

# **COMPARATIVE REPORT & POLICY RECOMMENDATIONS**

**2022**



## **ENCLAVE**

Enhancing the capacity of legal & justice  
professionals on forensic interview procedures  
for child victims and witnesses of violence



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BELGIUM, ESTONIA, GREECE, ITALY & SPAIN

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Enhancing the capacity of legal & justice professionals on forensic interview procedures for child victims and witnesses of violence

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## WP2. Comparative report and Policy recommendations

University Carlos III of Madrid



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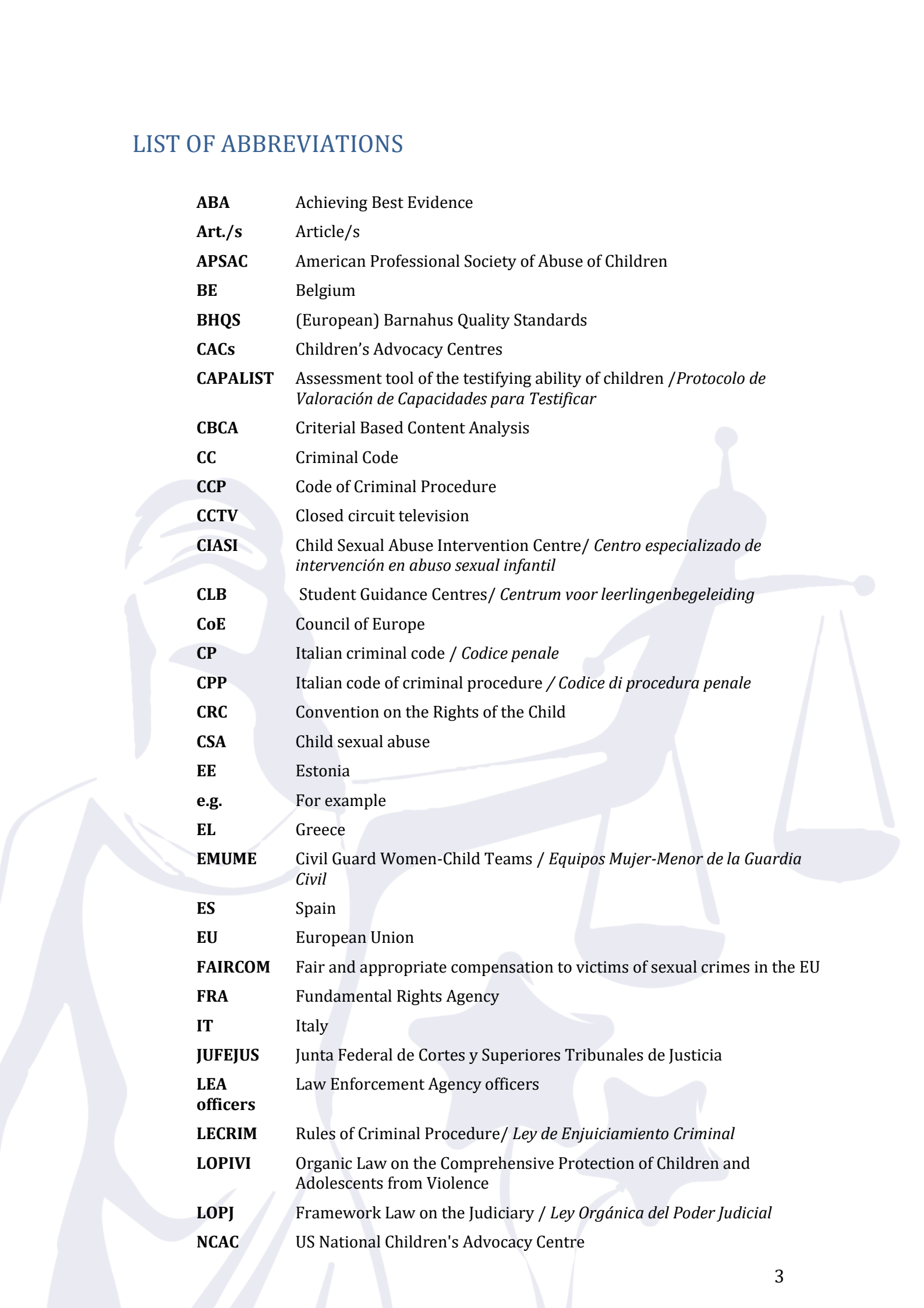


