

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

Fields marked with \* are mandatory.

## Introduction

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

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

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

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

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

### **The notion of the circle of trust**

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.[2]

### **The previous and current monitoring rounds on the circle of trust**

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched[3]. Since then, the Convention has been ratified by 22 other Parties,[4] and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment

where the vast majority of sexual abuse occurs.[5] The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee's recommendations by the 26 Parties that had.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

#### ***Involvement of civil society and other relevant stakeholders in the monitoring round***

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

#### ***Type of questions and elements to be borne in mind when replying***

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee's first monitoring round recommendations and findings, as well as a few new questions based on the Committee's adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust ("Legal frameworks").

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee's Rules of Procedure:

*"...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as "contact person".*

*3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.*

*5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation."*

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/ “consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

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

[2] See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#)

[3] Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine

[4] Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom

[5] See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125

## IDENTIFICATION OF THE RESPONDER

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\* Name of the Party responding or concerned by your response

Türkiye

\* Name of the contact person/coordinator

\* Email address of the contact person/coordinator

## KEY NOTIONS Question 1. Does your national legal framework:

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

[6] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework” adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

- Yes  
 No

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

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

[7] *Ibid.*, Recommendation 2

- Yes  
 No

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

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

- Yes  
 No

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

The Turkish Criminal Code no. 5237 provides for more aggravated sanctions for sexual offences against minors if committed:

- a) by a guardian, tutor, trainer, teacher, nanny, a protective family or by a health service provider, or by persons responsible for care or observation (Art. 105/2-b, Art. 103/3-d);
- b) by misusing the influence derived from a position in a public office or a service relationship (Art. 103/3-e);
- c) by taking advantage of one's public office or position or of a family relation (Art. 105/2-a);
- d) by taking advantage of working at the same workplace (Art. 105/2-c);
- e) by the prospective adoptive parent of the minor, during the pre-adoptive placement of the minor, or when a person assumed the protection, care and custody of the minor or within the context of a protective family (Art. 104/3);
- f) by a person, who is prohibited to marry the victim (Art. 104/2);
- g) against a person of blood relationship or kinship by marriage, including third-degree blood relationship, or by step-mother, step-father, step-sibling or adoptive parent (Art. 103/3-c).

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

[9] *Ibid*

- Yes  
 No

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

A separate definition of "circle of trust" is not incorporated in the Turkish Criminal Code no. 5237, and the matter is addressed within the framework of judicial decisions.

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

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

[10] *Ibid.*, Recommendation 6

- Yes  
 No

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

According to the above-mentioned provisions of the Turkish Criminal Code no. 5237, the act of sexual abuse committed against children by taking advantage of one's trust, authority or influence (against a person of blood relationship or kinship by marriage, including third-degree blood relationship; or by step-mother, step-father, step-sibling or adoptive parent; or by a guardian, tutor, trainer, teacher, nanny, a protective family or by a health service provider; or by persons responsible for care or observation; or by misusing the influence derived from a position in a public office or a service relationship) is governed as a qualified version of the act which necessitates aggravation of the penalty. Therefore, those acts are investigated and prosecuted ex officio. In this respect, adequate protection is provided in our legislation.

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

[1] *Ibid.*, Recommendation 5

- Yes  
 No

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

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

[12] *Ibid.*, Recommendation 1

- Yes  
 No

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

Assessments made for question 1 also apply to this question.

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

[13] *Ibid.*, Recommendation 7

- Yes
- No

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

[14] *Ibid.*, Recommendation 8

- Yes
- No

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

a. **criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?**<sup>[15]</sup>  
Please specify which other acts are covered and whether violation of a child's "sexual integrity" specifically is criminalised.

[15] *Ibid.*, Recommendation 9

- Yes
- No

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

Offences against sexual inviolability committed against children are governed in Articles 103 to 105 of the Turkish Criminal Code. Paragraph one of Article 103 provides that any person who sexually abuses a minor sexually shall be sentenced to a penalty of imprisonment for a term of eight to fifteen years and that, where the sexual abuse has remained at the level of molestation, the person shall be punished by a penalty of imprisonment for a term of three to eight years. Paragraph three of the same article, in turn, provides that a penalty of imprisonment for a term of not less than sixteen years shall be imposed where the sexual abuse is committed by thrusting an organ or other object into the body (sexual intercourse). Therefore, under this provision, acts committed against children may be punished even if they do not border upon sexual intercourse. Likewise, provisions of Article 105 govern the offence of “sexual harassment”. Establishing a physical contact with the child is not required for a punishment to be rendered for this offence.

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

[16] *Ibid.*, Recommendation 11

- Yes  
 No

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c. **[for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?**<sup>[17]</sup> Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes  
 No

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

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

[18] *Ibid.*, Recommendation 57



- Yes  
 No

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

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

[19] *Ibid*

- Yes  
 No

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

While assessments made for paragraph (a) also apply to this question, investigation and prosecution procedures are conducted ex officio for those offences which are not clearly subject to a complaint in our criminal law system. Within this scope, investigation and prosecution of child sexual abuse are performed ex officio by the judicial authorities. Sentence four of paragraph one of Article 103 of the Turkish Criminal Code no. 5237, which governs the offence of child sexual abuse, constitutes the only exception to this in that it reads “Where the offender of the offence which has remained at the level of molestation is also a minor, conducting an investigation and prosecution shall be subject to a complaint by the victim, a parent or a guardian”.

