionally presents the performance of lewd acts by a person under the age of eighteen years or who is intentionally present at the display of images of such acts in an establishment designated for that purpose);

Article 249 (criminalises any person who sexually abuses his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted, or his employee or subordinate who is a minor);

Article 250, Paragraph 1 (criminalises any person who intentionally arranges or encourages the sexual abuse of his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted or his employee or subordinate who is a minor by a third party).

For the sexual offence laid down in Article 248f the right to instigate criminal proceedings will be precluded after twenty years. This provision criminalises any person who by coercion, an act of violence or another act or by threat of violence or threat of another act, intentionally causes or encourages an indecent act with a third party to be committed by a person under the age eighteen years.

### **Updated in 2022:**

#### *Current legislation*

As a general rule, no time-limit applies for serious offences punishable by a maximum term of imprisonment of twelve years or more. For other sexual offences the statute of limitations depends on the maximum term of imprisonment that can be imposed for committing the offence against children.

For the sexual offences laid down in the Articles 240a, 248d, 248e and 250, Paragraph 2, DPC, the right to instigate criminal proceedings expires

#### after six years:

- Article 240a criminalises any person who supplies, offers or shows harmful images or objects to a person under the age of sixteen years.
- Article 248d criminalises any person who, with sexual intentions, induces a person under the age of sixteen years to witness sexual acts.
- Article 248e criminalises 'grooming' of a person under the age of sixteen years.
- Article 250 paragraph 1 part 2, criminalises any person who intentionally arranges or encourages the sexual abuse of a minor (<18) by a third party.

However, the limitation period can be interrupted by the instigation of a criminal procedure. If this does not lead to prosecution, a new limitation period will start after the interruption.

However, the right of criminal prosecution expires when a period equal to twice the limitation period for the specific offence has passed, counting from the day the original limitation period started.

For the sexual offences laid down in the Articles 240b, paragraph 1, 248a-248c, 249 and 250, DPC, the right to instigate criminal proceedings expires after twelve years:

- Article 240b, Paragraph 1 (child pornography);
  - o Punishable by a term of imprisonment of four years.
- Article 247 (criminalises any person who engages in lewd acts with a person under the age of sixteen years, or who entices such a person into engaging in or tolerating such acts with a third party);
  - o Punishable by a term of imprisonment of six years.
- Article 248a (criminalises any person who by means of gifts, etc. or by abuse of the authority, intentionally induces a person under the age of eighteen years to engage in lewd acts or to tolerate such acts);
  - o Punishable by a term of imprisonment of four years.
- Article 248b (criminalises sexual acts with a person, between the age of sixteen and eighteen years, who makes himself available for the performance of sexual acts for remuneration);
  - o Punishable by a term of imprisonment of four years.
- Article 248c (criminalises any person who intentionally presents the performance of lewd acts by a person under the age of eighteen years or who is intentionally present at the display of images of such acts in an establishment designated for that purpose);
  - o Punishable by a term of imprisonment of four years.
- Article 249 (criminalises any person who sexually abuses his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted, or his employee or subordinate who is a minor);
  - o Punishable by a term of imprisonment of six years .
- Article 250, Paragraph 1 (criminalises any person who intentionally arranges or encourages the sexual abuse of his minor child, step-child or foster child, his ward, a minor with whose care, education or supervision he is entrusted or his employee or subordinate who is a minor by a third party).
  - o Punishable by a term of imprisonment of four years.

For the sexual offence laid down in Article 248f the right to instigate criminal proceedings will be precluded after twenty years. This provision criminalises any person who by coercion, an act of violence or another act or by threat of violence or threat of another act, intentionally causes or encourages sexual assault with a third party to be committed by a person under the age eighteen years.

#### *Draft bill on sexual offences*

For sexual offences committed against children, as mentioned above, a time-limit also applies under the new Sexual Offences Bill. The scope of the exception to the time-limit for sexual offences committed against children will be widened by the draft bill. The threshold will be set at offences with a maximum sentence of six years imprisonment or more (article 70 paragraph 2 under 2 of the draft bill), instead of the current threshold of offences with a

maximum sentence of eight years imprisonment or more.

The limitation period of twelve years for offences that can be punished with a maximum term of imprisonment of more than three years will not change. Based on the draft bill the time-limit of twelve years will apply to the new offence of negligence-based rape (punishable by a term of imprisonment of four years).

The limitation period of six years for offences that can be punished with a maximum term of imprisonment of three years or less will not change either. Based on the draft bill the time-limit of six years will apply to the following crimes:

- Sexchatting with children under the age of 16 (new)
  - o Punishable by a term of imprisonment of two years.
- Sexual corruption of children
  - o Punishable by a term of imprisonment of two years.
- Grooming
  - o Punishable by a term of imprisonment of two years.

b)

In general, the limitation period begins to run on the day after the offence was committed. However, exceptions apply for the serious offences laid down in Article 240b, Paragraph 1, DPC (child pornography) and Articles 247-250. For these sexual offences the limitation period begins to run when the child reaches the age of majority (18 years).

Updated in 2022:

#### *Current legislation*

In general, the limitation period begins to run on the day after the offence was committed. However, exceptions apply for the serious offences laid down in Article 240b, Paragraph 1, DPC (child pornography) and Articles 247-250 (see answer to previous questions for description). For these sexual offences the limitation period begins to run when the child reaches the age of majority (18 years).

#### *Draft bill on sexual offences*

The draft bill does not change the general rule that the limitation period starts on the day after the offence was committed. The aforementioned exception will also apply to the new offence of sexchatting with children under the age of 16: the limitation period begins to run when the child reaches the age of majority (18 years).

#### *North Macedonia / Macédoine du Nord*

No reply available / *Pas de réponse disponible*

#### *Norway / Norvège*

Section 304 stipulates that any person who performs a sexual act with a child under 16 years of age shall be subject to imprisonment for a term not exceeding three years, unless the conduct falls within the scope of section 299. The time limit is five years, cf. section 86.

However, the limitation period for criminal liability starts to run from the day the aggrieved party reaches 18 years of age, cf. section 87.

Section 305 concerns sexually offensive conduct, etc. directed at a child under 16 years of age. The time limit is five years, cf. section 86. The same applies to section 309, which prohibits the purchase of sexual services from minors. The limitation period for criminal liability shall be calculated from the day the offence ceased, cf. section 87.

Section 306 prohibits arranging a meeting to commit sexual abuse. The time limit is two years from the day the offence ceased, cf. section 86.

For children aged 16 and 17, the following sections prohibiting sexual offences for adults are applicable:

Section 294 prohibits grossly negligent sexual assault with a time limit of 10 years from the day the offence ceased, cf. section 86 and 87.

Section 297 prohibits sexual acts performed without consent with a time limit of two years from the day the offence ceased, cf. section 86 and 87.

For all of the above-mentioned sections under question 2, the longest limitation period applies to all the offences if a person in one act has committed several offences with different limitation periods, cf. section 86 third paragraph.

## Poland / Pologne

a)

### ➤ Provisions of the Criminal Code governing the statute of limitations:

**Article 101 § 1. A criminal offence shall no longer be punishable once the following number of years has elapsed since its commission:**

**(1) 30 — for the felony of homicide;**

**(2) 20 — for any other felony;**

**(2a) 15 — for a misdemeanour liable to more than 5 years' imprisonment;**

**(3) 10 — for a misdemeanour liable to more than 3 years' imprisonment;**

**(4) 5 — for other misdemeanours.**

**(5) (Abrogated.)**

(...)

§ 3. In cases referred to in sections 1 or 2, if the commission of the crime depends on the occurrence of a statutorily defined consequence, the statute of limitations shall begin to run when such consequence occurs.

§ 4. For:

(...)

(2) offences set forth in Chapter XXV<sup>2</sup>, if committed against a minor or if the pornographic material features a minor

— the statute of limitations on the punishability of the offence shall not complete its course

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<sup>2</sup> Offences against sexual freedom and morality.

before the completion by such minor of the 30<sup>th</sup> year of age.

**Article 102. [Extending the period of limitation]** If proceedings have been initiated during the period referred to in Article 101, the punishability of the offences set out in Article 101 § 1 shall cease with the lapse of 10 years, and in other cases 5 years, after the completion of the said period.

**Explanation:**

The way to understand the language of Article 102 of the Criminal Code is that either 10 or 5 years are to be added to the duration specified in Article 101 of the Criminal Code if criminal proceedings have been instituted during that time.

**The commencement of *in-rem* criminal proceedings (investigation before presenting charges to a named suspect) also triggers this extension by 10 or 5 years** (cf. Supreme Court resolution of a panel of 7 judges in I KZP 28/92, of 15 October 1992).

Accordingly, if criminal proceedings have been brought in the matter within the period specified in Article 101 of the Criminal Code, we need to add the periods specified in each of the Articles, and the statute of limitations will run its course on the punishability of that offence after:

- (1) 40 years — for the felony of homicide;
- (2) 30 years — for other felonies;
- (3) 25 years — for misdemeanours looking at more than 5 years' imprisonment;
- (4) 20 years — for misdemeanours looking at more than 3 but not more than 5 years' imprisonment;
- (5) 15 years — for other misdemeanours (looking at not more than 3 years' imprisonment or a more lenient type of penalty than imprisonment).

➤ **The criminal offences pertaining to this question are defined in Chapter XXV of the Criminal Code — Offences against sexual freedom and morality**

**Article 197** § 1 Whoever, by violence, unlawful threat or deceit, induces another to sexual intercourse, shall be liable to 2 to 12 years' imprisonment.

§ 2 A perpetrator who, in the manner set out in section 1, induces another to submit to or perform another sexual activity, shall be liable to 6 months to 8 years' imprisonment.

§ 3 A perpetrator who commits rape:

- (1) jointly with another;
  - (2) **towards a minor under the age of 15;**
  - (3) towards a descendant, ascendant, adoptee, adopter or sibling;
- shall be liable to **no less than 3 years' imprisonment.**

§ 4 A perpetrator of the offence set forth in sections 1 to 3 who acts with particular cruelty shall be liable to no less than 5 years' imprisonment.

**Article 198.** Whoever, by taking advantage of another's helpless position or inability to discern the meaning of the act or direct one's conduct as a result of mental impairment or illness, induces such other to sexual intercourse or submission to or performance of another sexual activity, shall be liable to 6 months to 8 years' imprisonment.

**Article 199 § 1** Whoever, by abusing a relationship of dependence or the critical situation of another, induces such other to sexual intercourse or to submit to or perform another sexual activity,

shall be liable to up to 3 years' imprisonment.

§ 2 If the offence set forth in section 1 is committed against a minor, the perpetrator shall be liable to 3 months to 5 years' imprisonment.

§ 3 Whoever, by abuse of trust or by conferring or promising a material or personal benefit, engages in sexual intercourse with a minor or in another sexual activity with regard to such person or induces such person to submit to or perform such activity, shall be liable to the penalty set forth in section 2.

**Article 200 § 1** Whoever engages in sexual intercourse with a minor below 15 years of age or another sexual activity with regard to such person or induces such person to submit to or perform such activity,

shall be liable to 2 to 12 years' imprisonment.

§ 2 (Abrogated.)

§ 3 Whoever presents pornographic material to a minor below 15 years of age or makes available to such person any articles of such nature, or disseminates pornographic in a manner enabling such minor to engage with such material, shall be liable to up to 3 years' imprisonment.

§ 4 Whoever, for the purpose of one's own sexual satisfaction or the sexual satisfaction of another presents the performance of a sexual activity to a minor below 15 years of age shall be liable to the penalty set forth in section 3.