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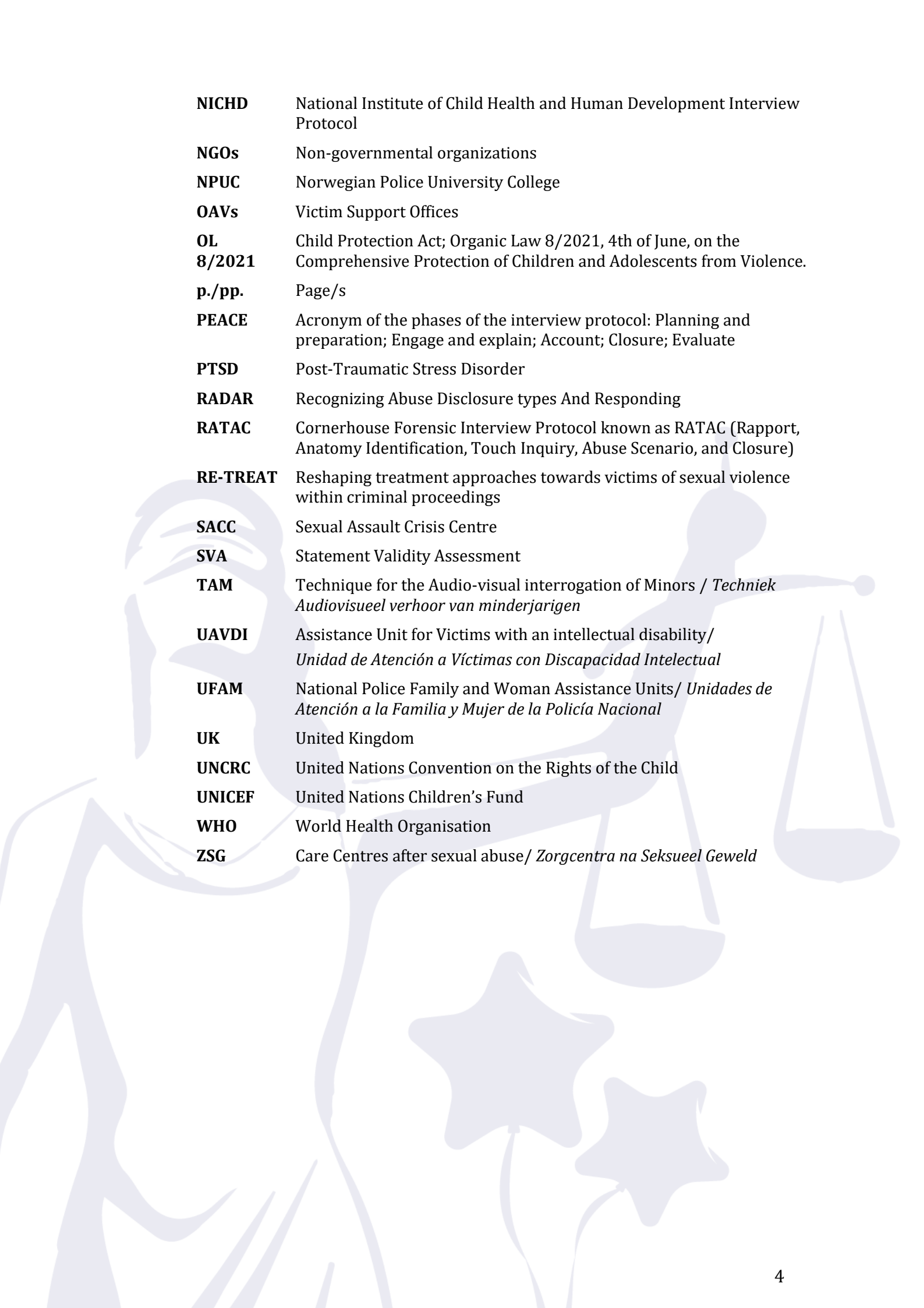
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## LIST OF ABBREVIATIONS



<b>ABA</b>	Achieving Best Evidence
<b>Art./s</b>	Article/s
<b>APSAC</b>	American Professional Society of Abuse of Children
<b>BE</b>	Belgium
<b>BHQS</b>	(European) Barnahus Quality Standards
<b>CACs</b>	Children's Advocacy Centres
<b>CAPALIST</b>	Assessment tool of the testifying ability of children / <i>Protocolo de Valoración de Capacidades para Testificar</i>
<b>CBCA</b>	Criterial Based Content Analysis
<b>CC</b>	Criminal Code
<b>CCP</b>	Code of Criminal Procedure
<b>CCTV</b>	Closed circuit television
<b>CIASI</b>	Child Sexual Abuse Intervention Centre/ <i>Centro especializado de intervención en abuso sexual infantil</i>
<b>CLB</b>	Student Guidance Centres/ <i>Centrum voor leerlingenbegeleiding</i>
<b>CoE</b>	Council of Europe
<b>CP</b>	Italian criminal code / <i>Codice penale</i>
<b>CPP</b>	Italian code of criminal procedure / <i>Codice di procedura penale</i>
<b>CRC</b>	Convention on the Rights of the Child
<b>CSA</b>	Child sexual abuse
<b>EE</b>	Estonia
<b>e.g.</b>	For example
<b>EL</b>	Greece
<b>EMUME</b>	Civil Guard Women-Child Teams / <i>Equipos Mujer-Menor de la Guardia Civil</i>
<b>ES</b>	Spain
<b>EU</b>	European Union
<b>FAIRCOM</b>	Fair and appropriate compensation to victims of sexual crimes in the EU
<b>FRA</b>	Fundamental Rights Agency
<b>IT</b>	Italy
<b>JUFEJUS</b>	Junta Federal de Cortes y Superiores Tribunales de Justicia
<b>LEA officers</b>	Law Enforcement Agency officers
<b>LECRIM</b>	Rules of Criminal Procedure/ <i>Ley de Enjuiciamiento Criminal</i>
<b>LOPIVI</b>	Organic Law on the Comprehensive Protection of Children and Adolescents from Violence
<b>LOPJ</b>	Framework Law on the Judiciary / <i>Ley Orgánica del Poder Judicial</i>
<b>NCAC</b>	US National Children's Advocacy Centre



<b>NICHD</b>	National Institute of Child Health and Human Development Interview Protocol
<b>NGOs</b>	Non-governmental organizations
<b>NPUC</b>	Norwegian Police University College
<b>OAVs</b>	Victim Support Offices
<b>OL 8/2021</b>	Child Protection Act; Organic Law 8/2021, 4th of June, on the Comprehensive Protection of Children and Adolescents from Violence.
<b>p./pp.</b>	Page/s
<b>PEACE</b>	Acronym of the phases of the interview protocol: Planning and preparation; Engage and explain; Account; Closure; Evaluate
<b>PTSD</b>	Post-Traumatic Stress Disorder
<b>RADAR</b>	Recognizing Abuse Disclosure types And Responding
<b>RATAC</b>	Cornerhouse Forensic Interview Protocol known as RATAC (Rapport, Anatomy Identification, Touch Inquiry, Abuse Scenario, and Closure)
<b>RE-TREAT</b>	Reshaping treatment approaches towards victims of sexual violence within criminal proceedings
<b>SACC</b>	Sexual Assault Crisis Centre
<b>SVA</b>	Statement Validity Assessment
<b>TAM</b>	Technique for the Audio-visual interrogation of Minors / <i>Techniek Audiovisueel verhoor van minderjarigen</i>
<b>UAVDI</b>	Assistance Unit for Victims with an intellectual disability/ <i>Unidad de Atención a Víctimas con Discapacidad Intelectual</i>
<b>UFAM</b>	National Police Family and Woman Assistance Units/ <i>Unidades de Atención a la Familia y Mujer de la Policía Nacional</i>
<b>UK</b>	United Kingdom
<b>UNCRC</b>	United Nations Convention on the Rights of the Child
<b>UNICEF</b>	United Nations Children's Fund
<b>WHO</b>	World Health Organisation
<b>ZSG</b>	Care Centres after sexual abuse/ <i>Zorgcentra na Seksueel Geweld</i>