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

[20] *Ibid.*, Recommendation 56

- Yes  
 No

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

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a. [provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?](#)<sup>[21]</sup> Please provide details.

[21] Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021

- Yes  
 No

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

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

[22] Question included for capacity-building purposes

- Yes  
 No

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

Under Article 103 of the Code no. 5237, where the child sexual abuse has remained at the level of molestation and the offender is also a minor, investigation and prosecution are subject to the complaint by the victim, the parent or the guardian.  
As for the offence of sexual intercourse with a minor laid down in Article 104, no regulation is made as to the offender's being a child or an adult. However, in determination of the criminal responsibility of the children during the proceedings, unlike adults, provisions of Article 31 of the Turkish Criminal Code are taken into consideration.  
Age of criminal responsibility is indicated in the answer for paragraph a of question 6.

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# CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

## Question 7. Does your national legal framework:

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

[23] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26

- Yes  
 No

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

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

[24] *Ibid*

- Yes  
 No

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

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

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

- Yes
- No

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

In Türkiye, the laws allows, depending on the nature of the case, the child victim to be taken under protection and under institutional care, as well as the offender to be distanced from the family environment. These points are governed in subparagraph c of paragraph 1 of Article 5 of the Child Protection Law no. 5395 as “care measure is a measure to take a child from those who are responsible for the care of the child but who fail to fulfil their care duties to any reason, and place him/her in a governmental or private care services center or enable him/her to benefit from foster family services” and in subparagraph b of paragraph 1 of Article 5 of the Law no. 6284 as “moving from the shared dwelling or the vicinity immediately and allocating the shared dwelling to the protected person”. In this situation, the judge may not only decide on taking the child under protection for the best interests of the child and decide for a care measure, but also on taking the offender away from the family environment.

Indeed, Article 5 entitled “Preventive injunction orders to be taken by a judge” reads as follows:

“(1) With regard to the perpetrators of violence, the judge may decide on one of the following preventive measures, several of them, or similar measures deemed appropriate:

- a) not to employ words and exhibit behaviors against the victim of violence, which include threats of violence, insult and humiliation.
- b) to move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person.
- c) not to approach the protected persons and their residences, schools and workplaces.
- ç) where there is a previous decision to allow having a personal connection with the children, to have a personal connection with them with a company, to restrict the personal connection or to revoke it completely.
- d) where deemed necessary and even if they haven’t been subject to violence, not to approach the friends, the witnesses and, without prejudice to decisions granting access, the children of the protected person.
- e) not to damage the personal belongings and household goods of the protected person.
- f) not to disturb the protected person via communication or other means.
- g) to hand over to the law enforcement officers the weapons the possession or carrying of which is authorized by the law.
- ğ) even if the person exercises a public service that requires carrying a weapon, to hand over the weapon entrusted to him/her to the institution where he/she is employed.
- h) not to use alcohol, drugs or stimulants in places where the protected people are present or not to approach the protected persons and their whereabouts while under the influence of these substances, and in case of addiction, to undergo a medical examination and treatment including in-patient treatment.
- i) to resort to a health care centre for examination or treatment and to make sure that he/she receives a treatment.

(2) In non-delayable cases, the measures set out in subparagraphs (a), (b), (c) and (d) of paragraph one may also be taken by the relevant police chiefs. The police chief shall submit the documents to the judge for approval no later than the first work day after the decision is taken. Measures which are not approved by the judge within twenty- four hours shall be automatically revoked.

(3) With the measures specified in this Law, the judge is authorized to take a decision on protective and preventive measures as stated in the Child Protection Law no. 5395 and dated 03/07/2005 and on the issues of guardianship, custody, alimony and personal connection as per the provisions of Law no. 4721.

(4) If the perpetrator of violence is the person who at the same time is the provider of or contributor to the family’s livelihood, provided that no decision on alimony has been priorly rendered as per the provisions of Law no. 4721, the judge may decide on a temporary alimony by taking into consideration of the living standards of the victim even without request.”

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

[26] *Ibid.*, Recommendation 27

- Yes
- No

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

In our country, distancing the child from the family environment is the measure of the last resort taken by the judicial authorities. The matter is governed in Article 4 entitled “Fundamental principles” of the Child Protection Law no. 5395 as follows:

“j) When deciding on measures, providing care at the institution and keeping at the institution shall be considered as the last resort, when taking and implementing decisions, ensuring that social responsibility is shared.”

Before distancing the child from the family environment, the judge or the court receives, in line with paragraph two of Article 7 of the Child Protection Law no. 5395, which reads “Before rendering a court decision, a social enquiry regarding the child shall be carried out”, from psychologists, sociologists or social workers, a social enquiry report which has been drawn up following a comprehensive assessment of the child’s social situation and needs and which determines the activities to be conducted.

Furthermore, as with all other decisions of measure, those decisions of measure which require distancing a child from the family environment, such as the care measure, are reviewed by the judge or court issuing the decision in every three months at the latest in accordance with paragraph two of Article 8 of the Child Protection Law no. 5395.