§ 5 Whoever engages in the advertisement or promotion of an activity consisting in the dissemination of pornographic material in a manner enabling such material to be engaged with by a minor below 15 years of age shall be liable to the penalty set forth in section 3.

**Article 200a § 1** Whoever, for the purpose of committing the offence set forth in Article 197 § 3 pkt 2 or Article 200, or of producing or recording pornographic material, contacts a minor below 15 years of age through a teleinformatic system or telecommunication network with the aim of procuring a meeting by inducing error, or by taking advantage of error or of the minor's incapacity for proper apprehension of the situation, or by unlawful threat, shall be liable to up to 3 years' imprisonment.

§ 2 Whoever presents a minor below 15 years of age, through a teleinformatic system or telecommunication system, with an offer of sexual intercourse, submission to or performance of another sexual activity or participation in the production or recording of pornographic materials and attempts to follow up on such offer, shall be liable to a fine, restriction of liberty or up to 2 years' imprisonment.

**Article 200b.** Whoever publicly promotes or praises paedophilic behaviours, shall be liable to a fine, restriction of liberty or up to 2 years' imprisonment.

**Article 201.** Whoever engages in sexual intercourse with an ascendant, descendant, adoptee, adopter or sibling, shall be liable to 3 months to 5 years' imprisonment.

**Article 202 § 1** Whoever publicly presents pornographic material in such manner that the receipt of such material can be imposed on an unwilling person, shall be liable to a fine, restriction of liberty or up to 2 years' imprisonment.

§ 2 (Abrogated.)

§ 3 Whoever, for the purpose of dissemination, produces, records, imports, stores, possesses, disseminates or presents pornographic material featuring a minor or pornographic material involving the depiction of violence or of the use of an animal, shall be liable to 2 to 12 years' imprisonment.

§ 4 Whoever records pornographic material featuring a minor, shall be liable to 1 to 10 years' imprisonment.

§ 4a Whoever stores, possesses or gains access to pornographic material featuring a minor, shall be liable to 3 months to 5 years' imprisonment.

§ 4b Whoever produces, disseminates, presents, stores or possesses pornographic material depicting the generated or processed image of a minor participating in a sexual activity, shall be liable to a fine, restriction of liberty or up to 2 years' imprisonment.

§ 4c Whoever, for the purpose of sexual satisfaction, engages in the presentation of pornographic material featuring a minor shall be liable to the penalty set forth in section 4b.

§ 5 The court may order the forfeiture of the instruments or other articles used or intended to be used in the commission of the offences set forth in sections 1 to 4b, even if such instruments or other articles are not the perpetrator's property.

b)

- The course of the statute of limitations defined in line with Article 101 § 1 of the Criminal Code begins with the commission of the crime.<sup>3</sup> However, for offences contained in Chapter XXV (sexual offences), it cannot end before the victim — a minor when the crime was committed — completes 30 years of age (even though the duration specified in Article 101 § 1 of the Criminal Code may have lapsed in the meantime).

In practice, **the time from which the statute of limitations is calculated is the day when:**

- the perpetrator acted or, despite having the obligation, omitted to act (Article 6 § 1 of the Criminal Code);
- the defining consequence occurred, for a crime defined by its consequence (a material offence, as opposed to a formal offence);

For formal offences (offences defined by conduct alone and not depending on any specific consequence), and for material offences interrupted in the attempt stage of the *iter criminis*, the statute of limitations runs from the time the perpetrator acted or, despite being required to act, did not act. The same principle applies to forms of accessorial liability (such as aiding and abetting, i.e. assisting or inciting).<sup>4</sup>

- Polish law distinguishes:

(a) continuing offences (*crimina continuata*) — Article 12 of the Criminal Code

(b) a series of crimes — Article 91 of the Criminal Code

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<sup>3</sup> **Article 6 § 1** of the Criminal Code: A criminal offence shall be deemed committed at the time when the perpetrator acted or, despite the obligation, omitted to act.

<sup>4</sup> Igor Zgoliński [in:] V. Konarska-Wrzosek (ed.), A. Lach, J. Lachowski, T. Oczkowski, I. Zgoliński, A. Ziółkowska, *Kodeks karny. Komentarz*, WKP 2020, Lex e-access (commentary on Article 101 of the Criminal Code).

**Re: (a). Article 12 § 1** Two or more behaviours undertaken in short time intervals in pursuit of premeditated intent shall be deemed one offence; if the object of the infringement is a personal right, the recognition of multiple behaviours as one criminal offence shall be conditional on all such behaviours having the same victim.

§ 2 Whoever, within short time intervals, acting in pursuit of the same or an identical opportunity or in a similar manner, commits two or more intentional infractions against property, if the aggregate value of such property justifies liability for a criminal offence, shall be liable as for one criminal offence.

According to what is a settled view in literature and court decisions (see Supreme Court judgment in II KR 69/79, of 7 May 1976, OSNPG 1976/11/95; in *V KRN 160/88*, of 10 August 1988, OSNPG 1989/2/20; in II KRN 423/91, of 29 January 1992, OSNKW 1992/5–6/39), the last time when the perpetrator acted must be regarded as the timing of the commission of a criminal offence that is spread out over time, contains multiple acts, or a sustained or continuing offence. This includes the time when the perpetrator committed the last act out of the multiple acts needed for the completion of a continuing offence. (Supreme Court judgment in II KKN 387/01, of 15 April 2002, II KKN 387/01.)

**Re: (b) Article 91 § 1.** If the perpetrator commits, in short time intervals, two or more criminal offences before the first judgment, even though not yet final and unappealable, is entered on any of such offences, the court shall impose one penalty set forth in the provision constituting the basis for the imposition of such penalty for each such offence, up to the upper sentencing limit increased by a half. (...)

For a series of crimes, the timing of the commission of the various offences composing the series shall be determined.

## Portugal

### a)

Article 118 of the Portuguese Criminal Code defines the limitation periods of the criminal procedure. First of all, it is important to mention that the prosecution of sexual crimes can never be extinguished by statute of limitations before the victim turns 23 years old, according to article 118, paragraph 5, of the Criminal Code.

The following rules apply, according to article 118 of the Criminal Code:

*“1 - The criminal procedure is extinguished by statute of limitations as soon as the following periods of time have elapsed since the commission of the crime:*

*(a) 15 years, in the case of crimes punishable by imprisonment whose maximum limit is higher than 10 years (...);<sup>5</sup>*

*b) Ten years, in the case of crimes punishable by a prison sentence of a maximum of five years or more but not exceeding ten years;*

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<sup>5</sup> Several other crimes are included in article 118, 1 but not related with sexual crimes against children.

*c) Five years, in the case of crimes punishable by a prison sentence with a maximum limit of one year or more but less than five years;*

*d) Two years, in all other cases.*

*2 - For the purposes of the previous number, in determining the maximum sentence applicable to each crime, the elements pertaining to the type of crime are taken into account, but not aggravating or attenuating circumstances.*

*3 - If the criminal procedure concerns a legal person or equivalent entity, the terms provided for in paragraph 1 will be determined taking into account the prison sentence, before proceeding to the conversion provided for in article 90-B (1) and (2).*

*4 - When the law establishes for any crime, as an alternative, prison sentences or fines, only the former shall be considered for the purposes of the provisions of this article.*

*5 - The prosecution of crimes against the freedom and sexual self-determination of children (...) can never be extinguished by statute of limitations before the victim turns 23 years old.*

Please find the result of the application of article 118 to the sexual self-determination crimes in the document in annex.

b)

According to article 119 of the Criminal Code, the statute of limitations for criminal proceedings runs from the day on which the fact was consummated. There are special rules regarding permanent, continuous, habitual and unconsummated crimes.

See Appendix / *Voir l'Annexe*

Romania / *Roumanie*

a)

The time limit applies to all offences, except crimes of genocide, against humanity and of war, murder, first degree murder, intentional offenses followed by the death of the victim, rape and sexual intercourse with a child.

The Parliament has on its debate a draft law which also eliminates the time limit for offences of trafficking in human beings (including children), pimping (including in children), sexual assault (including of children) and child pornography.

The limitation periods in Romanian legislation depend on the maximum level provided by law for the respective offence.

So, in cases of sexual abuse of children, the limitation periods also vary depending on the level of penalty provided by law for the respective offence.

For example:

- for sexual assault: from 8 to 10 years
- for child pimping: from 8 to 10 years
- for producing child pornography: 8 years

b)

The limitation period begins to run when the child reaches the age of majority.

*Russian Federation / Fédération de Russie*

No reply available / *Pas de réponse disponible*

*San Marino / Saint-Marin*

No reply available / *Pas de réponse disponible*

*Serbia / Serbie*

No reply available / *Pas de réponse disponible*

*Slovak Republic / République slovaque*

a)

Act no. 300/2005 the Criminal Code establishes a time limit for the commencement of criminal prosecution of sexual offenses against children in Section 87 (5). **Pursuant to the said provision, the criminal prosecution shall lapse at the earliest fifteen years after the person on whom the following criminal offenses were committed-** the criminal offense of unauthorised removal of organs, tissues and cells and illegal sterilisation pursuant to Section 159 (2), the crime of trafficking in human beings according to Section 179, the crime of rape according to Section 199, the crime of sexual violence according to Section 200, the crime of sexual abuse according to Section 201 to 202, the crime of torture of a close person and the entrusted person according to Section 208 and the crime production of child pornography under Section 368- **reached the eighteenth year of her/his age.**

b)

The limitation period shall run from the age of eighteen.

*Slovenia / Slovénie*

a)

Art. 90(3) of the Criminal Code (CC) states that *the time limit for the statute of limitations in criminal offences against sexual inviolability and criminal offences against marriage, family or*

*youth, committed against a minor, shall begin when the injured person reaches adulthood.* For some of the offences against sexual integrity (Art. 170, 171, 172, 173, 174(2), 175(2), and 176(2) of the CC) the limitation period is set to be three times longer than the limitation period that would follow from the general rule (Art. 95(3) of the CC). The limitation period depends on the sentence prescribed by the law for that criminal offence, ranging from six to 50 years (Art. 90(1) of the CC) – for the said offences this number would be multiplied by three.

b)

See answer to question 2.a.