# CHAPTER 1. INTRODUCTION

## 1.1. WHAT IS ENCLAVE?

ENCLAVE is a European scale action research project in collaboration with five EU Member States: Belgium (BE), Estonia (EE), Greece (EL), Italy (IT) and Spain (ES). Born under the scope of two projects financed by the European Union Justice Program (2014-2020):

- FAIRCOM (JUST-AG-2018/JUST-JACC-AG-2018)<sup>1</sup>, fair and appropriate compensation to victims of sexual crimes in the EU. The project aims at setting EU wide minimum standards on the compensation to victims of sexual crimes to contribute to more coherent and consistent implementation of the Directive 2004/80/EC relating to compensation to crime and Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.
- RE-TREAT (JUST-AG-2019/JUST-JACC-AG-2019)<sup>2</sup>, reshaping treatment approaches towards victims of sexual violence within criminal proceedings. The project aims at boosting procedural and organisational changes in the criminal proceedings within the justice systems in Greece, Italy and Spain to improve their responsiveness to particular needs of victims of sexual crimes.

ENCLAVE tackles the current situation and treatment of children victims and witnesses of sexual violence, in the five European justice systems, regarding the implementation of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime (the Victims' Rights Directive). Consequently, it also tackles the stages of development and implementation of the forensic interview protocol in cases of sexual violence.

The overarching aim of ENCLAVE is fostering impactful changes in criminal proceedings to introduce and mainstream an effective and coherent implementation of the forensic interview protocol to prevent re-victimization of children. To achieve that goal, the project revolves around three objectives:

1. Increasing the capacity of legal and justice professionals and victim support organizations in the implementation of the forensic interview protocol with victims of child sexual abuse,
2. Increasing the interprofessional collaboration of the different actors involved in the judicial process, including victim support organizations and
3. Preventing the re-victimization of child victims and witnesses<sup>3</sup> to sexual abuse.

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<sup>1</sup> <https://sexualviolencejustice.eu/faircom-project/>

<sup>2</sup> <https://sexualviolencejustice.eu/re-treat-project/>

<sup>3</sup> For disambiguation purposes two terminological remarks must be made: (i) In accordance with art. 1 of the Convention on the Rights of the Child, the term child is understood as any person under the age of 18 years, "the legally defined age at which a person becomes an adult". In Susanna Greijer and Jaap Doek, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (Luxembourg: ECPAT International, 2016). Throughout the text it is employed as an umbrella term for children and adolescents. It is also worth mentioning the principle of evolving capacity to acknowledge that children are to be treated based on their degree of maturity. Meaning that measures should be tailored to their cognitive and psychological development and not only applying generic measures based on their age. The impact of victimisation and the current knowledge of psychological trauma is also a key aspect in this case because it affects the appropriateness of measures. (ii) Even though the figure of the victim and that of the witness have different repercussions in the judicial process in this Project are dealt with jointly. "[T]he definition of adult victimisation is not suitable for children (...) due to their unique characteristics, vulnerabilities and needs, the injurious effect of crime to children goes far beyond direct victimisation" In

Michal Gilad, "The Young and the Helpless: Re-Defining the Term "Child Victim of Crime"", Public Law and Legal Theory Paper, no. 14-23 (2014): 23-24. Understanding that being a witness to sexual offences is victimising for children and that the protection measures applied to victims should also be applied to witnesses, especially regarding the forensic interview - and

The project has been built upon three interrelated phases:

- **Phase 1. Research.** Analysing the national context of each member of the consortium. Which materialise in a transnational-comparative report and policy recommendations where it is mapped the status of the forensic interview protocol in relationship with the Victim's Rights Directive. As well as in the development of a Benchmark protocol<sup>4</sup>.
- **Phase 2. Capacity building.** Assessing the training needs of professionals involved in the process (police officers, public prosecutors, lawyers, psychologist, members of the judiciary and victim support personnel). To develop a training manual for the pilot capacity building structured along national and international workshops. Developing guidelines for victim support organisations for action in cases of child sexual abuse and a database with victim care organisations. Organisation of national workshops and a transnational seminar, to exchange good practices. Evaluating the impact of the pilot training (workshops and seminar) and of the training materials.
- **Phase 3. Communication.** Disseminating the project's activities and results, through mailing lists, social media, the project website and via the online publication of a project newsletter. Publication of the training materials.

## 1.2. COMPARATIVE REPORT OBJECTIVES

The main goal of this transnational report is increasing the knowledge of legal and justice professionals in EU civil, criminal and fundamental rights instruments addressed to child victims or witnesses of sexual violence. In particular:

- i. Victim's Rights Directive (Directive 2012/29/EU),
- ii. Convention on the Rights of the Child (CRC),

To achieve this goal, the report is structured having two objectives in mind:

1. Contrasting the knowledge and application of the Victim's Rights Directive, to detect bridges and gaps between theory and practice in the implementation of the forensic interview protocol and
2. Mapping out forensic interview protocols and their impact on the preliminary investigation phase and the oral hearing.

In addition, **Chapter 4** addresses the need for policy recommendations to ensure the proper implementation of forensic interview procedures as well as of the Directive 2012/29/EU in the participating countries.

## 1.3. METHODOLOGY

### 1.3.1 Procedure

With the aim of understanding the legal and juridical context of forensic interviewing and criminal proceedings in cases of child victims and witnesses to sexual abuse, in coherence with Directive 2012/29/EU's minimum standards, we followed different steps:

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in general concerning the participation of the child by means of his or her testimony. Some specific issues addressed here are only applicable to the victim, although it should be noted that the victim's participation is often as a witness.

<sup>4</sup> Available online in English and 5 EU languages: <https://enclaveproject.eu/publications/>. To serve as guidance to implement best practices regarding the forensic interview protocol and minimum standards in procedural, operational and assistance terms.