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

[27] *Ibid.*, Recommendation 25

- Yes
- No

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

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

[28] *Ibid.*, Recommendation 32

- Yes  
 No

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

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## CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

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

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

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

- Yes  
 No

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

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

[30] *Ibid*

- Yes  
 No

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

Article 53 paragraph 1 of the Turkish Criminal Code No. 5237 titled “Deprivation of exercising certain rights” governs that “(1) Where a person is sentenced to a penalty of imprisonment for an intentional offence, the legal consequence of such shall be their prohibition from:

- a) becoming a member of the Turkish Grand National Assembly or undertaking employment as, or in the service of, an appointed or elected public officer (permanently, temporarily or for a fixed period of time) within the administration of the state, a province, municipality or village, or institution or entity under their control or supervision;
- b) voting or being elected and exercising other political rights;
- c) acting as a guardian or being appointed in the role of guardianship and trustee;
- d) being the administrator or inspector of a legal entity namely, foundation, association, labor union, company, cooperative or political party;
- e) conducting any profession or trade, which is subject to the permission of a professional organization (which is in the nature of a public institution or organization), under his own responsibility as a professional or a tradesman.” As seen, the person is deprived of the right of custody as a legal consequence of the conviction to imprisonment sentence imposed for an intentional offence. From this point of view, the parent who divested of the right of custody of is deprived automatically from the rights of visiting the child and accommodating them.

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## GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

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

[31] Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

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## ASSISTANCE TO THIRD PARTIES Question 11.

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

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

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## ASSISTANCE TO THIRD PARTIES Question 12.

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

[33] *Ibid.*, Recommendation 31

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

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

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes  
 No

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

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

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

- Yes  
 No

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

It is possible to share the data concerning the convicts of the child sexual abuse with other countries. It is found out that as of 02.08.2023, 9.554 convicts are accommodated in the penitentiary institutions within the scope of article 103 of the Turkish Criminal Code. The related data is shared every year in the questionnaire of SPACE (Council of Europe Annual Penal Statistics).

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

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

[36] Based on Article 27§3(b) of the Lanzarote Convention.

- Yes  
 No

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

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

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

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

- Yes  
 No

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

I-A) In the Turkish Criminal Code No. 5237:

1- Article 278 titled “Failure to report an offence” governs that:

“(1) Whoever fails to report an offence that is being committed to the competent authorities shall be sentenced to a penalty of imprisonment for a term of up to one year.

(2) Whoever fails to report to the competent authorities an offence which has been committed but where it is still possible to contain its consequences shall be sentenced according to the provisions of the aforementioned paragraph.

(3) Where the victim is a minor under fifteen years of age, a mentally or physically handicapped person, or a pregnant woman, the sentence to be imposed pursuant to the aforementioned paragraphs shall be increased by one-half.

(4) Witnesses abstaining from giving evidence shall not be sentenced, provided that the provisions attributing criminal liability on the person for failing to fulfil his duty to prevent the offence are reserved.”,

2- Article 279 titled “Failure by a public officer to report an offence” provides for that:

“(1) Any public officer who fails to report an offence, which requires a public investigation and prosecution, or delays in reporting such offence, to the relevant authority, after becoming aware of such offence in the course of his duty, shall be sentenced to a penalty of imprisonment for a term of six months to two years.

(2) Where the offence is committed by a judicial law enforcement officer, the penalty to be imposed according to aforementioned paragraph shall be increased by one-half.”,

3- Article 280 “Failure by a member of the medical profession to report an offence” sets forth that:

“(1) Any member of the medical profession who fails to report an offence, or delays in reporting such offence, to the relevant authority after becoming aware, in the course of his duty, of any evidence demonstrating that an offence may have been committed shall be sentenced to a penalty of imprisonment for a term of up to one year.

(2) A member of the medical profession shall include physicians, dentists, pharmacists, midwives, nurses and other persons who provide health services.”,

B) In the Child Protection Law No. 5395;

1- Article 6 titled “Applying to the Agency” governs that:

“(1) Judicial and administrative authorities, law enforcement officers, health and education institutions and non- governmental organizations have the obligation to notify the Social Services and Child Protection Agency of any children that are in need of protection. The child and the persons who are responsible for the care of the child can apply to the Social Services and Child Protection Agency to take the child under protection.

(2) The Social Services and Child Protection Agency shall immediately carry out the necessary enquiry regarding the events notified to it.”,

In the Turkish Criminal Code, everyone in the society (Article 278) or persons in some duties (Articles 279

and 280) shall have obligation to report the offence in terms of certain offences, and violation of this obligation is subject to criminal sanctions. Although there is no special provision in the Turkish Criminal Code in terms of reporting offences against children, this condition has been included as aggravating factors for the offences that are subject to not fulfilling the obligation to report. In addition, a comprehensive obligation to report is stipulated for certain individuals and institutions in the first paragraph of Article 6 of the Child Protection Law.

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

c. **ensure that legal persons failing to protect children in their care from sexual abuse are held liable?**<sup>[39]</sup>  
Please provide details.

[39] *Ibid.*, see point 7.

- Yes  
 No

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

Article 60 titled “Security measures specific to legal entities” of the Turkish Criminal Code No. 5237 provides for that:

“(1) Where there has been a conviction in relation to an intentional offence committed for the benefit of a legal entity, which is subject to civil law and operating under the license granted by a public institution, by misusing the permission conferred by such license and through the participation of the organs or representatives of the legal entity, this license shall be cancelled.

(2) The provisions relating to confiscation shall also be applicable to civil legal entities in relation to offences committed for the benefit of such entities.

(3) Where the application of the provisions in the above paragraphs would lead to more serious consequences than the offence itself, the judge may not impose such measures.

(4) The provisions of this Article shall be applied where specifically stated in the law.”