### Spain / Espagne

No reply available / Pas de réponse disponible

### Sweden / Suède

a)

The length of the statute of limitations is based on the maximum term of imprisonment an offence is punishable by. For other sexual offences than those specified in the answer to question 1b, the statute of limitations is as follow:

- *rape, less serious* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *negligent rape* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *sexual assault* (maximum term of imprisonment: two years) – statute of limitations is five years,
- *gross sexual assault* (maximum term of imprisonment: six years) – statute of limitations is ten years,
- *negligent sexual assault* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *sexual exploitation of a child* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *sexual assault of a child* (maximum term of imprisonment: two years) – statute of limitations is five years,
- *gross sexual assault of a child* (maximum term of imprisonment: six years) - statute of limitations is ten years,
- *exploitation of a child for sexual posing* (maximum term of imprisonment: two years) – statute of limitations is five years,
- *gross exploitation of a child for sexual posing* (maximum term of imprisonment: six years) – statute of limitations is ten years,

- *exploitation of a child through the purchase of a sexual act* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *sexual molestation* (maximum term of imprisonment: two years) – statute of limitations is five years,
- *contact with a child for sexual purposes* (maximum term of imprisonment: two years) – statute of limitations is five years,
- *purchase of sexual services* (maximum term of imprisonment: one year) – statute of limitations is two years,
- *procuring* (maximum term of imprisonment: four years) – statute of limitations is ten years,
- *gross procuring* (maximum term of imprisonment: ten years) – statute of limitations is fifteen years,
- *trafficking in human beings* (maximum term of imprisonment: ten years) – statute of limitations is fifteen years,
- *child pornography offence* (maximum term of imprisonment: two years) – statute of limitations is five years, and
- *gross child pornography offence* (maximum term of imprisonment: six years) – statute of limitations is ten years.

b)

As a main rule, the statute of limitations is counted from the date on which the offence was committed. However, for certain types of sexual offences against children the time is counted from the date on which the victim attained, or would have attained, eighteen years of age. These offences are:

- *rape of a child or gross rape of a child* or attempts to commit such offences,
- *sexual exploitation of a child* or attempts to commit such offence,
- *sexual assault of a child and gross sexual assault of a child* or attempts to commit such offences,
- *exploitation of a child for sexual posing or gross exploitation of a child for sexual posing* or attempts to commit such offences,
- *exploitation of a child through the purchase of a sexual act* or attempts to commit such offence,
- *rape or gross rape* or attempts to commit such offences if the offence was committed against a person who had not attained eighteen years of age,
- *negligent rape* if the offence was committed against a person who had not attained eighteen years of age,
- *sexual assault or gross sexual assault* or attempts to commit such offences if the offence was committed against a person who had not attained eighteen years of age,
- *negligent sexual assault* if the offence was committed against a person who had not attained eighteen years of age,

- *sexual molestation* if the offence was committed against a person who had not attained eighteen years of age,
- *procuring* and *gross procuring* or attempts to commit such offences if the offence was committed against a person who had not attained eighteen years of age, and
- *child pornography offence* and *gross child pornography offence* or attempts to commit such offences if the offence concerns the portrayal of a child who had not attained eighteen years of age in a pornographic image.

## Switzerland / Suisse

*English is not an official language of the Swiss Confederation. The translation of the cited articles of the Swiss criminal code are provided for information purposes only and have no legal force. Link to the English text: [SR 311.0 - Swiss Criminal Code of 21 December 1937 \(admin.ch\)](#)*

*Link to the official law text in French: [RS 311.0 - Code pénal suisse du 21 décembre 1937 \(admin.ch\)](#)*

a)

For sexual offences against children which do not fall under art. 101 CC – either because they are committed against a child over 12 years of age or because they are not listed in art. 101 CC – art. 97 para. 2 CC provides a special statute of limitation. It applies to the offences of sexual acts with children (art. 187 CC), sexual acts with dependent persons (art. 188 CC), to the offence of encouraging prostitution with a minor (art. 195 lit. a CC), and to recruitment of minors to participate in pornography (art. 197 par. 3 CC). In each of these cases, the general limitation period of art. 97 para. 1 CC runs at least until the victim has attained the age of 25.

b)

According to art. 98 CC, the limitation period begins on the day on which the offender committed the offence (lit. a), on the day on which the final act was carried out if the offence consists of a series of acts carried out at different times (lit. b), or on the day on which the criminal conduct ceases if the criminal conduct continues over a period of time (lit. c).

## Tunisia / Tunisie

- a) Veuillez préciser quels sont ces délais de prescription et à quelles infractions spécifiques ils s'appliquent.

### Réponse (a.2)

La législation tunisienne prévoit, d'une manière générale, des délais de prescription pour les infractions. L'alinéa premier de l'article 5 du code de procédures pénales prévoit que « Sauf dispositions spéciales de la loi, l'action publique qui résulte d'un crime se prescrit par dix années révolues, celle qui résulte d'un délit par trois années révolues et celle qui résulte d'une contravention par une année révolue, et ce, à compter du jour où l'infraction a été commise

si, dans cet intervalle, il n'a été fait aucun acte d'instruction ni de poursuite.».

Ainsi, les infractions sexuelles y compris contre les enfants sont régies par ces délais. Ces infractions, d'après le code pénal, tel que modifié par la loi organique n°2017-58 du 11 août 2017 relative à l'élimination de la violence à l'égard des femmes, sont les suivants :

- le crime de viol (article 227 nouveau) : peine entre 20 ans d'emprisonnement et emprisonnement à vie y compris le cas d'un enfant victime ;
- le délit de harcèlement sexuel (article 226 ter nouveau) : peine de quatre ans d'emprisonnement et de 10 milles dinars si la victime est un enfant,
- le délit du fait subir volontairement l'acte sexuel à un enfant dont l'âge est supérieur à 16 ans accomplis (article 227 bis nouveau) : peine de cinq ans d'emprisonnement. Cette peine est portée au double si :
  - l'auteur est l'instituteur de la victime, ou de ses serviteurs ou de ses médecins,
  - l'auteur a une autorité sur la victime ou abuse de l'autorité que lui confèrent ses fonctions,
  - l'infraction est commise par un groupe de personnes agissant en qualité d'auteurs principaux ou complices,
  - la victime est en situation de fragilité liée à la maladie grave, la grossesse, ou la carence mentale ou physique affectant sa capacité de résister à l'auteur des faits.
- le crime de l'attentat à la pudeur sans consentement (article 228 nouveau) : peine de 12 ans d'emprisonnement si la victime est un enfant.

En outre, le délai de prescription pour l'infraction de la traite des personnes, quelle que soit la forme d'exploitation y compris l'exploitation sexuelle, est mentionnée à l'alinéa premier de l'article 7 de la loi organique n°2016-61 du 3 août 2016 relative à la prévention et la lutte contre la traite des personnes. Il prévoit que « L'action publique relative aux infractions de traite des personnes prévues par la présente loi se prescrit par quinze ans révolus si elle résulte d'un crime, et par cinq ans révolus si elle résulte d'un délit, et ce, à compter du jour où l'infraction a été découverte si, dans cet intervalle, il n'a été fait aucun acte d'instruction ni de poursuite ».

- b) [Veuillez préciser quand le délai de prescription commence à courir dans la pratique \(à partir du moment où l'infraction a été commise, lorsque l'enfant atteint l'âge de la majorité ou en cas d'autres circonstances spécifiques ?\)](#)

### Réponse (b.2)

Après l'entrée en vigueur de la loi n°2017-58 suscitée en février 2018, le délai de prescription de l'action publique concernant les infractions mentionnées supra court à compter de l'âge de majorité de l'enfant.

Cette disposition est prévue aussi à l'alinéa deuxième de l'article 7 de la loi n°2016-61 suscitée, qui prévoit que « Le même délai de prescription extinctive mentionné dans l'alinéa précédent s'applique aux infractions relatives à la traite des personnes commises contre les enfants, et ce, à compter de leur majorité. »

Turkey / *Turquie*

a)

**A) As regard to the complaint;**

1- The offense of sexual abuse remained at the level of molestation. (The last sentence of paragraph 1 of Article 103 of the Law No. 5237),

2- The offense of sexual intercourse with a minor who has completed fifteen years of age without any force, threat or deceit. (The paragraph 1 of Article 104 of the Law No. 5237)

6-month period for filing a complaint is regulated in paragraph 1 of Article 73 titled “Offences where investigation and prosecution are subject to a complaint” of the Turkish Criminal Code No: 5237.

**B) As regard to statute of limitations pertaining to criminal proceedings and penalties;**

**1- In the Turkish Criminal Code;**

**“Statute of limitations pertaining to criminal proceedings  
Article 66**

- (1) Unless otherwise provided by the law, a public case shall be discontinued upon the lapse of:
  - a) thirty years for offences requiring a penalty of aggravated life imprisonment;
  - b) twenty-five years for offences requiring a penalty of life imprisonment;
  - c) twenty years for offences requiring a penalty of imprisonment for a term of not less than twenty years;
  - d) fifteen years for offences requiring a penalty of imprisonment for a term of more than five years and less than twenty years;
  - e) eight years for offences requiring a penalty of imprisonment for a term of not more than five years or a judicial fine.
- (2) Public case shall be discontinued against those who were between the ages of twelve and fifteen at the time when the offence was committed if half of the above periods are exceeded; and it shall be discontinued against those who were between the ages of fifteen and eighteen at the time when the offence was committed if two-thirds of these periods are exceeded.
- (3) In determining the limitation periods, qualified version of the offence requiring a higher penalty shall be taken into account on the basis of available evidence in the file.
- (4) In determining the periods specified in the above paragraphs, the maximum limit of the penalty available for a particular offence, as stated in the law, shall be taken into account. In offences where there is an alternative penalty, the penalty of imprisonment is taken as the basis with regard to the statute of limitations.

- (5) (Amended on 29/06/2005 by Law No. 5377 Art. 8) In the case of a retrial for the same act, the limitation period for that particular act starts again from the date on which the court accepts the application for the retrial.
- (6) For complete offences, the limitation period shall begin on the day when the offence was committed; for attempted offences, on the day when the last act was conducted; for continuous offences, on the day when the continuing act ended; for successive offences, on the commission date of the last offence and for offences committed against children by their direct-ascendants or persons who have influence upon them, the limitation period shall begin on the day when the child turns eighteen years of age.
- (7) There shall be no statute of limitations for offences regulated under Chapter IV, Volume II of this Code, which are committed abroad and require penalties of aggravated life imprisonment, life imprisonment or imprisonment for a term of more than ten years.

### **“Statute of limitations pertaining to penalties**

#### **Article 68**

- (1) The penalties defined in this Article shall not be enforced, upon lapse of the following periods of time:
  - a) forty years, for the penalty of aggravated life imprisonment;
  - b) thirty years, for the penalty of life imprisonment;
  - c) twenty-four years, for the penalty of imprisonment for a term of twenty years or more;
  - d) twenty years, for the penalty of imprisonment for a term of more than five years;
  - e) ten years, for the penalty of imprisonment and judicial fine of up to five years.
- (2) The penalty shall not be enforced for those who were between the ages of twelve and fifteen years at the time when the offence was committed if one-half of these periods are exceeded; and for those who were between the ages of fifteen and eighteen at the time when the offence was committed if two-thirds of these periods are exceeded.
- (3) There shall be no statute of limitations for the enforcement of penalties imposed for an offence committed abroad and regulated under Chapter IV, Volume II of this Code and which require penalties of aggravated life imprisonment, life imprisonment or imprisonment for a term of more than ten years.
- (4) Judgements, which include different types of penalties, shall not be enforced once the limitation period prescribed for the most severe penalty has expired.
- (5) The limitation period for a penalty shall begin as of the date when the penalty is finalized or the date when the enforcement was interrupted for one reason or another and the period shall be calculated on the basis of the remaining penalty.

b)

**In the Turkish Criminal Code;**

**1- In paragraph 6 of Article 66 titled “Statute of limitations pertaining to criminal proceedings”,** it is stipulated that; “For complete offences, the limitation period shall begin on the day when the offence was committed; for attempted offences, on the day when the last act was conducted; for continuous offences, on the day when the continuing act ended; for successive offences, on the commission date of the last offence and for offences committed against children by their direct-ascendants or persons who have influence upon them, the limitation period shall begin on the day when the child turns eighteen years of age.”

**2- In paragraph 5 of Article 68 titled “Statute of limitations pertaining to penalties”,** it is stipulated that; “The limitation period for a penalty shall begin as of the date when the penalty is finalized or the date when the enforcement was interrupted for one reason or another and the period shall be calculated on the basis of the remaining penalty.”

**Ukraine**

No reply available / *Pas de réponse disponible*

**United Kingdom / Royaume-Uni**

There is a limitation period in England and Wales for bringing civil action. The current rules on limitation periods in civil proceedings are complex. Different periods apply to different courses of action. The time limit for bringing a civil claim for personal injury, including for the harm suffered as a result of sexual abuse, is:

- three years, from the date on which the cause of action accrues,

or, (if later):

- three years from the date of knowledge (as defined) of the person injured.