- First, each team reviewed the scientific literature and legal documents on the subject and context reports were drawn up for each country.
- Subsequently, to learn about the practical functioning of the forensic interview protocol, semi-structured and in-depth interviews were conducted with different groups of stakeholders involved in cases of child sexual abuse. In addition, an online questionnaire was designed to reach a broader audience.
- Thirdly, to assess the stage of development and implementation of the forensic interview protocol of each consortium country, a one-size fits all model grounded on the Directive 2012/29/EU, the United Nations Convention on the Rights of the Child (UNCRC) and the European Barnahus Quality Standards (BHQs) was designed.

This one-size-fits-all model was structured in two macro-categories and six subcategories, linked to rights and interests of the provisions of Directive 2012/29/EU. Connected, as well, to a set of Minimum standards which would ensure sufficient satisfaction of the rights and interests involved in each section (see the Assessment framework in [section 2.1.2](#)).

Therefore, this frame of reference is used to analyse the regulations of each partner and especially their daily practice in contrast with the different realities of the participating countries in the project.

### 1.3.2. Sample

Due to its role in the criminal proceeding, four professional profiles were pre-defined as participants in this study:

- Judges or Magistrates
- Prosecutors
- Forensic Psychologists
- Law Enforcement Agency officers (LEA officers).

The selection of the different samples of participants from each country is based on the characteristics of representativeness, appropriateness and accessibility. Some participants were purposively chosen for their role as key informants; however, a non-probabilistic snowball sampling was carried out, meaning that participants were contacted thanks to other professionals who recommended them from their discipline or area of knowledge.

However, there is some heterogeneity in the different samples of participants (*see Table1*), either because of the divergence between justice systems or because of the different accessibility to the participants, e.g., need for additional permissions, hierarchical problems, pandemic situation and the resulting work overload. Therefore, some remarks regarding each sample need to be addressed:

- It is worth noting that the professional group with the highest level of participation in the case of Belgium (49%), Italy (88%) and Spain (47%) is that of those acting as professional interviewers of children. Namely, specialised police officers called TAM interrogators<sup>5</sup> (BE) and forensic psychologists (IT and ES).
- While in Estonia there is no specialisation as a forensic interviewer, it is a role taken by police officers with specific training. On another note, the professional profiles of the Child

<sup>5</sup> TAM is short for “Techniek Audiovisueel verhoor van Minderjarigen”, which refers to the Technique for the Audiovisual interrogation of Minors.

protection specialist and of the Children's House specialist, which are not present in the other countries, have been included.

- In Greece, although there are few but well-trained specialists (forensic psychologists), the role as interviewer is performed mainly by LEA officers.
  - As in the Italian justice system police officers are not involved in the forensic interviews, or in the protected hearings, they are not included in the sample. However, lawyers are incorporated in the sample, for their relevance in the protected hearings, which has demonstrated to be fundamental in some recent and well-known cases in Italy.
- On the other hand, the judges and prosecutors contacted did not show any interest on the topic, alleging that the Italian discipline of the protected hearings and the forensic interview is appropriate and grants the rights of the people involved and the protection of the children.
- The Spanish sample is comprised of the four pre-defined professional profiles (as well as in BE, EE and EL), lawyers and other groups of participants. For more details, see **Table 1**.
  - There is an uneven geographical distribution of the sample, not all regions are represented, and most participants work in large cities.

The heterogeneity of the sample may explain the variation in the information collected from one country to another.

### 1.3.3 Instruments

Four semi-structured interview models were designed, with closed and open-ended questions, one per professional group, which were subsequently adapted to the context of each participating country. To collect quantitative information and reach more professionals, a general questionnaire was developed for all professional groups, with subsequent adaptations to each national context and designed and hosted on Google Forms' platform.

The interviews and questionnaire were designed linked to the rights and interests set out in Directive 2012/29/EU, the rights of the Convention on the Rights of the Child and specific measures to assess the level of implementation of these instruments within the judicial investigation process, as well as the level of development of the forensic interview protocol (see **Tables 2,3,4,5** in **section 2.1.2**, and **Annex 1**). Interviews were conducted, either face-to face or using online videoconference technology, from April to November 2021. The online questionnaire was hosted in Google forms platform from May to November 2021.

QUERIES Interviews (I) Questionnaire (Q)	BELGIUM		ESTONIA		GREECE		ITALY		SPAIN	
	I	Q	I	Q	I	Q	I	Q	I	Q
FORENSIC PSYCHOLOGIST	2	-	-	-	2	3	5	24	8	23
LEA OFFICERS	25 <sup>6</sup>	2 <sup>7</sup>	2	8	3	9	-	-	3	4
JUDICIARY	3	-	1	3	2	1	-	1	6	5
PROSECUTOR'S OFFICE	3	-	3	7	3	2	-	-	6	7
LAWYERS	1	-	-	-	-	2	2	1	1	2
OTHER PROFESSIONALS	5 <sup>8</sup>	-	4 <sup>9</sup>	-	2 <sup>10</sup>	4 <sup>11</sup>	-	-	1 <sup>12</sup>	-
VICTIM ASSISTANCE PROFESSIONALS	10	-	-	-	-	-	-	-	4	-
<b>TOTAL</b>	<b>51</b>		<b>28</b>		<b>33</b>		<b>33</b>		<b>66</b>	

Table 1. Sample of participants: interviews and questionnaire queries

#### 1.3.4 Scope of the project and limitations

As for the scope of this report, due to the specific characteristics that would require a differentiated approach, the crimes of child grooming, exploitation of children for prostitution, child pornography and child sex tourism, are not included in this Project. Furthermore, for delimiting purposes, the concept of the Child victim's journey is present in this comparative report, that includes the police report up to the trial hearing.