According to the Turkish Criminal Code, it is stated that legal persons cannot be perpetrators and cannot be the subject of criminal sanctions. However, some security measures may be applied in line with the conditions set forth in Article 60 of the Turkish Criminal Code and the article for private law legal entities.

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

**SPECIAL REPRESENTATIVES Question 15. How does your national legal framework ensure that special representatives and guardians ad litem who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:**

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a. [receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?](#)<sup>[40]</sup>

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

The Guardianship Order is regulated in the first part of the third chapter of the Turkish Civil Code. In this part, all conditions related to guardianship are mentioned. According to Article 418 of the Turkish Civil Code titled “Reasons that stand in the way of guardianship”, the following people shall not be guardian:

1. People under legal disability,
2. People forbidden from public service or leading a dishonourable life,
3. People whose interests conflict considerably with interests of those to be appointed guardians or people having hostility towards one another,
4. Judges of relevant guardianship authorities.” Pursuant to this provision, specified persons cannot be appointed as guardians. Also, Article 413 of the same Law states: “The guardianship board shall appoint a person of age capable to fulfill this duty as guardian.

When necessary, more than one guardian can be appointed to fulfill these duties together or separately as per their authorities determined by the guardianship board.

More than one person shall not be assigned to undertake guardianship together without their consent.” In accordance with this provision, adult persons who are capable of performing this duty can be appointed as guardians. In this way, the legislator left the discretion to the guardianship authority and took into account the necessity of evaluating the different special conditions of each person to be appointed guardians by the guardianship authority.

Moreover, Article 483 of the Turkish Civil Code provides for that: “If the guardian seriously neglects his/her duties, abuses his/her authorities or engages in acts that betray people’s trust or becomes insolvent, he/she shall be relieved of duty by the guardianship board. If interests of the person under guardianship are at stake due to incompetence of the guardian in fulfilling his/her duties, the guardianship board may relieve the guardian of duty even if he/she is not at fault.” Pursuant to this regulation, if the guardian is incapable of performing his/her duty, it is possible to be dismissed by the guardianship authority, even if he/she has no fault.

On the other hand, the first paragraph of Article 32 of the Child Protection Law No. 5395 governs that “Judges and public prosecutors to be assigned at the courts, and the social workers and probation officers appointed at probation and assistance centre directorates shall be provided with training on subjects such as juvenile law, social service, child development and psychology in line with the principles set forth by the Ministry of Justice during candidateship periods.” and the second paragraph of the same article sets forth that “It shall be ensured that those assigned to serve at courts receive in-service training oriented to provide them with the opportunity to specialize in their fields and self-development.” In accordance with these provisions, special representatives and guardians are provided with appropriate education and legal information in order to ensure the best interests of the child.

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

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

[41] Ibid., Recommendation 36

Article 418 of the Turkish Civil Code titled “Reasons that stand in the way of guardianship” governs that: “The following people shall not be guardians:

1. People under legal disability,

2. People forbidden from public service or leading a dishonourable life,
3. People whose interests conflict considerably with interests of those to be appointed guardians or people having hostility towards one another,
4. Judges of relevant guardianship authorities.” Pursuant to this provision, specified persons cannot be appointed as guardians. In the event that the title of attorney and guardian are combined in the same person, a new guardian must be appointed to the person placed under guardianship in accordance with the third paragraph of Article 418.

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

c. [are provided free of charge for the child victim?](#)<sup>[42]</sup>

[42] *Ibid.*, Recommendation 37

In our country, the guardian may demand a salary for his guardianship. This condition is divided into two according to whether the child victim has assets or not. If the child does not have any assets, the salary demand of the guardian is met from the treasury. However, if the child has assets, the salary to be paid to the guardian is determined by the guardianship authority for each accounting period by taking into account the effort entailed by management and revenues of the assets managed, and is covered from the child's assets. This condition is regulated in Article 457 of the Turkish Civil Code with the title "The guardian's salary" as follows: "The guardian may demand that he/she be paid a salary out of assets of the person under guardianship and if not possible by the Treasury. The salary to be paid shall be determined by the guardianship board for each accounting period by taking into account the effort entailed by management and revenues of the assets managed."

On the other hand, in accordance with the second paragraph of Article 33 of the Child Protection Law No. 5395, the social workers assigned to the Courts and implementing the measures covered under the scope of this Law shall be given an appropriation equal to 50% of their gross monthly salaries. Moreover, in accordance with the first paragraph of Article 43 of the same law, costs of the supportive and protective measures decreed with regard to the child shall be paid by the Government. The amount payable shall be established via a court decision.

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

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

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

[43] *Ibid.*, Recommendation 34

- Yes  
 No

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

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

[44] *Ibid*

- Yes
- No

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

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

[45] *Ibid.*, Recommendation 38

Article 2 titled "Scope" of the Child Protection Law No. 5395, which was introduced in our country to determine the procedures and principles of the measures to be taken for children in need of protection, governs that: "(1) This Law covers the provisions related to the principles and procedures of the measures that will be taken with regard to children who are in need of protection and the safety measures to be applied with regard to children pushed to crime, along with the establishment, duties and capacities of juvenile courts." The scope of the Child Protection Law has been determined in the said article.

Also, Article 3 of the Child Protection Law titled "Definitions" sets forth that: "(1) For the purposes of this Law, the terms used herein shall have the following meanings;

a) Juvenile: Any individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier. Within this scope:

..." Pursuant to this provision, the relevant Law covers any individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier.