If the sexual abuse was suffered by a child, those time limits can only begin to run from when the victim reaches the age of 18.

**Court discretion to extend time limit**

The court also has discretion to allow an extension of those periods for a claim to be brought for personal injury, including from for sexual abuse. There is no limit to how long the extension may be. In deciding whether to extend, the court must have regard to all the circumstances of the case and must take into account a list of factors set out in the Limitation Act 1980. They include the length of delay in commencing proceedings and the reasons for that delay. Having identified all the relevant matters, the court must then consider whether or not it is fair in all the circumstances of the case to extend the time and allow the case to be brought.

Formerly a fixed, un-extendable period of six years applied with respect to all personal injuries, including from sexual abuse, which were deliberately caused, as opposed to negligently. That meant that some people abused as children who did not bring their claims until they were much older, for example against a body who should have protected them, found their claims automatically time-barred, and without the court having discretion to extend the time. That situation was criticised by many.

However, that changed in January 2008 in a landmark ruling of the House of Lords Appellate Committee (the highest appeal court at the time). It held that its own earlier decision on this matter was wrong. That 2008 ruling determined that all sexual abuse injuries that were caused, whether deliberately as a consequence of negligence, are now subject to the 3 year unlimitedly extendable time limit set out above.

#### Law Commission recommendations

In 2001 the Law Commission recommended that the current rules on limitation periods be replaced with a single “core regime” which would apply to most civil actions. In personal injury claims, there would be an extendable limitation period of three years, whether the claim concerned was made in negligence or in respect of an intentionally caused injury. The Law Commission’s report included a discussion of the particular limitation period issues associated with claims by victims of childhood sexual abuse.

In July 2002, the then Labour Government announced its acceptance, in principle, of the Law Commission’s recommendations, subject to further consideration of several issues, and stated that it would legislate when a suitable opportunity arose. However, in November 2009, the Government announced that it no longer intended to reform the law in this area, partly because the courts had already remedied the most serious problems.

#### Independent Inquiry into Child Sexual Abuse

The Independent Inquiry into Child Sexual Abuse was a statutory inquiry that launched in 2015 and published its final report in October 2022. The Inquiry was tasked with looking at institutional responses in England and Wales to child sexual abuse across decades in many organisations and institutions. The Inquiry carried out an investigation on Accountability and Reparations, which included reviewing The Limitation Act 1980.

The Inquiry returned to the issue of Limitation in its final report, published in October 2022 and made the following recommendation:

*Recommendation 15: The Inquiry recommends that the UK government makes the necessary changes to legislation in order to ensure:*

- *the removal of the three-year limitation period for personal injury claims brought by victims and survivors of child sexual abuse in respect of their abuse; and*
- *the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible.*

*These provisions should apply whether or not the current three-year period has already started to run or has expired, except where claims have been:*

- *dismissed by a court; or*
- *settled by agreement. They should, however, only apply to claims brought by victims and*

*survivors, not claims brought on behalf of victims and survivors' estate*

The UK Government will respond formally and set out its position in relation to this recommendation, alongside the other recommendations made by the Inquiry in its final report, in Spring 2023.

There is continued interest in the issue of limitation for civil claims, including from third sector organisations, including some debate on whether or not the current law should be changed to align with Scottish Law (see below paragraph on Scotland).

### Scotland

The Limitation (Childhood Abuse) (Scotland) Act 2017 came into force in October 2017. It is a piece of legislation which changed the rules around the time limits within which claimants can make a claim for compensation in the civil courts. Previously, claimants had to make their claim within three years of the injury, or (if it is later) three years from your sixteenth birthday. This legislative change means that there will no longer be a time bar on childhood abuse claims in the civil courts. (It applies to abuse of a person under the age of 18.) There will no longer be a requirement to make a claim within the three years or to ask the court to use its discretion to allow the case to go ahead after that period.

There are two circumstances identified in the Act in which the court may not allow an action to proceed. Firstly, the court may not allow an action to proceed where the defender satisfies the court that it is not possible for a fair hearing to take place. The onus, accordingly, lies on the defender to satisfy the court that a fair hearing is not possible.

Secondly, where the pursuer's right of action accrued before the commencement of the new law, the Act states that the court may not allow the action to proceed where: (a) the defender satisfies the court that, as a result of the retrospective operation of the law, the defender would be substantially prejudiced were the action to proceed, and (b) having had regard to the pursuer's interest in the action proceeding, the court is satisfied that the prejudice is such that the action should not proceed.

Previously, the law would usually prevent claims being taken to court more than once. The Act makes a limited change to this for childhood abuse claims. If an individual took a claim to court before the Act became law, but lost because of the time bar, the Act means that the individual should not be prevented from taking another claim to court.

For any actions arising out of abuse that took place prior to 26 September 1964, the law of prescription applies. The law on prescription is different from limitation in that, while limitation places a procedural bar on an action proceeding, prescription extinguishes an individual's right to raise an action after the specified period of time if there has not been a relevant claim or relevant acknowledgement, such as a clear written acknowledgement of the associated obligation.

**Question 3**

Please add any other information you deem necessary to clarify the situation in your country as regards the statute of limitation for initiating proceedings concerning sexual offences against children.

*Veillez ajouter toute autre information que vous jugez nécessaire pour clarifier la situation dans votre pays en ce qui concerne la prescription pour engager des poursuites concernant les infractions sexuelles contre les enfants.*

**Albania / Albanie**

The Criminal Code of the Republic of Albania provides information about the statute of limitations for criminal prosecution and the statute of limitations for the execution of the sentence.

For more details, in the content of articles 66, 67 and 68, of the Criminal Code of the Republic of Albania:

**“Article 66- Statute of limitations for criminal prosecution**

Criminal prosecution shall not be conducted when from the moment the offence was committed until the moment that the person is held defendant:

- a) forty years have lapsed in the case of crimes which punishment is foreseen to be life imprisonment;
- b) twenty years have lapsed for crimes foreseen to be punished by not less than ten years of imprisonment or another more severe punishment;
- c) ten years have lapsed for crimes, foreseen to be punished by five to ten years of imprisonment;
- ç) five years have lapsed for crimes, foreseen to be punished by up to five years of imprisonment or fine;
- d) three years have lapsed for misdemeanours foreseen to be punished by up to two years of imprisonment; dh) two years have lapsed for misdemeanours foreseen to be punished by fine.

Statute of limitations shall not apply to criminal offences of Chapter II, Section I, articles 76-79/c"

**Article 67 - Non-applicability of statute of limitations to criminal prosecution**

Not subject to the statute of limitation shall be the war crimes and crimes against humanity.

**Article 68 - Statute of limitations for the execution of the sentence**

The sentence shall not be executed if from the day it became final have elapsed:

- a) twenty years for sentences containing between fifteen to twenty-five years imprisonment;
- b) ten years for sentences containing between five to fifteen years imprisonment;
- c) five years for sentences containing up to five years imprisonment or other lower sentences.

In the following, referring to the second paragraph of Article 66, of the Criminal Code, the criminal offenses that are not subject to the statute of limitations are:

- Article 76 - Murder with intent
- Article 77 - Murder with intent connected to another crime
- Article 78 - Premeditated murder
- Article 78/a - Murder due to blood feud
- Article 79 Murder committed under other qualifying circumstances:

**Murder committed:****a) against minors;**

b) against physical or mental disabled persons, seriously ill or pregnant persons, as long as the situation of the victim is evident or known;

c) (Abrogated by law no.144/2013)

ç) against the denouncer, witnesses, impaired persons or other judicial parties;

d) more than once;

dh) against two or more persons;

e) in such a manner that causes particular suffering to the victim;

ë) in a dangerous way regarding the life of many persons,

shall be punished to not less than twenty years or life imprisonment.

Based on the above interpretation, we bring to your attention that:

The criminal offense of intentional homicide against a minor is a criminal offense which is not subject to the statute of limitations.

Whereas, for all other criminal offenses against minors, the prosecution and execution of the sentence is provided for after the deadlines provided for in article 66, 67 and 68, of the Criminal Code of the Republic of Albania.

In more detail, below you will find a summary table regarding the details of the provision of criminal prosecution and the statute of limitations for the execution of the sentence for criminal offenses committed against minors.

ALBANIAN CRIMINAL CODE				
Article	Name of criminal offense	Maximum of sentence	the statute of limitations for criminal prosecution	the statute of limitations for the execution of the sentence
Article 100	Sexual or homosexual relations with minors;	Life imprisonment	40 years	20 years
Article 101	Violent sexual or homosexual intercourse with a minor who is fourteen to eighteen years old;	20 years	20 years	20 years
Article 107/a	Sexual violence;	25 years	20 years	20 years

Article 108	Immoral acts	10 years	10 years	10 years
Article 108/a	Sexual harassment	7 years	10 years	10 years
Article 109	Kidnapping or holding a person hostage	Life imprisonment	40 years	20 years
Article 114	Exploitation of prostitution	15 years	20 years	10 years
Article 121	Intruding into someone's privacy	3 years	5 years	5 years
Article 121/a	Stalking	8 years	10 years	10 years
Article 124	Abandonment of minor children	10 years	10 years	10 years
Article 124/b	Maltreatment of minors	20 years	20 years	20 years
Article 128/b	Trafficking of Minors	Life imprisonment	40 years	20 years
Article 129	Inducing minors to criminality	5 years	5 years	5 years

### *Andorra / Andorre*

No reply available / *Pas de réponse disponible*

### *Armenia / Arménie*

No reply available / *Pas de réponse disponible*

### *Austria / Autriche*

Enclosed are the relevant provisions on the statute of limitations.

§ 57. (1) For offences punishable by imprisonment between 10 and 20 years or by imprisonment for life and offences under Division Twenty-five [of this Code] there is no statute of limitation. However, after a period of 20 years, a penalty of imprisonment for life

is substituted with imprisonment between 10 and 20 years. Paragraph 2 and § 58 apply to this period accordingly.

(2) Criminal liability for all other offences is subject to a statute of limitation. The time limitation commences with completion of the offence or with cessation of the criminalized conduct.

(3) The statute of limitation is

20 years

— for offences punishable by more than 10 years of imprisonment but that are not punishable by imprisonment for life;

10 years

— for offences punishable by imprisonment for more than five years and a maximum of 10 years;

five years

— for offences punishable by imprisonment for more than one year and a maximum of five years;

three years

— for offences punishable by imprisonment for more than six months and a maximum of one year;

one year

— for offences punishable by imprisonment for a period not exceeding six months or by a fine.

(4) Forfeiture and preventative measures are not permissible once the statutory limitation period expires.

§ 58 (2) If the person commits a further offence during the statute of limitation that is based on the same malicious propensity, the statutory limitation period does not expire any earlier than the point at which the limitation for the further offence lapses.

(3) 3. The statute of limitation is not affected by the time period until the victim of an offence against limb and life, liberty, or sexual integrity and self-determination reaches the age of 28, if the victim was a minor at the time the offence was committed.

*Azerbaijan / Azerbaïdjan*

*No reply available / Pas de réponse disponible*

## Belgium / Belgique

Le changement est relativement récent ; on a donc peu de recul sur l'impact de la loi de 2019. Des critiques ont été émises, notamment au regard des faux espoirs donnés aux victimes quant aux possibilités de condamnations quand les faits sont anciens. D'ailleurs, la Cour constitutionnelle a été saisie d'un recours en annulation (toujours pendant) introduit par l'ASBL Ligue des Droits Humains et l'ASBL Association Syndicale des Magistrats.