Exploring the victim's journey gives a complete picture of the shortcomings of the system - from the idea of a comprehensive system - and clarifies the obstacles faced by victims, but also the dilemmas and controversial issues from the perspective of practitioners (in [Annex 2](#), each country's victim's journey is developed<sup>13</sup>). Additionally, it is fundamental to understand that this is a peephole through which to gain insight into the daily practice of professionals, meaning that our knowledge of the respective national practical contexts regarding forensic interviewing of minors comes mainly from the interviews carried out with legal and justice professionals and the analysis of scientific papers and legal documents. To gain a better insight on the forensic interview protocol and specifically the intricacies of forensic interviewing of minors, a study of the video recordings being used

<sup>6</sup> 23 were specialized interrogators, in this group, seven were also trainers in the interrogation technique. One was a coordinator of forensic interviewers at the federal level. One was a police team leader from the unit of vice crimes.

<sup>7</sup> Police forensic interviewers.

<sup>8</sup> 2 academics in the field of legal interpreting who participate in the federal training of specialized police interviewers, 1 academic expert on the field of legal psychology and 2 professionals from trainer organisations.

<sup>9</sup> 1 Clinical psychologist, 1 Psychotherapist, 1 Child protection specialist, 1 Children's House specialist.

<sup>10</sup> 2 Specialised child abuse psychologists.

<sup>11</sup> 2 Juvenile curators, 1 Psychiatrist, 1 Social worker.

<sup>12</sup> 1 Legal medicine and forensic science examiner.

<sup>13</sup> Inspired by the work developed by the Irish Department of Justice, Supporting a victim's journey. A plan to help victims and vulnerable witnesses in sexual violence cases (2020): [https://www.justice.ie/en/JELR/Pages/Supporting\\_a\\_Victims\\_Journey](https://www.justice.ie/en/JELR/Pages/Supporting_a_Victims_Journey); and the work of Lucia Martinez and Clara Martinez, Save the children in Barnahus: Bajo el mismo techo, un recurso para proteger a niños y niñas víctimas de violencia en la Comunidad de Madrid, 2019. Available in: [https://www.savethechildren.es/sites/default/files/imce/barnahus\\_bajo-el-mismo-techo.pdf](https://www.savethechildren.es/sites/default/files/imce/barnahus_bajo-el-mismo-techo.pdf)

in the process and observing during the interrogations, whether in police precincts, Children's Houses, Prosecution facilities or Courthouses would be necessary. Besides the fact that, for ethical reasons, the child-perspective in the whole process is not directly included in this project. This is explained by the characteristics of the project, its duration and the profile of the professionals involved. Emphasis is nonetheless placed on the importance of adequate and respectful consultation with children in those measures that directly affect them, such as some of those mentioned throughout this document, as well as in the Benchmark Protocol<sup>14</sup>.



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<sup>14</sup> Some of the recommendations or promising practices are in fact based on the outcome of consultations with children, carried out in other studies upon which some of the reflections of the ENCLAVE Project are based.

## CHAPTER 2. TRANSNATIONAL REPORT

### 2.2. Initial approach to the use of forensic interviewing in child sexual victimisation

#### 2.1.1. Childhood sexual victimization: a multi-layered phenomenon

Childhood victimization is a global concern, it is estimated that around one billion children between the ages of 2 and 17 are subjected to physical, sexual or psychological violence each year<sup>15</sup>. As stated by the World Health Organisation (WHO)<sup>16</sup>, Childhood sexual abuse is not only a violation of human rights (according to article 19 of the Convention on the Rights of the Child), but also a global health problem with short- and long-term consequences<sup>17</sup>.

Childhood sexual victimization is a complex phenomenon, thus there are some specificities that need to be understood for and adequate judicial response, to properly analyse the implementation of the forensic interview protocol in these cases and to ensure a correct collection of the victim/witness narrative.

Furthermore, the impact of these types of crimes on children are varied and there are insufficient scientifically based studies in this regard<sup>18</sup>. Sometimes, measures established for adults are erroneously applied to criminal cases where children are victims or witnesses, when tailored measures could be applied by acknowledging their evolving capacities (e.g., according to their cognitive and psychological development or lack of some life experiences).

#### A) Gender perspective in child sexual victimization

It is estimated that, internationally<sup>19</sup>, 7.9% of boys and 19.7% of girls have experienced some form of sexual abuse before the age of 18<sup>20</sup>. Consistently, different studies show a higher prevalence in females than in males<sup>21</sup>. In this sense, it is essential to incorporate a

<sup>15</sup> Susan Hillis et al., 'Global Prevalence of Past-Year Violence Against Children: A Systematic Review and Minimum Estimates', *Pediatrics*, no. 137(3): e20154079. (March 2016), <https://doi.org/10.1542/peds.2015-4079>.

<sup>16</sup> World Health Organization, *Responding to Children and Adolescents Who Have Been Sexually Abused: WHO Clinical Guidelines*. (Geneva: World Health Organization, 2017), 7, <https://apps.who.int/iris/bitstream/handle/10665/259270/9789241550147-eng.pdf?sequence=1&isAllowed=y>.

<sup>17</sup> For example, the metaanalysis of Chen et al. concluded that sexual abuse is associated with multiple psychiatric disorders, including lifetime diagnosis of anxiety disorders, depression, eating disorders, PTSD, sleep disorders, and attempted suicide. In Laura P. Chen et al., 'Sexual Abuse and Lifetime Diagnosis of Psychiatric Disorders: Systematic Review and Meta-Analysis', *Mayo Clinic Proceedings*, no. 85(7) (July 2010): 618–29, <https://doi.org/10.4065/mcp.2009.0583>.

<sup>18</sup> Noemí Pereda and Irene Montiel Juan, 'Victimización Sexual de Menores: Aproximación Teórica y Estado Actual de La Investigación', in *A Victimización Sexual de Menores de Edad y La Respuesta Del Sistema de Justicia Penal*, by Josep M<sup>a</sup> Tamarit Sumalla (Buenos Aires: BdeF, 2017), 8. , Ronnie Janoff-Bulman and Irene Hanson Frieze, 'A Theoretical Perspective for Understanding Reactions to Victimization', *Journal of Social Issue*, no. 39 (1983): 1–17., Linda S. Perloff, 'Perceptions of Vulnerability to Victimization', *Journal of Social Issue*, no. 39 (1983): 41–61.