Furthermore, protective and supportive measures applied for children are regulated in Article 5 of the Child Protection Law titled "Protective and Supportive Measures" as follows: "(1) Protective and supportive measures are measures to be taken in terms of consulting, education, care, health and shelter, for the purpose of protecting the juvenile within his/her own family environment before all else. These measures are as follows:

a) Consultancy measure, is a measure oriented to providing guidance on child rearing to those who are responsible for the care of the juvenile, and guidance to juveniles on solving problems related to their education and development;

b) Education/training measure, is a measure oriented to ensure that the juvenile attends an education institution as a day-student or boarding student, attends a vocational training course or arts & crafts course, or is deployed with a master of profession or at a workplace belonging to the public or private sector for the purpose of acquiring a job or a profession,

c) Care measure, is a measure to make governmental or private care centre services or foster family services available for the juvenile or place the juvenile under the care of such institutions, in the event that the person responsible for the care of the juvenile fails to fulfil his/her care duties due to any reason,

d) Health measure, is a measure to ensure necessary temporary or continuous medical care and rehabilitation for treatment and protection of the juvenile's physical and physiological health, and treatment

and therapy for juveniles who use addictive substances,

e) Shelter measure is a measure to provide a suitable shelter for those who have children but do not have a place to live, or to pregnant women whose lives are in danger.

(2) The identification and address information of those about whom a shelter measure as defined in paragraph 1 subparagraph (e) is being implemented shall be kept confidential if they so demand.

(3) If it is established that the juvenile is not under any danger, or if it is understood that, although the juvenile is in danger, such danger can be eliminated by supporting the juvenile's mother, father or guardian or the person who is responsible for the juvenile's care, then the juvenile shall be delivered to these persons. For the purposes of this paragraph, one of the measures specified in paragraph one can also be decided with regard to the juvenile."

In addition, the security measures applied for children pushed to crime are regulated in Article 11 of the Child Protection Law, titled "Juvenile-specific safety measures", as follows: "The protective and supportive measures regulated in this Law shall be interpreted as juvenile-specific safety measures with respect to juveniles who are pushed to crime and who do not have penal liability."

As can be seen, it is stated that the measures to be applied may be given to children without any limitations. Since the definition of a juvenile is defined as any individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier, protection and security measures in our country may be applied to all children regardless of age.

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

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

[46] *Ibid.*, Recommendation 39

In our country, once received by the police juvenile unit, in line with the principle of not exposing the child to a secondary abuse, it is essential in the first place that the child victim does not an interview with any official other than the social worker on duty in that unit. The information obtained during the interview held with the child is reported to the Public Prosecutor. Where it is suspected that the child is a victim of sexual abuse, the child will be referred to a child monitoring center with unmarked vehicles and in the company of undercover policemen in line with the instruction of the Public Prosecutor. Under paragraph 5 of Article 236 of the Criminal Procedure Code no. 5271, the statement of the child shall be absolutely taken in the presence of the Public Prosecutor by the experts in the Child Monitoring Centers (CMCs) and with footages being recorded in order to avoid repetitive statement taking.

Child Monitoring Centers are state institutions where, in cases of abuse, statements are taken by the experts from children who have been exposed to sexual abuse and harassment, by protecting them from the effects of the traumas they have experienced and from a secondary abuse; likewise, the children are examined in the presence of the experts in the field; a roadmap is created for the health and development of the children by having interviews with their families; and equipment and necessary personnel are provided to collect and report all findings. The child who has been brought to the center is welcomed by a judicial interviewer, taken into the waiting room, and the registration procedures are completed. The child is taken into a preliminary interview room appropriate for his/her age, and a preliminary interview is held. In this manner, it is ensured that the child gets accustomed to the environment and distanced from the trauma. Thereafter, the child is taken into the judicial interview room, and his/her statement is taken under the supervision of the Public Prosecutor and with the participation of the persons concerned. It is mandatory to



take video and audio recordings while the child's statement is being taken. A statement record is prepared and undersigned right after the judicial interview. A copy of the recordings will be submitted along with the minutes immediately after the interview has taken place. After statement of the child is taken, in line with the instructions of the Public Prosecutor, under Article 76 of the Criminal Procedure Code no. dated 04/12/2004 and numbered 5271, the physical examination and/or sampling of the child shall be carried out at the center by a forensic medicine expert or other relevant specialist physicians. Consultation is requested from the relevant specialist physicians for the physical and psychological examination and assessment of the child. Consultations are held at the center. Where follow-up and treatment are required at the end of the examination, the relevant clinic/polyclinic provides the follow-up and the treatment. In the family interview room is held an interview with the family with the exception of those who are alleged to have committed a sexual offence against the child. The findings obtained during the interview, including the neglect of the child, are evaluated, a report on the family interview is drawn up, and a copy of the report is conveyed to the Public Prosecutor's Office. All these procedures are conducted under a single roof, and multidisciplinary cooperation is made in order to prevent the child from getting further affected.

In our country, the public prosecutor manages the process, accompanied by experts consisting of psychologists, pedagogues and social workers, from the moment the allegation of sexual abuse is submitted to the relevant units. Statements of the victims are taken in the presence of experts, and the examination of the children is also carried out in the presence of experts in their field. A roadmap is created for the health and development of the child by interviewing also the families of the victims, and all findings are collected and reported. In addition to these reports, in accordance with the second paragraph of Article 7 of the Child Protection Law No. 5395, which states that: "Before rendering a court decision, a social enquiry regarding the juvenile shall be carried out.", a social enquiry report is drawn up by psychologists, sociologists or social workers, which evaluates the social situation and needs of the child in detail and determines the activities that have been done and are to be done. In the light of all these reports, the judge of the juvenile court gives the injunction to be applied to the children in need of protection, taking into account the characteristics of the children.