Une réforme du droit pénal « sexuel » est en préparation pour cette année.

## Bosnia and Herzegovina / Bosnie-Herzégovine

N/A

## Bulgaria / Bulgarie

The Penal Code provides for the possibility of suspension and interruption of the statute of limitations until the expiration of the absolute term.

## Croatia / Croatie

The Republic of Croatia is currently in process of amending the Criminal Code. The Draft Proposal of the Act on Amendments to the Criminal Code is currently published at web page [esavjetovanja.gov.hr](https://esavjetovanja.gov.hr) for public consultations, which is an integral part of the legislative procedure in the Republic of Croatia.

The aforementioned Draft Proposal of the Act on Amendments to the Criminal Code contains provision abolishing the Statute of Limitations for criminal prosecution and execution of sentence for criminal offence Serious Criminal Offences of Child Sexual Abuse and Exploitation prescribed by Article 166 Paragraph 2 of the Criminal Code.

Serious Criminal Offence of Child Sexual Abuse and Exploitation

Article 166 of the Criminal Code

(2) If, as a result of the criminal offence referred to in Article 158, paragraph 5 (sexual intercourse or an equivalent sexual act with a child under the age of fifteen by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence of the child on the perpetrator), Article 162, paragraph 3 (coercion or inducement of a person perpetrator knows, or could and should have known, is a child to provide sexual services, by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence, for the purpose of making a profit, or use of sexual services of this child in exchange for payment, where the perpetrator knows or should and could have known about the said circumstances), Article 163, paragraph 3 (coercion or inducement of a child to participate in child pornography by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or

dependence), or Article 164, paragraph 3 (coercion or inducement of a child to participate in a pornographic performance by means of the use of force or threat, deception, fraud, of abuse of authority or of a situation of hardship or dependence) of this Code, a child suffers severe bodily injury or his or her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a close person or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment not less than five years.

The public consultations on the Draft Proposal of the Act on Amendments to the Criminal Code are ongoing until 22<sup>nd</sup> of April 2021.

UPDATE OF 14/11/2022: By Act of amendments to the Criminal Code (Official Gazette, no. 84/21), which is in force since the 31st July 2021, **the Statute of Limitations for criminal prosecution** for Serious Criminal Offences of Child Sexual Abuse and Exploitation prescribed by **Article 166 paragraph 2 of the Criminal Code, was abolished. As a continuation of the criminal policy which resulted in abolition of the statute of limitations** for criminal prosecution and execution of punishment for criminal offence Serious Criminal Offences of Child Sexual Abuse and Exploitation referred to in **Article 166 paragraph 3 of the Criminal Code (which prescribes death as a consequence** of enumerated criminal offences of Child Sexual Abuse and Exploitation), the legislator decided to abolish the statute of limitations also for difficult forms of sexual abuse and exploitation of a child that are qualified by serious consequence, which consists in inflicting serious physical injury on the child or violating his physical or emotional development or the child's pregnancy, or when multiple perpetrators participated in the crime, or when it is a crime committed against a particularly vulnerable child or committed by a close person or a person with whom the child lives in a joint household, or when it has been committed in a particularly cruel or specially degrading manner (Article 166 Paragraph 2 of the Criminal Code).

Expansion of the catalog of criminal offenses the criminal prosecution of which is not subject to statute of limitations (prescribed in Article 81, paragraph 2) by including the Serious Criminal Offences of Child Sexual Abuse and Exploitation referred to in Article 166 paragraph 2 of the Criminal Code, consequently led to a narrowing of the catalog of criminal offenses referred to in Article 82, paragraph 3 of the Criminal Code, which prescribes the list of criminal offences in relation to which the statute of limitations begins to run from when the victim comes of age (18 years old), i.e. criminal offence Serious Criminal Offences of Child Sexual Abuse and Exploitation referred to in Article 166 paragraph 2 of the Criminal Code was omitted from the catalog referred to in Article 82, paragraph 3 of the Criminal Code.

The described changes also resulted in changes to Article 83, paragraph 2 of the Criminal Code, which now prescribes that the execution of the punishment shall not be subject to statute of limitations also for Serious Criminal Offences of Child Sexual Abuse and Exploitation referred to in Article 166 paragraph 2 of the Criminal Code.

Please note the legal description of the Criminal offence Serious Criminal Offences of Child Sexual Abuse and Exploitation referred to in Article 166 paragraph 2 of the Criminal Code, as follows:

*Article 166 of the Criminal Code*

*(2) If, as a result of the criminal offence referred to in Article 158, paragraph 5 (sexual intercourse or an equivalent sexual act with a child under the age of fifteen by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence of the child on the perpetrator), Article 162, paragraph 3 (coercion or inducement of a person perpetrator knows, or could and should have known, is a child to provide sexual services, by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence, for the purpose of making a profit, or use of sexual services of this child in exchange for payment, where the perpetrator knows or should and could have known about the said circumstances), Article 163, paragraph 3 (coercion or inducement of a child to participate in child pornography by means of the use of force or threat, deception, fraud, abuse of authority or of a situation of hardship or dependence), or Article 164, paragraph 3 (coercion or inducement of a child to participate in a pornographic performance by means of the use of force or threat, deception, fraud, of abuse of authority or of a situation of hardship or dependence) of this Code, a child suffers severe bodily injury or his or her physical or emotional development is compromised or becomes pregnant, where a number of perpetrators participate in the offence, or the offence is committed against an especially vulnerable child, or is committed by a close person or a person the child lives with in a joint household, or is committed in an especially cruel or degrading manner, the perpetrator shall be punished by imprisonment not less than five years.*

*Cyprus / Chypre*

No reply available / *Pas de réponse disponible*

*"Hope For Children" CRC Policy Center Cyprus / "Hope For Children" CRC Policy Center Chypre*

No reply available / *Pas de réponse disponible*

*Czech Republic / République tchèque*

In our view argument that there should be no time-limit at all and that victims of child sexual offences should be allowed to start proceedings whenever they feel ready to do so is not valid. It shall be taken into account that the initiation of criminal proceedings a long time after the commission of a criminal offense is generally not desirable.

One of the substantive criminal law reasons is that the need for a criminal response to a crime weakens or disappears by passing a time, both in terms of general prevention and individual prevention. If, after a period of time, the harmfulness of the act disappears or if criminal liability against the perpetrator of the criminal offence has not been applied timely, the termination of criminal liability for such an offense is justified. The criminal sanction imposed in this case can no longer sufficiently fulfil the resocialization or preventive or deterrent purpose and is therefore in conflict with all the legitimate objectives of criminal sanctions.

From the procedural point of view initiation of criminal proceedings a long time after the commission of the criminal offence may lead to evidence difficulties (the strength of evidence weakens - for example, witnesses forget, the credibility of their testimony decreases, traces disappear, lose reliability or cannot be obtained at all) and solving such cases is not only economically costly but also due to the time period from the commission of the offence often fruitless.

Therefore we are of the opinion that sufficiently long time-limits (based on the gravity on individual criminal offence) shall be maintained.

#### Denmark / *Danemark*

No reply available / *Pas de réponse disponible*

#### Estonia / *Estonie*

No reply available / *Pas de réponse disponible*

#### Finland / *Finlande*

**“Finland’s Criminal Code (39/1889)** [unofficial translation]

#### **Chapter 8 -Statute of limitations**

#### **Section 1 –Time-barring of the right to bring charges (297/2003)**

(1) The right to bring charges for an offence for which the most severe sentence is life imprisonment does not become time-barred. (212/2008)

(2) The right to bring charges is time-barred if charges have not been brought

- (1) within twenty years, if the most severe penalty provided for the offence is fixed-term imprisonment for over eight years,
- (2) within ten years, if the most severe penalty is imprisonment for more than two years and at most eight years,
- (3) within five years, if the most severe penalty is imprisonment for over a year and at most two years, and
- (4) within two years, if the most severe penalty is imprisonment for at most a year, or a fine.

(3) The most severe penalty refers to the maximum penalty provided for the offence in the applicable provision.

(...)

(5) The right to bring charges for rape of a child, aggravated rape of a child, sexual assault of a child and aggravated sexual assault of a child becomes time-barred at the earliest when the plaintiff reaches the age of twenty-eight years. The same applies to rape, aggravated rape,

sexual assault, aggravated sexual assault, sexual abuse, pandering, aggravated pandering, trafficking in persons and aggravated trafficking person, directed at a person below the age of eighteen years. In the case of enticement of a child for sexual purposes referred to in Chapter 20, section 18(2), the right to bring charges becomes time-barred when the person who was the object of the offence reaches the age of twenty-three years (723/2022).<sup>6</sup>

## Section 2 –Beginning of the period of limitation (297/2003)

(1) The periods mentioned above in section 1 are calculated from the day of the commission of the offence. If the essential elements of the offence provide for the criminalization of omission, the period for the bringing of charges begins to run when the omitted act should at the latest have been committed. If the essential elements of the offence require that a certain consequence be brought about, the period is calculated from the date said consequence appears.

(2) If the criminal act involves the maintenance of an unlawful condition, the period during which the right to bring charges becomes time-barred does not begin until such condition ends.

(3) The period for the bringing of charges for complicity in an offence begins to run on the same date as the period for the bringing of charges for the principal act.”

### The maximum penalties for sexual offences against a child are as follows:

- rape of a child: 10 years of imprisonment
- aggravated rape of a child: 12 years of imprisonment
- sexual assault of a child: 6 years of imprisonment
- aggravated sexual assault of a child: 10 years of imprisonment
- rape: 6 years of imprisonment
- aggravated rape: 10 years of imprisonment
- sexual assault: 4 years of imprisonment
- sexual abuse: 4 years of imprisonment
- pandering: 3 years of imprisonment
- aggravated pandering: 6 years of imprisonment
- trafficking in persons: 6 years of imprisonment
- aggravated trafficking person: 10 years of imprisonment
- solicitation of a child for sexual purposes: 1 year of imprisonment

## France

La loi n° 2021-478 du 21 avril 2021 visant à protéger les mineurs des crimes et délits sexuels et de l'inceste a renforcé la répression en fixant dans la loi un âge seuil de non consentement à un acte sexuel d'un mineur avec un adulte et en **prolongeant le délai de prescription des faits sexuels répétés** commis par un même auteur à l'encontre de plusieurs mineurs afin que toutes les infractions puissent être jugées au même procès.

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<sup>6</sup> This paragraph and the referred legislative changes enter into force on 1 January 2023.

Le mécanisme de « prescription prolongée » des viols commis sur des mineurs, permet que si une personne commet un nouveau viol sur un autre mineur, **la prescription du premier crime est prolongée jusqu'à la date de prescription du nouveau crime** (lorsque cette date est postérieure à celle de la prescription du premier crime) ce qui permet que ces deux crimes se prescrivent à la même date. Le même mécanisme est prévu pour les délits d'agression et d'atteintes sexuelles commis sur les mineurs. Il en résulte que si des poursuites interviennent avant la prescription du dernier crime ou délit, **l'ensemble des infractions commises pourront être jugées en même temps.**

Ce mécanisme est complété par une amélioration du régime de la connexité en permettant que soient considérés comme connexes les viols, agressions sexuelles, ou atteintes sexuelles commis par le même auteur à l'encontre de plusieurs victimes mineures, ayant pour conséquence qu'un acte interruptif de prescription concernant l'un de ces faits a le même effet à l'égard des autres.

#### *Georgia / Géorgie*

No reply available / *Pas de réponse disponible*

#### *Germany / Allemagne*

The legislative initiatives currently under way aim to significantly aggravate the penalty for criminal offences in order to protect children from sexualised violence. These changes will also result in extending the term of the statute of limitations.