<sup>19</sup> Regarding statistics on Child Sexual Abuse (CSA), it is important to consider that data on the prevalence and incidence of child sexual violence globally are influenced by the country of study (Juliette D. G. Goldman and Usha K. Padayachi, 'Some Methodological Problems in Estimating Incidence and Prevalence in Child Sexual Abuse Research', *The Journal of Sex Research*, no. 37:4 (2000): 305–14, <https://doi.org/10.1080/00224490009552052>.), the definitions used, the type of CSA analysed, the scope and quality of the data, comorbidity with other types of abuse and cultural factors (M.C. Kenny and A.G. McEachern, 'Racial, Ethnic, and Cultural Factors of Childhood Sexual Abuse: A Selected Review of the Literature', *Clinical Psychology Review*, no. 20 (2000): 905–22, [https://doi.org/10.1016/S0272-7358\(99\)00022-7](https://doi.org/10.1016/S0272-7358(99)00022-7)). In addition to the fact that many cases of child sexual abuse victimisation are not reported to the competent authorities, either because of the concealment surrounding this type of abuse, the age of the victims and their dependence on adults, or even the lack of adaptation of reporting systems for children.

<sup>20</sup> Noemí Pereda et al., 'The Prevalence of Child Sexual Abuse in Community and Student Samples: A Meta-Analysis', *Clinical Psychology Review*, no. 29(4) (2009): 328–38, <https://doi.org/10.1016/j.cpr.2009.02.007>.

<sup>21</sup> Maria Stoltenborgh et al., 'A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence around the World', *Child Maltreat*, no. 16 (2) (May 2011): 79–101, <https://doi.org/10.1177/1077559511403920>.



child and gender perspective in all issues addressed, from an intersectional approach<sup>22</sup>. Particularly related to the gender perspective, the element of power in this form of victimisation should be mentioned. Just as this is already sufficiently demonstrated in the adult context, this exercise of power in child victims/witnesses should not be simplified because of their age.

It is also worth mentioning that in the case of male victims, factors that make it difficult to disclose or recognise sexual abuse must be considered -caused, again, by patriarchal stereotypes-.

## **B) Age of sexual consent**

The legal age of sexual consent, which varies between the project countries (from 16 years old in BE and ES, 15 in EL, to 14 in EE<sup>23</sup> and IT<sup>24</sup>), may contain different understandings and meanings attributed to sexual offences.

For example, some states may not criminalize the involvement of a child in some sexual activities if she/he has reached the age of sexual consent. Or, for instance, the interpretation of the offence and the protective measures to be applied will differ when the sexual offender is underage. Although each national legal system distinguishes between sexual relations among peers (under 18) and among a child and an adult.

For both victims and offenders, the role of affective-sexual education—which is lacking in many states and has a direct impact on the commission and suffering of this type of crime—plays an essential role.

In cases of young offenders, as well as the specific rights and interests to be protected, the offender also has a specific process in which there are greater guarantees in this regard.

## **C) Context of child sexual victimization**

On the other hand, the context in which this type of victimisation is committed deserves to be addressed. There is no single profile of the offender in these crimes; it is a myth that all abusers are paedophiles or come from a low socio-economic class and that it is possible to detect them clearly in their behaviour. However, in a high percentage of cases, the offender is part of the victim's close environment, often coinciding with reference figures from the circle of trust.

This not only affects the impact of the offence on the victim, but also on the supervision of the victim's rights and interests throughout the process, on the detection or disclosure of the situation of sexual victimisation (e.g., its occurrence in the immediate environment makes it more difficult for the victim to attribute a criminal/harmful character to the facts, the situation of victimisation is usually progressive, and the victim may become more cooperative). This circumstance affects as well the victim/witness' account (the testimony to be collected during the forensic interview).

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<sup>22</sup> Council of Europe Gender equality strategy 2018-2023, which focuses on 6 strategic areas among which are Preventing and combating gender stereotypes and sexism and Preventing and combating violence against women and domestic violence. Available in <https://www.coe.int/en/web/genderequality/gender-equality-strategy>

<sup>23</sup> The Riigikogu (the unicameral parliament of Estonia) has authorized a draft law, and the age of sexual consent will be raised to 16 from June 2022.

<sup>24</sup> The age of consent rises to 16 if one of the participants has some kind of influence on the other.



In this regard, it must be ensured that the mechanisms for victim/witness representation and measures of adaptations for victim/witness participation in the process are consistent with this reality.

#### D) Childhood sexual abuse and sexual violence

There is no agreed international legal definition of sexual violence against children, nor what acts, or behaviours are included in the definition<sup>25</sup>. For example, it is not mentioned in binding legal instruments such as the Convention on the Rights of the Child (CRC). Which in its art. 19 speaks of protection *from all forms of physical and mental violence (...) including sexual abuse* and in art. 34 introduces *protection from all forms of sexual exploitation and abuse*, but not sexual violence. It is a term often used referred to adults, gender-based violence and associated with rape, but it also encompasses sexual exploitation and sexual abuse<sup>26</sup>.

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##### Textbox 1. Sexual violence as an umbrella term

For instance, in **Italy**, the Law 66 of 15 February 1996, *Norms against sexual violence*, completely repealed the previous legislation on the subject and included in the criminal code a new specific crime at art. 609-quarter<sup>27</sup>, *Sexual acts with minors*, but not “**sexual violence**”. It is still common during a trial to start discussing if the specific actions, conducts and behaviours committed by the defendant should be considered, and punished, as sexual violence or if they should be punished as a less serious crime. Although the Italian jurisprudence increasingly considers as sexual violence all the sexual acts committed against a victim without their consent, it is **an ongoing debate** and one of the main causes of re-victimisation of victims in court and in their contact with the criminal justice system.

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Nonetheless, even if it is used as an umbrella term, it is also relevant to programming and policy making, as it includes all degrees of violence and forms of suffering inflicted, whether physical, psychological or sexual, as well as all kinds of acts of contact, non-contact or omission<sup>28</sup>. The idea is “to pursue an integrated approach to the protection of children from all violations of their human dignity and sexual integrity”, to be aware of new forms of violence and to “adopt all necessary measures to ensure children’s effective protection”<sup>29</sup>.