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

c. **a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being?**<sup>[47]</sup> Please provide details.

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

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

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Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities

attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?<sup>[48]</sup> Please provide details.

[48] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 40

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (18 Yes)

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## INVESTIGATION Question 19. In the investigation phase:

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

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

[49] *Ibid.*, Recommendation 41

- Yes
- No

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

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

- Yes  
 No

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

Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" sets forth that: "(1) In cases where the victim of the crime is heard as a witness, provisions related to the witness-stand shall apply, excluding the oath.

(2) A child or the victim who has suffered psychological damages from the committed crime, shall be heard only one time in relation to the investigation or prosecution of the committed crime. Cases which pose a necessity with respect to revealing the factual truth are exceptions.

(3) During the hearing as a witness of a child victim or other victim who has suffered psychological damages in relation to the committed crime, there shall be an expert present who has expertise in the fields of psychology, psychiatry, medicine or education. (Repealed on 17/10/2019 by the Law No. 7188/Art. 22) (...)

(4) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment.

(5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.

(6) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The provision of the fifth paragraph shall also be applied in terms of the statements of the victims of the offences regulated in the second paragraph of Article 102 of the Turkish Criminal Code during the investigation phase. However, the recording of statements and images shall be subject to the victim's consent.

(7) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be kept in the case file, shall not be given to anyone and necessary precautions shall be taken for their confidentiality.

(8) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be converted into a written report. The report in question shall be given to the suspect, accused, defence counsel, victim, attorney or legal representative who requests it. Statements and images may be watched by these persons under the supervision of the investigation and prosecution authorities, by protecting their confidentiality." In accordance with this provision, it is compulsory to conduct interviews with child victims in the presence of experts. This issue has been clearly stipulated in the law due to the importance attached to it in our country. These experts consist of psychologists, sociologists and social workers who have completed at least an undergraduate program in child development.

Theoretical and practical trainings continue for experts in Child Monitoring Centers and the directorates of judicial support and victim services following their entrance into the profession as well. The Ministry of Health provides the experts working in Child Monitoring Centers with one week of theoretical training, one week of first practice training, three weeks of advanced practice on RATAC protocol training consisting of the completion of 8 cases. Currently, experts working in directorates of judicial support and victim services are provided with basic level training programs by the Ministry of Justice. In addition, the Department of Judicial

Support and Victim Services continues to work on the preparation of a protocol for judicial interview rooms to be used in the interviews to be held in judicial interview rooms, in accordance with the fourth paragraph of Article 236 of the Law No. 5271. Once the protocol is completed, it is planned to provide the experts working in the judicial interview rooms with training regarding the protocol.

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

c. [does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child's age and attention span?](#)<sup>[51]</sup> Please provide details.

[51] *Ibid.*, Recommendation 43

- Yes  
 No

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

Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" sets forth that: "(1)F In cases where the victim of the crime is heard as a witness, provisions related to the witness-stand shall apply, excluding the oath.

(2) A child or the victim who has suffered psychological damages from the committed crime, shall be heard only one time in relation to the investigation or prosecution of the committed crime. Cases which pose a necessity with respect to revealing the factual truth are exceptions.

(3) During the hearing as a witness of a child victim or other victim who has suffered psychological damages in relation to the committed crime, there shall be an expert present who has expertise in the fields of psychology, psychiatry, medicine or education. (Repealed on 17/10/2019 by the Law No. 7188/Art. 22) (...)

(4) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment.

(5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.

(6) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The provision of the fifth paragraph shall also be applied in terms of the statements of the victims of the offences regulated in the second paragraph of Article 102 of the Turkish Criminal Code during the investigation phase. However, the recording of statements and images shall be subject to the victim's consent.

(7) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be kept in the case file, shall not be given to anyone and necessary precautions shall be taken for their confidentiality.

(8) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be converted into a written report. The report in question shall

be given to the suspect, accused, defense counsel, victim, attorney or legal representative who requests it. Statements and images may be watched by these persons under the supervision of the investigation and prosecution authorities, by protecting their confidentiality.”

As can be seen from the second paragraph of this article, victims can be heard once as a witness in an investigation or prosecution regarding a crime, except in cases where it is necessary to reveal the material truth. In addition, the statements of the victims of crime are taken as soon as possible. Again, as it can be understood from the relevant article, the age and attention period of the victims are taken into account when taking the statement of the victims since the statement procedures are carried out in the company of experts in places specially arranged for them.

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

d. **[for Serbia] how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?**<sup>[52]</sup>

[52] *Ibid.*, Recommendation 54

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

e. **where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?**<sup>[53]</sup> Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes  
 No

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

In our country, although the statement of the victims was taken during the investigation phase, the necessity of taking the statement of the victims in the same centers and environments in cases where re-statements are required to reveal the material truth is clearly taken under provision. This issue is regulated in paragraph (5) of Article 236 of the Criminal Procedure Code No. 5271, titled “Hearing the victim and the claimant” as: (5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child’s statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim

child to the nearest center regardless of the jurisdiction and territorial boundaries. In addition, in cases where a re-statement is required to reveal the material truth, care is taken to make this interview by the same person.