See Appendix / *Voir l'Annexe*

#### *Greece / Grèce*

No reply available / *Pas de réponse disponible*

#### *Hungary / Hongrie*

No reply available / *Pas de réponse disponible*

#### *Iceland / Islande*

No reply available / *Pas de réponse disponible*

#### *Ireland / Irlande*

No reply available / *Pas de réponse disponible*

### Italy / *Italie*

No reply available / *Pas de réponse disponible*

### Latvia / *Lettonie*

No reply available / *Pas de réponse disponible*

### Liechtenstein

No reply available / *Pas de réponse disponible*

### Lithuania / *Lituanie*

No reply available / *Pas de réponse disponible*

### Luxembourg

Le régime des prescriptions fera l'objet d'une réforme, tel qu'il a été convenu dans le programme de gouvernement de 2018.

A cet effet, un projet de loi renforçant les moyens de lutte contre les abus sexuels et l'exploitation sexuelle des mineurs revoit les délais de prescription énoncés sous la question 2 à la hausse.

Concernant le délai de prescription applicable aux crimes (article 637 du Code de procédure pénale), le délai de prescription de l'action publique des infractions prévues aux articles 372bis paragraphes 2 et 3 (atteinte à l'intégrité sexuelle<sup>7</sup> de nature criminelle commise sur un mineur), 372ter (atteinte à l'intégrité sexuelle incestueuse commise sur un mineur) et 409bis, paragraphes 3 à 5 du Code pénal (mutilations génitales féminines commises à l'encontre d'un mineur) est élevé de 10 à 30 ans. L'infraction de coups et blessures et privation d'aliments commis à l'encontre d'un mineur de moins de 14 ans est ajouté à la liste des crimes soumis à ce délai de prescription allongé.

Le projet de loi prévoit que le viol commis sur un mineur et le viol incestueux commis sur un mineur sont imprescriptibles.

Concernant les délits (article 638 du CPP), il est prévu que le délai de prescription des infractions de prostitution et d'exploitation sexuelle de mineurs, de mariage forcé, de coups et blessures, et de mutilations génitales féminines de nature délictuelle soit élevé de 5 à 10 ans. Pour l'atteinte à l'intégrité sexuelle de nature correctionnelle commise à l'égard d'un mineur, le délai de prescription est élevé de 5 à 20 ans.

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<sup>7</sup> Le projet de loi prévoit de remplacer la notion d'« attentat à la pudeur » par la notion d'« atteinte à l'intégrité sexuelle ».

## Malta / *Malte*

No reply available / *Pas de réponse disponible*

## Republic of Moldova / *République de Moldova*

In case of Sexual harassment (Article 173 of Criminal code), victim's complaint is needed for starting the criminal case.

## Monaco

Les articles 17 et 18 du Code de procédure pénale prévoient :

« **Article 17.**- *La prescription est interrompue par tout acte de poursuite ou d'instruction intervenu dans les délais fixés par les articles précédents, même à l'égard des personnes qui ne seraient pas impliquées dans cet acte de poursuite ou d'instruction.*

**Article 18.**- *S'il a été fait, dans cet intervalle, des actes de poursuite ou d'instruction, le délai de prescription ne courra qu'à partir du dernier acte, même si, par suite d'actes interruptifs, ont été dépassés les délais prévus aux articles 12, 13 et 14 ».*

## Montenegro / *Monténégro*

No reply available / *Pas de réponse disponible*

## Netherlands / *Pays-Bas*

If a minor (<18) commits a sexual offence laid down in Articles 240b, Paragraph 2, 242, 243, 244, 245 or 246 against another minor, the statute of limitation for initiating proceedings will be precluded after twenty years.

### **Updated in 2022:**

#### *Current legislation*

A special time-limit applies to offences committed by minor offenders between the age of 12 to 18 years old (section 77d of the DPC).

The limitation period to the right to instigate criminal proceedings that applies to adult offenders is shortened to half its duration in the case of a minor offender except for the sexual offences defined in Articles 240b, first paragraph, and 247 to 250 of the Criminal Code, when committed by an offender aged 16-18 against a minor.

Furthermore, if a minor (<18) commits a sexual offence laid down in Articles 240b, Paragraph 2, 243, 245 or 246 or an offence punishable by a term of imprisonment of twelve years or more against another minor, the statute of limitations for initiating proceedings will be precluded after twenty years.

#### *Draft bill on sexual offences*

Most of the above remains unchanged. However, the general rule that the right to instigate

criminal proceedings that applies to adult offenders is shortened to half its duration in the case of a minor offender does not apply to the sexual offences defined in the new Articles 242 Sr (culpable rape) and 251 Sr (sex chatting < 16 years old, sexual corruption of children and grooming), committed by a person who has reached the age of 16 years at the time of committing the offence against a person who has not yet reached the age of 18 years.

The right to criminal proceedings expires in twenty years for:

- a) crimes punishable by imprisonment for twelve years or more; and
- b) the offences described in Articles 245, 246 (1), 247 (1) and (2), 249 (1), 252 and 253 (sexual assault and rape committed against a child in various age categories, child pornography and attending a child pornographic performance);
- c) the crimes described in Articles 241, first and second paragraphs, (international sexual assault) and 243, first paragraph, (intentional rape) if the offence has been committed in respect of a person who has not yet reached the age of eighteen years.

### North Macedonia / *Macédoine du Nord*

No reply available / *Pas de réponse disponible*

### Norway / *Norvège*

On 3 November 2020, Stortinget (the Norwegian parliament) asked the Government to compose a comprehensive review of the statute of limitations for sexual offences and violent crimes against minors. The Government was asked to return to Stortinget with proposals for legislation that extend or remove the limitation periods for such offences.

### Poland / *Pologne*

Polish Criminal Code distinguishes:

**(a) statute of limitations on punishability** — Article 101 of the Criminal Code

**(b) statute of limitations on the enforcement of the penalty** — Article 103 of the Criminal Code

#### Re: (a).

If the statute of limitations runs its course on the punishability, no penalty or punitive measure is admissible.

In procedural law, the **completion of the statute of limitations on punishability** results in a bar to bringing criminal proceedings and in the legal requirement of discontinuing any proceedings pending in respect of an offence on the punishability of which the statute of limitations has run.<sup>8</sup>

#### Re: (b).

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<sup>8</sup> **Article 17 § 1** of the Code of Criminal Procedure: No proceedings shall be instituted and any pending proceedings shall be discontinued if: (...)

(6) the statute of limitations has run on the punishability;

**Article 103 § 1** A penalty shall not be enforced if the following number of years has elapsed since the day the conviction became final and unappealable:

- (1) 30 — if sentenced to more than 5 years' imprisonment or a more severe penalty;
- (2) 15 — if sentenced to no more than 5 years' imprisonment;
- (3) 10 — if sentenced to any other penalty.

(2) Section 1 point 3 shall apply accordingly to punitive measures, compensation measures and forfeitures.

The lapse of the statute of limitations shall prevent the enforcement of finally and unappealably imposed penalties, punitive measures, compensation measures or forfeitures. In any such situation the enforcement proceedings must be discontinued in accordance with Article 15 § 1 of the Criminal Enforcement Code.

## Portugal

It is worth highlighting paragraph 5 of article 118 that provides a double protection to the victim by guaranteeing that the criminal procedure will never be extinguished by statute of limitations before the victim has completed 23 years, thus allowing the victim to initiate or continue the criminal procedure.

The statute of limitation can be suspended (Article 120) or interrupted (Article 121).

See Appendix / *Voir l'Annexe*

## Romania / Roumanie

Extract of legislation:

Law 286/2009 – The Criminal code of Romania

Article 153

Prescription of criminal liability

- (1) The prescription removes criminal liability.
- (2) The prescription does not remove the criminal liability in case of:
  - a) crimes of genocide, against humanity and of war, regardless of the date on which they were committed;
  - b) the offenses provided in art. 188 and 189 and of intentional offenses followed by the death of the victim.
  - c) the offenses provided by art. 218 and 220.
- (3) The prescription does not remove the criminal liability even in the case of the offenses provided in par. (2) lit. b) for which the limitation period, general or special, has not expired on the date of entry into force of this provision.

## Article 154

## Limitation periods of criminal liability

(1) The limitation periods for criminal liability are:

- a) 15 years, when the law provides for the crime of life imprisonment or imprisonment for more than 20 years for the crime committed;
- b) 10 years, when the law provides for the crime committed imprisonment of more than 10 years, but not exceeding 20 years;
- c) 8 years, when the law provides for the crime committed a prison sentence of more than 5 years, but not exceeding 10 years;
- d) 5 years, when the law provides for the crime committed imprisonment of more than one year, but not exceeding 5 years;
- e) 3 years, when the law provides for the crime committed a prison sentence not exceeding one year or a fine.

(2) The time limits provided for in this Article shall run from the date of the commission of the offense. In the case of continuous offenses, the time limit runs from the date of cessation of the action or inaction, in the case of continued offenses, from the date of the last action or inaction, and in the case of offenses usually from the date of the last act.

(3) In the case of progressive offenses, the limitation period for criminal liability shall run from the date of the commission of the action or inaction and shall be calculated in relation to the penalty corresponding to the final result produced.

(4) Except for the offenses provided in art. 218 and 220, in the case of offenses against sexual freedom and integrity, those of trafficking and exploitation of vulnerable persons, as well as the offense of child pornography, committed against a minor, the limitation period shall begin to run from the date on which he became a major. If the minor died before reaching the age of majority, the limitation period shall run from the date of death.

#### [Russian Federation / Fédération de Russie](#)

No reply available / *Pas de réponse disponible*

#### [San Marino / Saint-Marin](#)

No reply available / *Pas de réponse disponible*

#### [Serbia / Serbie](#)

No reply available / *Pas de réponse disponible*

#### [Slovak Republic / République slovaque](#)

A special regulation of the statute of limitations for criminal prosecution in relation to sexual offenses committed against children was introduced into the Criminal Code by Act no. 274/2017 Coll. This amendment extended the period in which the criminal prosecution of selected criminal offenses referred to in § 87 para. 5, from three years to fifteen years, while

at the same time the catalogue of these crimes was extended to the crime of rape under § 199 and the crime of sexual abuse under § 200. The reason for this change was mainly the fact that the object of these crimes is often a child, with application practice pointing to the fact that victims of these crimes often do not decide to report such crimes until after the original three-year limitation period. Therefore, many victims remain without any satisfaction and the perpetrators go unpunished and continue to commit crime.

### *Slovenia / Slovénie*

No reply available / *Pas de réponse disponible*

### *Spain / Espagne*

Organic Law 8/2021 has amended the regulation of sexual offences, including offences against children. Statute of limitation has been extended in the case of the more severe offences against children with the purpose of extending the statute of limitation by delaying the statute of limitation to the date the victim reaches the age of 35. The purpose of the amendment is to avoid the impunity of the most severe crimes, knowing that these victims require a long term to accept the consequences and harm of the offence and sometimes the difficulties in the identification of the perpetrator.

### *Sweden / Suède*

As mentioned in the answer to question 1 a, Sweden abolished the statute of limitation for the most serious types of sexual offences against children in May 2020. This also applies to offences committed before the change of the legislation, as long as offences were not barred by the statute of limitation when the changes entered into force.