On the other hand, child sexual abuse is a widely recognised term in binding legal instruments (e.g., CRC, Lanzarote Convention, Directive 2011/93/EU<sup>30</sup>), albeit also a generic term. The World Health Organisation defines it as:

*“(T)he involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the*

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<sup>25</sup> Greijer and Doek, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, 14.

<sup>26</sup> Greijer and Doek, 13.

<sup>27</sup> For the updated articles of the Italian criminal code, including references to particularly relevant sentences of the Italian Supreme Court: <https://www.altalex.com/documents/news/2014/10/28/dei-deliitti-contro-la-persona> (only in Italian).

<sup>28</sup> Greijer and Doek, 15.

<sup>29</sup> Idem

<sup>30</sup> Directive 2011/93/EU of the European parliament and of the council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing council framework decision 2004/68/JHA

needs of the other person<sup>31</sup>".

### 2.1.2. Rights, Needs and Interest in childhood sexual victimization

Although legal principles have been established at international, European and national level on the presence and participation of children in judicial proceedings and for child-friendly justice, in practice the right to be heard, to be informed, to non-discrimination, the right to protection and privacy, the principle of best interests and multidisciplinary cooperation are not always met<sup>32</sup>.

Furthermore, it is essential to consider that justice systems have been created under an adult-centred perspective and when the judicial machinery involves and also serves children (e.g., divorce, adoption, migration, violence), it is marked by this approach which permeates the interpretation of different adaptation measures and is not sufficiently responsive to children's rights, needs and interests<sup>33</sup>.

In addition, it is important to mention that the concept of the child as a property of the parents still survives, i.e., in most cases, adults have the power and duty to make all decisions in the best interest of the child<sup>34</sup>.

### Assessment framework

To assess the situation of the five justice systems regarding measures that favour the protection of the rights, needs and interests of child victims and witness in relation to the judicial procedure and specially the forensic interview, we have created an assessment framework, based on:

1. The rights enshrined in the Convention on the Rights of the Child (CRC), which are directly connected to the judicial process and in particular in the forensic interview:
  - Right to participation and to the promotion of progressive autonomy (**art. 12**), Right to protection against abuse and neglect (**art. 19**), Right to rehabilitation and reintegration, from the perspective of the right to physical and psychological health (**art. 39**) and Right to dignity and privacy (**art.16**).
  - These rights must be interpreted under the best interests of the child, the right to equality and non-discrimination (**art. 2.2**) and the attention to the progressive development of the child.
  - The best interests of the child (**art. 3.1**) should not be interpreted as a generic concept, since this concept requires a case-by-case determination and evaluation and should allow for the progressive autonomy of the child.
2. The rights and interests set out in Directive 2012/29/EU, to incorporate more clearly the experience of victims and their participation in the process.

<sup>31</sup> World Health Organization, *Guidelines for Medico-Legal Care of Victims of Sexual Violence*. World Health Organization (Geneva, 2003), <https://apps.who.int/iris/handle/10665/42788>.

<sup>32</sup> EU Agency for Fundamental Rights (FRA) (2015), *Child-friendly justice – Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU member States*. In: [https://fra.europa.eu/sites/default/files/fra-2015-child-friendly-justice-professionals\\_en.pdf](https://fra.europa.eu/sites/default/files/fra-2015-child-friendly-justice-professionals_en.pdf)

<sup>33</sup> Council of Europe Strategy for the Rights of the Child (2016-2021), p.8:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>

<sup>34</sup> Yanghee Lee, 'Child Participation and Access to the United Nations Convention on the Rights of the Child', n.d., [https://www.coe.int/t/dg3/children/JusticeSpeeches/Yanghee\\_en.asp](https://www.coe.int/t/dg3/children/JusticeSpeeches/Yanghee_en.asp).

Linked to the interests already reflected in the RE-TREAT's reports<sup>35</sup>, adapting them to the specific needs and rights of children.

3. Connected to specific measures that favour the protection of these rights and interests in relation to the judicial process and the forensic interview (see [Annex 1](#) for a complete overview of the assessment framework).

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#### Textbox 2. Assessment framework

■ **Right to participation and to the promotion of progressive autonomy** (art. 12 CRC) → **Adequate and respectful information on children's rights, Participation and Support** (arts. 6 & 7, 10 and 8 Directive 2012/29/EU)

This right is interpreted in a broad sense, as can be seen in the measures described above. It aims to ensure a real and adequate participation of the child victim/witness, which translates into adaptation measures, both to be able to participate actively and to do so in a safe manner.

In order to guarantee both ends, the participation of different figures for the protection of their rights and interests is necessary, taking into account the situation of dependence of all minors, which is intensified by the situation of victimisation.

The satisfaction of some of the measures reflected in the following sections directly or indirectly benefits the participation of the child, especially in relation to his or her safety and the preservation of his or her mental health. They should not be assessed independently of each other, as the absence of mental health protection leads in many cases to inadequate or flawed participation.

This is clearly reflected in the requirement to assess the victim's capacity to testify – in a broad sense – as well as the impact that the victim's psychological state has on the proper conduct of the forensic interview. The connection with the right to protection and safety is also appreciable.

■ **Right to protection against abuse and neglect** (art. 19 CRC) → **Security and protection** (art. 18 Directive 2012/29/EU)

While the right to protection from abuse and neglect has an eminently preventive objective, it connects directly to the safety and protection of children's rights throughout the process as a mechanism to avoid secondary victimisation. This requires not only the existence of unified protocols and coordination of the different professional groups, but also the creation of mechanisms to control possible malpractice.

■ **Right to rehabilitation and reintegration, from the perspective of the right to physical and psychological health** (art. 39 CRC) → **Minimization of stress-mental health and Support from victim support services** (arts. 19 20, 23, 24, 3 and 9 Directive 2012/29/EU)

The right to rehabilitation and reintegration of the victim is approached from the perspective of the right to physical and mental health, since without the latter it is not possible to redress the victim. In fact, as will be analysed below, there are numerous experiences in which, from the healthcare perspective, the passage through the judicial process is pointed out as one of the essential pillars to work on for the victim's recovery, in addition to the situation of violence that justifies their passage through the judicial process. This is the reason why it was mentioned above as a right closely related to the right to participation.