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

f. [does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?](#)<sup>[54]</sup> Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes  
 No

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

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

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

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

[55] *Ibid.*, Recommendation 46

- Yes  
 No

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

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

[56] *Ibid.*, Recommendation 59

- Yes  
 No

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

In our country, it is essential that the victim children are not brought physically to the courtroom, regardless of the crime they are victims of. This issue is clearly stipulated in the Criminal Procedure Code. If the child is a victim of sexual abuse, the statement is taken in child monitoring centers as a legal obligation. This matter is clearly stipulated in the Law. For children who are victims of other crimes, the issue of not to bring the children physically is left to the discretion of the judge or the public prosecutor. In paragraphs (4) and (5) of Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant", it is stipulated that; "(4) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment.

(5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.

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

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)<sup>[57]</sup> Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes  
 No

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

In our country, there are two different practices that will ensure that victims are not physically present at the hearings. One of them, judicial interview rooms is used for taking statements of children and victims, regardless of the age of the victim, whose statements are considered by the public prosecutor or judge to be taken in a private environment or who are considered to be inconvenient to come face-to-face with the perpetrator. This issue is regulated in paragraph (4) of Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" as; "(4) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment." and, as seen, it is possible to take statements in judicial interview rooms regardless of the age of the victim.

The second practice, child monitoring centers, which are used specifically for sexual abuse crimes, is regulated in paragraph (5) of Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" as; (5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries." In this provision, too, no distinction has been made regarding the age of the victim child.

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

d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)<sup>[58]</sup> Please provide details.

[58] *Ibid.*, Recommendation 47

- Yes  
 No

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

Yes. In our country, the recording of interviews made with child victims during the investigation phase is primarily monitored during the prosecution phase in the hearing and recorded in the minutes. These interview recordings serve as evidence. This issue is regulated in paragraph (5) and the continuing paragraphs of Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" as: "(5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.



(6) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The provision of the fifth paragraph shall also be applied in terms of the statements of the victims of the offences regulated in the second paragraph of Article 102 of the Turkish Criminal Code during the investigation phase. However, the recording of statements and images shall be subject to the victim's consent.

(7) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be kept in the case file, shall not be given to anyone and necessary precautions shall be taken for their confidentiality.

(8) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be converted into a written report. The report in question shall be given to the suspect, accused, defense counsel, victim, attorney or legal representative who requests it. Statements and images may be watched by these persons under the supervision of the investigation and prosecution authorities, by protecting their confidentiality.”

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

e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)<sup>[59]</sup>

[59] *Ibid.*, Recommendation 48

The main thing in our country is that the child victim's statement is taken once and s/he is never brought to the prosecution stage. However, in cases where it is necessary to reveal the material truth, it may be necessary to listen to the child victim again. In such cases, the victim child is not brought to the hearing in order not to cause her/him to come face to face with the perpetrator. The legislator has clearly ruled it under provisions due to the importance it gives to this situation. This issue is regulated in paragraph (4) and (5) and the continuing paragraphs of Article 236 of the Criminal Procedure Code No. 5271, titled “Hearing the victim and the claimant” as: “ (4) (Added on 17/10/2019 by the Law No. 7188/Art. 22) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment.

(5) (Added on 17/10/2019 by the Law No. 7188/Art. 22) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.” As seen, in our country, even if the child victim is to be heard again in cases of necessity, the statement procedures are carried out in the presence of experts by using specially designed judicial interview rooms or child monitoring centers, without coming face to face with the perpetrator.

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

f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)<sup>[60]</sup> Please provide details.

[60] *Ibid*

- Yes  
 No

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

Article 236 of the Criminal Procedure Code No. 5271, titled "Hearing the victim and the claimant" sets forth that: "(1) In cases where the victim of the crime is heard as a witness, provisions related to the witness-stand shall apply, excluding the oath.

(2) A child or the victim who has suffered psychological damages from the committed crime, shall be heard only one time in relation to the investigation or prosecution of the committed crime. Cases which pose a necessity with respect to revealing the factual truth are exceptions.

(3) During the hearing as a witness of a child victim or other victim who has suffered psychological damages in relation to the committed crime, there shall be an expert present who has expertise in the fields of psychology, psychiatry, medicine or education.

(4) Statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment.

(5) The statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them. Statements and images of the victim child shall be recorded. In the prosecution phase, where it is necessary to take the child's statement or take another action in order to reveal the material fact, this process shall be carried out by the court or the delegated judge to be assigned by the experts in these centers. The procedures specified in this paragraph shall be carried out by taking the victim child to the nearest center regardless of the jurisdiction and territorial boundaries.

(6) The provision of the fifth paragraph shall also be applied in terms of the statements of the victims of the offences regulated in the second paragraph of Article 102 of the Turkish Criminal Code during the investigation phase. However, the recording of statements and images shall be subject to the victim's consent.

(7) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be kept in the case file, shall not be given to anyone and necessary precautions shall be taken for their confidentiality.

(8) Statements and images recorded within the scope of the fifth and sixth paragraphs shall be converted into a written report. The report in question shall be given to the suspect, accused, defense counsel, victim, attorney or legal representative who requests it. Statements and images may be watched by these persons under the supervision of the investigation and prosecution authorities, by protecting their confidentiality."