### *Switzerland / Suisse*

No reply available / *Pas de réponse disponible*

### *Tunisia / Tunisie*

La législation tunisienne a gardé les mêmes délais de prescriptions pour les infractions sexuelles qu'elles soient commises sur les enfants ou les adultes. La spécificité pour les enfants réside dans le délai de commencement de cette prescription, qui a passé de la date de la commission de l'infraction à la date de la majorité de la victime. Une telle disposition est applicable si les enfants sont victimes surtout des infractions sexuelles commises par la traite des personnes ou des violences sexuelles.

Dans sa nouvelle réforme du commencement du délai de prescription pour les infractions sexuelles commises sur les enfants, la Tunisie s'est inspirée de la convention Lanzarote, bien qu'elle n'y est pas encore partie et des avancées internationales en la matière. En outre, le projet de réforme de code de protection de l'enfant qui a été adopté par le gouvernement le 12 aout 2020 et en cours de finalisation a prévu un tel délai pour les enfants victimes.

Turkey / *Turquie*

No reply available / *Pas de réponse disponible*

Ukraine

No reply available / *Pas de réponse disponible*

United Kingdom / *Royaume-Uni*

No reply available / *Pas de réponse disponible*

## Appendices / Annexes

### Germany / Allemagne

#### **1. Offences against sexual self-determination (section 174 pp of the German Criminal Code)**

##### **Section 174**

##### **Sexual abuse of persons in one's charge**

(1) Whoever performs sexual acts

1. on a person under 16 years of age who is entrusted to them for upbringing, education or care,
2. on a person under 18 years of age who is entrusted to them for upbringing, education or care, or who is their subordinate within a service or employment relationship, by abusing the dependence associated with the educational, care, service or employment relationship or
3. on a person under 18 years of age who is their biological or adopted descendant or the biological or adopted descendant of their spouse, life partner or a person with whom they live in a quasi-marital relationship or quasi-life partnership

or has the person in their charge perform sexual acts on them incurs a penalty of imprisonment for a term of between three months and five years.

(2) Whoever is entrusted with the upbringing, education or care of persons under 18 years of age in an institution specified for this purpose and who

1. performs sexual acts on a person under 16 years of age who has a legal relationship with the institution which serves this person's upbringing, education or care, or who has that person perform sexual acts on them or
2. exploits their position in order to perform sexual acts on a person under 18 years of age who has a legal relationship with the institution which serves this person's upbringing, education or care, or who has that person perform sexual acts on them

incurs a penalty of imprisonment for a term of between three months and five years.

(3) Whoever, under the conditions of subsection (1) or (2),

1. performs sexual acts in the presence of the person in their charge or
2. causes the person in their charge to perform sexual acts in their presence

for the purpose of their own sexual arousal or that of the person in their charge incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(4) The attempt is punishable.

(5) In the cases under subsection (1) no. 1, subsection (2) no. 1 or subsection (3) in conjunction with subsection (1) no. 1 or with subsection (2) no. 1, the court may dispense with imposing a penalty pursuant to this provision if the wrongfulness of the act is minor.

**Section 176****Sexual abuse of children**

(1) Whoever performs sexual acts on a person under 14 years of age (child) or has the child perform sexual acts on them incurs a penalty of imprisonment for a term of between six months and 10 years.

(2) Whoever causes a child to perform sexual acts on a third person or has a third person perform sexual acts on the child incurs the same penalty.

(3) In especially serious cases, the penalty is imprisonment for a term of at least one year.

(4) Whoever

1. performs sexual acts in the presence of a child,
2. causes the child to perform sexual acts, unless the act is subject to a penalty under subsection (1) or subsection (2),
3. influences a child by way of material (section 11 (3)) or information and communication technologies
  - a) in order to cause the child to perform sexual acts on or in the presence of the offender or a third person or to have the offender or a third person perform sexual acts on the child or
  - b) in order to commit an offence under section 184b (1) no. 3 or under section 184b (3) or
4. influences a child by showing pornographic images or depictions, by playing pornographic audio recordings, making pornographic content available by way of information and communication technologies or pornographic speech

incurs a penalty of imprisonment for a term of between three months and five years.

(5) Whoever offers or promises to supply a child for an offence under subsections (1) to (4) or who arranges with another to commit such an offence incurs a penalty of imprisonment for a term of between three months and five years.

(6) The attempt is punishable; this does not apply to offences under subsection (4) nos. 3 and 4 and subsection (5).

**Section 176a****Aggravated sexual abuse of children**

(1) The sexual abuse of children in the cases under section 176 (1) and (2) incurs a penalty of imprisonment for a term of at least one year if the offender has been convicted of such an offence by final judgment within the previous five years.

(2) The sexual abuse of children in the cases under section 176 (1) and (2) incurs a penalty of imprisonment for a term of at least two years if

1. a person over 18 years of age has sexual intercourse with the child, or performs similar sexual acts on the child or has similar sexual acts performed on them by the child which involve penetration of the body,

2. the offence is committed jointly by more than one person or
3. the offender, by committing the offence, places the child at risk of serious damage to health or substantial impairment of his or her physical or emotional development.

(3) Whoever, in the cases under section 176 (1) to (3), (4) no. 1 or 2 or section 176 (6), acts as an offender or another party to an offence with the intention of making the act the subject of pornographic material (section 11 (3)) which is to be disseminated as per section 184b (1) or (2) incurs a penalty of imprisonment for a term of at least two years.

(4) In less serious cases under subsection (1), the penalty is imprisonment for a term of between three months and five years, in less serious cases under subsection (2) imprisonment for a term of between one year and 10 years.

(5) Whoever, in the cases under section 176 (1) to (3), seriously physically abuses the child or places the child in danger of death incurs a penalty of imprisonment for a term of at least five years.

(6) Any period during which the offender was detained in an institution by official order is not taken into account when calculating the time indicated in subsection (1). An offence resulting in a conviction abroad is equivalent, in the cases under subsection (1), to an offence resulting in a domestic conviction if under German criminal law it would have been an offence under section 176 (1) or (2).

## **Section 182**

### **Sexual abuse of juveniles**

(1) Whoever abuses a person under 18 years of age by taking advantage of a predicament by

1. performing sexual acts on that person or having said person perform sexual acts on them or
2. causing the person to perform sexual acts on a third person or to have sexual acts performed on them by a third person

incurs a penalty of imprisonment for a term not exceeding five years or a fine.

(2) A person over 18 years of age who abuses a person under 18 years of age by performing sexual acts on that person or having that person perform sexual acts on them for a consideration incurs the same penalty.

(3) A person over 21 years of age who abuses a person under 16 years of age by

1. performing sexual acts on that person or having that person perform sexual acts on them or
2. causing that person to perform sexual acts on a third person or to have a third person perform sexual acts on that person,

and thereby exploits the victim's lack of capacity for sexual self-determination, incurs a penalty of imprisonment for a term not exceeding three years or a fine.

(4) The attempt is punishable.

(5) In the cases under subsection (3), the offence is prosecuted only upon request, unless the prosecuting authority deems there to be a special public interest in prosecution which calls for ex officio intervention.

(6) In the cases under subsections (1) to (3), the court may dispense with imposing a penalty pursuant to these provisions if, having regard to the conduct of the person against whom the offence was committed, the wrongfulness of the act is minor.

## **Section 184h**

### **Definitions**

Within the meaning of this statute,

1. 'sexual acts' are only those which are of some relevance to the protected legal interest in question,
2. 'sexual acts in the presence of a third person' are only those which are performed by a person other than the person observing them.

## **2. Basic principles of criminal liability and limitation periods (section 19 and 78 pp of the German Criminal Code)**

### **Section 19**

#### **Lack of criminal responsibility of children**

Whoever is under 14 years of age at the time of the commission of the offence is deemed to act without guilt.

### **Section 78**

#### **Limitation period**

(1) The imposition of a penalty and the ordering of measures (section 11 (1) no. 8) are ruled out following expiry of the limitation period. Section 76a (2) remains unaffected.

(2) Serious criminal offences under section 211 (murder under specific aggravating circumstances) are not subject to the statute of limitations.

- (3) Where prosecution is subject to the statute of limitations, the limitation period is
1. 30 years in the case of offences which are punishable by imprisonment for life,
  2. 20 years in the case of offences which are punishable by a maximum sentence of imprisonment of more than 10 years,
  3. 10 years in the case of offences which are punishable by a maximum sentence of imprisonment of more than five years but no more than 10 years,
  4. five years in the case of offences which are punishable by a maximum sentence of imprisonment of more than one year but no more than five years,
  5. three years in the case of other offences.

(4) The period is determined in accordance with the penalty threatened under the law which defines the elements of the offence realised, irrespective of aggravating or mitigating circumstances provided for in the provisions of the General Part or of aggravated or less serious cases under the Special Part.

## **Section 78b**

### **Stay of limitation**

(1) The limitation period is stayed

1. until the victim of an offence under sections 174 to 174c, 176 to 178, section 180 (3), sections 182, 225, 226a and 237 has reached the age of 30,
2. as long as the prosecution may, by law, not be commenced or continued; this does not apply if the only reason why the offence cannot be prosecuted is due to the absence of a request or authorisation to prosecute or a request to prosecute by a foreign state.

(2) If prosecution is not feasible because the offender is a Member of the Bundestag or of a legislative body of one of the *Länder*, the stay of the limitation period only commences upon expiry of the day on which

1. the public prosecution office or a police authority or police officer gains knowledge of the offence and of the offender's identity or
2. an offence is reported or a request to prosecute is filed against the offender (section 158 of the Code of Criminal Procedure).

(3) If a judgment has been delivered in the proceedings at first instance before the expiry of the limitation period, the limitation period does not expire before the time when the proceedings have been finally concluded.

(4) Where provision is made for an aggregate sentence of imprisonment of more than five years in especially serious cases and if the main proceedings have been opened before the regional court, the statute of limitations is stayed in the cases under section 78 (3) no. 4 from the time of the opening of the main proceedings, but no longer than for a period of five years; subsection (3) remains unaffected.

(5) If the offender is staying abroad and if the competent authority makes a formal request for extradition to that state, the limitation period is stayed as of the time the request is served on the foreign state

1. until the offender is surrendered to the German authorities,
2. until the offender leaves the territory of the requested foreign state by other means,
3. until the foreign state's denial of the request is served on the German authorities or
4. until the request is withdrawn.

If the date of service of the request on the foreign state cannot be ascertained, the request is deemed to have been served one month after having been sent or handed over to the foreign state, unless the requesting authority gains knowledge of the fact that the foreign state did not in fact receive the request or only at a later point in time. Sentence 1 does not apply to requests for extradition for which, in the requested state, a limitation period similar to section 83c of the Act on International Mutual Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen*) exists, either based on the Council Framework

Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1) or based on an international agreement. (6) In the cases under section 78 (3) nos. 1 to 3, the limitation period is stayed from the time of the handing over of a person to the International Criminal Court or the executing state until that person's return to the German authorities or release from the International Criminal Court or the executing state.

### **Section 78c Interruption**

(1) The limitation period is interrupted by

1. the first examination of the accused, notice that a preliminary investigation has been initiated against the accused, or the order for such examination or notice of such examination,
2. any judicial examination of the accused or the order for a judicial examination of the accused,
3. any commissioning of an expert by the judge or public prosecutor if the accused has previously been examined or has been given notice of the launch of a preliminary investigation,
4. any judicial seizure or search warrant and judicial decisions upholding them,
5. a warrant of arrest, a provisional order for placement, an order to be brought before a judge for examination and judicial decisions upholding them,
6. the preferment of public charges,
7. the opening of the main proceedings,
8. the setting of each date for the main hearing,
9. a summary penalty order or another decision equivalent to a judgment,
10. the provisional judicial termination of the proceedings due to the indicted accused's absence, as well as any order of the judge or public prosecutor issued after such termination of the proceedings or in proceedings in absentia to ascertain the indicted accused's whereabouts or to secure evidence,
11. the provisional judicial termination of the proceedings due to the indicted accused being unfit to stand trial and any order of the judge or public prosecutor issued after such termination of the proceedings for the purposes of reviewing the indicted accused's fitness to stand trial or
12. any judicial request to undertake an investigative act abroad.

In preventive detention proceedings and independent proceedings, the limitation period is interrupted on account of those acts done to conduct the preventive detention proceedings and independent proceedings which correspond to those in sentence 1.

(2) In the case of a written order or decision being made, the limitation period is interrupted at the time at which the order or decision is signed. If the document is not immediately processed after signing, the time at which it is actually submitted for processing is decisive.

(3) After each interruption, the limitation period begins to run anew. However, the prosecution is barred by limitation once double the statutory limitation period has elapsed since the time indicated in section 78a and at least three years if the limitation period is

shorter than three years under special laws. Section 78b remains unaffected.

(4) The interruption has effect only for the person in relation to whom the interrupting act is done.

(5) If a law which applies at the time the offence is completed is amended before a decision is given and the limitation period is thereby shortened, then acts leading to an interruption which were undertaken before the entry into force of the new law retain their effect, notwithstanding that at the time of the interruption the prosecution would have been barred by the statute of limitations under the amended law.

### **3. Provisions of the youth courts act (section 1 and 5 pp)**

#### **Section 1**

##### **Scope as to persons and substantive scope**

(1) This Act shall apply if a juvenile or young adult engages in misconduct punishable under the provisions of general law.

(2) "Juvenile" shall mean anyone who, at the time of the act, has reached the age of fourteen but not yet eighteen years; "young adult" shall mean anyone who, at the time of the act, has reached the age of eighteen but not yet twenty-one years.

#### **Section 5**

##### **Consequences of youth offences**

(1) Supervisory measures may be ordered in response to a criminal offence committed by a juvenile.

(2) Where supervisory measures do not suffice, disciplinary measures or youth penalty may be imposed to punish an offence committed by a juvenile.

(3) Disciplinary measures or youth penalty shall be dispensed with if placement in a psychiatric hospital or institution for withdrawal treatment renders punishment by the judge dispensable.

#### **Section 9**

##### **Types of measure**

"Supervisory measures" shall mean:

1. the issuing of instructions,
2. an order to avail oneself of supervisory assistance within the meaning of section 12.

#### **Section 13**

##### **Types of measure and their application**

(1) The judge shall apply disciplinary measures to punish the criminal offence if youth penalty is not indicated, but if the juvenile must be made acutely aware that he must assume

responsibility for the wrong he has done.

(2) "Disciplinary measures" shall mean:

1. reprimands,
2. imposition of conditions,
3. youth detention.

(3) Disciplinary measures shall not carry the same legal consequences as a criminal sentence.

## **Section 17**

### **Form and conditions**

(1) "Youth penalty" shall mean deprivation of liberty in a facility for its execution.

(2) The judge shall impose youth penalty if, as a result of the harmful inclinations demonstrated by the juvenile during the act, supervisory measures or disciplinary measures are not sufficient for the purposes of supervision or if such a penalty is necessary given the seriousness of the juvenile's guilt.

## Portugal

**STATUS OF LIMITATION – CRIMES AGAINST SEXUAL SELF DETERMINATION  
SEXUAL ABUSE OF CHILDREN**

<b>ARTICLE</b>	<b>CRIME</b>	<b>PENALTY</b>	<b>LIMITATION PERIOD PLEASE NOTE 118.5 CC: In the crimes against sexual freedom and self-determination of minors, as well as in the crime of female genital mutilation where the victim is a minor, the criminal procedure shall not be extinguished by prescription before the victim turns 23 years of age.</b>
<b>171 (SEXUAL ABUSE OF CHILDREN), 1</b>	Engaging in sexual activity with or on a person under the age of 14, or causing him or her to engage in such activity with another person.	Punishable by imprisonment of between one and eight years.	<b>Ten years</b>
<b>171 (SEXUAL ABUSE OF CHILDREN), 2</b>	If the relevant sexual act consists of copulation, anal coitus, oral coitus or the vaginal or anal introduction of body parts or objects.	Punishable by imprisonment of between three and ten years	<b>Ten years</b>
<b>171 (SEXUAL ABUSE OF CHILDREN), 3</b>	a) Harassing a minor under 14 years of age by committing an act provided for in article	Punishable by imprisonment, with imprisonment	<b>Five years</b>

	170; or b) Acting upon a minor under 14 years of age by means of pornographic talk, writing, show or object; c) Enticing a minor under the age of 14 to witness sexual abuse or sexual activities.	of up to three years	
<b>171 (SEXUAL ABUSE OF CHILDREN), 4</b>	Engaging the acts described in the preceding paragraph with the intention of gaining profit.	Punishable by imprisonment of between six months and five years.	<b>Five years</b>
<b>172 (SEXUAL ABUSE OF CHILDREN WHO ARE DEPENDENT OR IN A PARTICULARLY VULNERABLE SITUATION), 1</b>	Committing, or causing to be committed, an act described in paragraphs 1 or 2 of the preceding article, in relation to a minor between 14 and 18 years of age: (a) in relation to whom he/she exercises parental responsibilities or who has been entrusted to him/her for upbringing or care; or (b) abusing a position of manifest trust, authority or influence over the child; or (c) abusing another situation of particular vulnerability of the minor, in particular for reasons of health or disability.	Punishable by imprisonment of between one to eight years.	<b>Ten years</b>
<b>172 (SEXUAL ABUSE OF CHILDREN WHO ARE DEPENDENT OR IN A PARTICULARLY VULNERABLE</b>	Committing an act described in paragraph 3 of the preceding article, in relation to a	Punishable by imprisonment of up to one year	<b>Two years</b>

<b>SITUATION), 2</b>	minor covered by the preceding paragraph of this article and under the conditions described therein.		
<b>172 (SEXUAL ABUSE OF CHILDREN WHO ARE DEPENDENT OR IN A PARTICULARLY VULNERABLE SITUATION), 3</b>	Performing the acts described in the previous number with the intention of making a profit	Punishable by imprisonment of up to five year	<b>Five years</b>
<b>173 (SEXUAL ACTS WITH ADOLESCENTS), 1</b>	Being of age, committing a relevant sexual act with a minor between 14 and 16 years of age, or causes the same to be committed by him with another person, abusing his inexperience.	Punishable by imprisonment of up to two years.	<b>Five years</b>
<b>173 (SEXUAL ACTS WITH ADOLESCENTS), 2</b>	The relevant sexual act consists of copulation, oral coitus, anal coitus or the vaginal or anal introduction of body parts or objects.	Punishable by imprisonment of up three years	<b>Five years</b>

**CHILD PROSTITUTION, CHILD PIMPING, CHILD PORNOGRAPHY, GROOMING AND ORGANISATION OF TRAVEL ARRANGEMENTS FOR THE PURPOSE OF SEX TOURISM WITH MINORS**

<b>174 (USING PROSTITUTION OF MINORS), 1</b>	Being of age, committing an important sexual act with a minor between 14 and 18 years of age, in exchange for payment or other consideration.	Punishable by imprisonment of up two years	<b>Five years</b>
<b>174 (USING PROSTITUTION OF MINORS), 2</b>	The relevant sexual act consists of copulation, oral coitus, anal coitus	Punishable by imprisonment of up three	<b>Five years</b>

	or vaginal or anal introduction of body parts or objects	years	
<b>175 (CHILD PIMPING), 1</b>	To encourage, favour or facilitate the exercise of prostitution by a minor or to entice a minor to do so.	Punishable by imprisonment of between one and eight years.	<b>Ten years</b>
<b>175 (CHILD PIMPING), 2</b>	Committing the crime foreseen in the previous number: a) By means of violence or serious threat; b) Through ruse or fraudulent manoeuvre; c) With abuse of authority resulting from a family relationship, guardianship or curatorship, or from hierarchical, economic or work dependence; d) Acting professionally or with intent to profit; or e) Taking advantage of psychological incapacity or of a situation of special vulnerability of the victim.	Punishable by imprisonment for between two and ten years.	<b>Ten years</b>
<b>176 (CHILD PORNOGRAPHY), 1</b>	a) Using a minor in pornographic performances or inducing for such purposes; b) Using a minor in pornographic photography, film or recording, whatever the medium, or to entice him/her to do so; c) Produce, distribute, import, export, divulge,	Punishable by imprisonment for between one and five years	<b>Five years</b>

	<p>exhibit, cede or make available under any title or by any means, the materials foreseen in the previous sub-paragraph;</p> <p>d) Acquire, hold or harbour the materials foreseen in paragraph b) with the purpose of distributing, importing, exporting, divulging, exhibiting or assigning them.</p>		
<b>176 (CHILD PORNOGRAPHY), 2</b>	Carrying out the acts described in the previous number professionally or with the intention of making a profit.	Punishable by imprisonment of between one and eight years.	<b>Ten years</b>
<b>176 (CHILD PORNOGRAPHY), 3</b>	Committing the acts described in paragraph 1(a) and (b) using violence or serious threat is punishable with 1 to 8 years imprisonment	Punishable by imprisonment of between one and eight years.	<b>Ten years</b>
<b>176 (CHILD PORNOGRAPHY), 4</b>	Committing the acts described in paragraphs 1(c) and 1(d) using pornographic material that realistically depicts a minor.	Punishable by imprisonment up to two years.	<b>Five years</b>
<b>176 (CHILD PORNOGRAPHY), 5</b>	intentionally acquiring, possessing, accessing, obtaining or facilitating access by means of a computer system or any other means to the materials referred to in paragraph 1(b).	Punishable by imprisonment up to two years.	<b>Five years</b>

<b>176 (CHILD PORNOGRAPHY), 6</b>	In person or through a computer system or by any other means, being of age, assisting, facilitating or providing access to pornographic performances involving the participation of minors.	Punishable by imprisonment up to three years	<b>Five years</b>
<b>176 (CHILD PORNOGRAPHY), 7</b>	Engaging in the conduct described in paragraphs 5 and 6 with intent to make a profit. Shall be punishable by a maximum imprisonment of five years.	Punishable by imprisonment up to five years	<b>Five years</b>
<b>176 A (GROOMING) 1</b>	Being of age, and by means of information and communication technologies, to entice a minor to meet him/her in order to commit any of the acts included in paragraphs 1 and 2 of article 171 and in sub-paragraphs a), b) and c) of paragraph 1 of the previous article.	Punishable by imprisonment up to one year	<b>Two years</b>
<b>176 A (GROOMING) 2</b>	Enticement followed by material acts leading to the encounter.	Punishable by imprisonment up to two years	<b>Five years</b>
<b>176 B, (ORGANISATION OF TRAVEL ARRANGEMENTS FOR THE PURPOSE OF SEX TOURISM WITH MINORS) 1</b>	Organising, providing, facilitating or advertising travel or travel, in the context of their professional activity or for profit, knowing that such travel or travel is intended for the commission of offences	Punishable by imprisonment up to three years if a more serious penalty is not applicable by virtue of another legal provision.	<b>Five years</b>

	against the freedom and sexual self-determination of a minor.		
<b>176 B, (ORGANISATION OF TRAVEL ARRANGEMENTS FOR THE PURPOSE OF SEX TOURISM WITH MINORS) 2</b>	Article 176 B, 1 is applicable even if the conduct against a minor's sexual freedom and self-determination committed in the place of destination is not punishable in that jurisdiction or when the punitive power is not exercised there.		