With the Law dated 17/10/2019 No. 7188 on Making Amendments to the Criminal Procedure Code and some Laws, some amendments have been made in Article 236 of the Criminal Procedure Code No. 5271 in order to prevent the victim from being abused during the trial in crimes of abuse against children. By

paragraph four added to the Article, it is set forth that statements of children or victims, which are considered by the public prosecutor or judge to require to be taken in a private environment, or for whom it is considered to be inconvenient to come face-to-face with the suspect or the accused, shall be taken by experts in a private environment. With the regulation, it is aimed that children or victims feel psychologically safe and can give more comfortable and accurate statements.

By paragraph five added to the Article, it is provided that the statements of children who are victims of the offences regulated in the second paragraph of Article 103 of the Turkish Criminal Code during the investigation phase shall be taken by experts under the supervision of the Public Prosecutor at the centers providing services for them (CMCs) in order to prevent further abuse and to reveal the material truth.

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

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

[61] *Ibid*

In our country, separate special places have been established within the courthouses for this purpose. Here, the victim only communicates with experts consisting of psychologists, pedagogues, sociologists and social workers who are specialized in their fields. That meeting is followed live by the court board and other parties in the courtroom via the established video system. If the parties or the court want to ask a question to the victim, this question is conveyed to the expert through the microphone, and the expert asks this question to the victim in an appropriate way.

Judicial Interview Rooms:

Article 41 titled "Protection of the family, and children's rights" of the Constitution of the Republic of Türkiye governs that the State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice. Within this scope, in accordance with the principle of the best interests of the child, a total of 168 judicial interview rooms have been established in 161 court houses in 81 provinces in order to strengthen the access of all vulnerable groups, especially children, to justice and to prevent them from being traumatized, to carry out the proceedings of taking statements in private environments appropriate for the current physical, mental and psychological conditions of these persons for revealing the material fact, to enable taking statements of victims and especially children victims and especially children in specially created environments in court houses through experts without making children come face-to-face with the suspect and the accused. As of 03.04.2017, the date when the judicial meeting rooms started to give service, more than 86,000 judicial meetings have been held throughout the country.

Judicial interview rooms have been established with a view to taking statements of victims of sexual crimes and domestic violence crimes, especially child victims, witnesses and children pushed to crime, and other victims included in the vulnerable group, who are considered to be inconvenient to come face-to-face with the perpetrator, in a private environment, accompanied by a judicial support officer. With this practice, while it is primarily aimed to carry out child-friendly judicial procedures in accordance with the principle of the best interests of the child, the proceedings of taking statements of vulnerable groups such as child victims, witnesses and children pushed to crime, victims of sexual crimes and domestic violence crimes, and disabled and elderly victims, are carried out through judicial support officers in a private environment without

making them come face-to-face with the suspect or the accused. In this way, secondary victimization of the individuals in question can be prevented, and a more qualified statement as evidence can be obtained by allowing the victims whose anxiety levels are reduced to express themselves more easily. In this sense, the practice of judicial interview rooms also serves to reveal the material fact.

Judicial interview rooms are private areas consisting of three rooms as “Waiting Room”, “Interview Room” and “Observation Room” to prevent the persons to be interviewed from being traumatized.

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

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

[62] *Ibid.*, Recommendation 49

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

[63] *Ibid.*, Recommendation 50

- Yes  
 No

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

Pursuant to Article 150 of the Law No. 5271, upon the request of the suspect or the accused who does not have a defense counsel, a defense counsel is assigned free of charge. If the suspect or the accused who does not have a defense counsel is a child, or an individual who is disabled to that extent that he can not make his own defense, or deaf or mute, then a defense counsel shall be appointed without seeking his request and without being limited to any type of lawsuit. During the investigation or prosecution for crimes that carry a punishment of imprisonment at the lower level of more than five years, a defense counsel is appointed without seeking the request of the suspect or the accused who does not have a lawyer.

Pursuant to Article 234 of the same Code, if the victim has no representative, a lawyer is assigned to the victim upon his request for crimes of sexual assault, sexual abuse of children or stalking, intentional injury, torture or persecution against women, and crimes requiring a minimum prison sentence of more than five years. If the victim, who is under the age of eighteen and does not have a representative, is deaf or dumb, or is so handicapped that he cannot express himself, a representative is assigned on his behalf without seeking

his request. As it can be seen, both in the investigation and prosecution stages, it is a legal obligation, not left to choice, to appoint a lawyer to the child, that is, to get legal aid, regardless of the title of children.

In-service training of lawyers appointed to increase the quality of legal aid given to children is carried out by bar associations, and attorney appointment fees are increased by re-evaluation every year.

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

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

[64] *Ibid.*, Recommendation 51

- Yes  
 No

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

Yes, the child is given the right to be represented by a lawyer under his or her own name. In our country, if the victim is a child, the child's representation is provided by appointing a lawyer without his/her request. The lawyer cannot demand any fee from the child, the lawyer's fee is covered by the state. This issue is regulated in Article 239 titled "Rights of the Participant" of the Criminal Procedure Code No. 5271 as; " (1) (Amended: 24/7/2008-5793/Art. 41) In cases where the victim or the individual who suffered damage from the crime has intervened the prosecution, s/he may request that a lawyer be assigned to him/her by the bar association in cases of sexual assault, sexual abuse of children or stalking crimes, intentional injury, torture or persecution against women and crimes that require a prison sentence of more than five years.

(2) If the victim or the individual who suffered damages from the crime is a child, deaf or mute , or an individual who is mentally ill to the extent that he can not make his own defense, then request is not needed in order to appoint a lawyer."

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

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

[65] *Ibid.*, Recommendation 52

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