■ **Right to dignity and privacy** (art.16 CDR) → **Privacy and Dignity** (arts. 21 and 18 Directive 2012/29/EU):

The adult-centred perspective blatantly limits both rights, which must be placed at the forefront of the proceedings related to the forensic interview, along with the physical and psychological well-being of the victims/witnesses, especially in the crimes that are addressed in this project.

The aim is to avoid the instrumentalization of victims/witnesses in their participation throughout the process and to ensure a dignified treatment.

All this should also be applied after the individual assessment of the victims to identify specific protection needs, according to the provisions of art. 22 of the Directive, which states that:

*"1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal*

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<sup>35</sup> Based on the Victimisation and Justice Model that allows for the evaluation of justice mechanisms from the victim's perspective, developed in Daly Kathleen, 'Conventional and Innovative. Justice Responses to Sexual Violence', Australian Centre for the Study of Sexual Assault, no. 2 (2011): 1–35.

proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

2. The individual assessment shall, in particular, take into account:

- a) the personal characteristics of the victim;
- b) the type or nature of the crime; and
- c) the circumstances of the crime.

3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of (...) gender-based violence, violence in a close relationship, sexual violence, (...), and victims with disabilities shall be duly considered.

4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. (...)."

### 2.1.3. The forensic interview as a protective measure

There are three different models for the use in court of the pre-recorded video testimony of a child that are worth mentioning:

- a) When it is carried out at the beginning of the judicial process to replace any intervention in which the child's testimony is required (i.e., appearing at trial and being cross-examined by the defence). Usually entails some age discrimination (e.g., children under 14 in Estonia and Spain) and the possibility for the defence to request an additional interview.
- b) The Anglo-Saxon model, originated in the Pigot report, where the video-recorded interview substitutes the prosecutor's interrogation, and the child is cross-examined by the defence in the hearing (sometimes in specific rooms with CCTV).
- c) When the video-recorded interview is additional evidence but does not replace the child's testimony at the trial<sup>36</sup>.

The regulation of the specific use of forensic interviewing as a protection measure for child victims of sexual abuse or violence is diverse among the countries of the consortium. Below is presented an overview of each country:

<sup>36</sup> M. Sovino Meléndez and V. Ulloa Jiménez, *Use of the Investigative Interview in Trials. "Video-Recorded Investigative Interview of Child Victims of Sexual Abuse"* (Ediciones Universidad Católica de Chile, 2018), 151–57.

BELGIUM				
<b>TAM interrogation:</b> <i>Techniek Audiovisueel verhoor van Minderjarigen</i> /Technique audiovisual interrogation of minors				
<b>Objective:</b> This technique aims at reducing the traumatizing effect of frequent questioning, reproducing and analysing faithfully the words and behaviour of the minor through the audio-visual recording of the interview, preventing the loss of memories and avoidance of confrontation between the minor and the suspected offender, including at the court hearing (arts. 190bis and 327bis CCP).				
<b>Context</b>		The <b>Dutroux case</b> <sup>37</sup> in which the system failed spurred action from state authorities in the implementation of legislation concerning interviewing children <sup>38</sup> and a series of initiatives aimed at reinforcing a coordinated approach in the fight against child abuse.		
<b>Primary Legal Framework</b>		The laws of 28 November 2000 on the criminal protection of minors and of 30 November 2011 amending the legislation on improving the approach to sexual abuse and paedophilia in a relationship of authority, have standardised and made widespread use of the technique of audio-visual recording of the hearing of minors who are victims or witnesses of offences by inserting or amending articles of the Criminal Code or of the Code of Criminal Procedure. <b>Ministerial Circular of 16-07-2001</b> , approved by the College of Procurators General, on the audio-visual recording of the interrogation of minor victims or witnesses of crimes substituted by <b>Circular Nr. 03/2021</b> from the Minister of Justice, the Minister of Interior and the College of Public Prosecutors relating to the audio-visual recording of the hearing of minors and vulnerable adults who are victims or witnesses of crime.		
<b>Regulation</b>	<b>Linked to the typology of the crimes</b>	<b>Art. 92§1 CCP:</b> Establishes the crimes for which the TAM interrogation is <b>obligatory</b> unless the public prosecutor or the investigating judge decides otherwise by reasoned decision.	<b>Art. 91 bis CCP:</b> Establishes the crimes for which the public prosecutor or the investigating judge <b>may</b> order the audio-visual recording of the interrogation.	<b>Art. 92§2 CCP:</b> On account of serious and exceptional circumstances, which are assessed by the judge.
	<b>Sexual crimes addressed</b>	Voyeurism and non-consensual dissemination of sexually explicit images and recordings (art. 371/1 CC); Indecent assault and rape (arts. 372 to 377 CC); Grooming (art. 377quater CC); Fornication, corruption of youth and pimping (arts. 379, 380§ 4 and 5 CC); Female genital mutilation (art. 409 CC).	Incitement to fornication and pimping, advertising (arts. 380, 380bis, 380ter CC); Public indecency and child pornography (arts. 383, 383bis, 385, 386, 387 CC); Trafficking in human beings (arts. 433quinquies to 433octies CC).	Other offences than those referred to in art. 91bis CCP.
<b>Automatic use</b>		Yes	No	No
<b>Subjects</b>		Child victims or witnesses under 18 and particularly vulnerable adults. Irrespective of their age, cognitive development, (dis-)abilities, etc.		
<b>Professionals who conduct the interview</b>		Specialised police officers called <b>TAM interrogators</b> , who work in pairs.		
<b>Environment</b>		The interrogation takes place in a <b>specifically equipped interrogation room</b> (art. 94 CCP), which has been approved by the public prosecutor and which is located closest to the home of the minor (Circular Nr. 03/2021, section 4.2.) Belgian legislation mandates that <b>three spaces</b> should be provided to minors upon the day of the interview: an interviewing room, an observation room and a reception room.		
<b>Replaces any intervention in which the child' testimony is required?</b>		<b>Virtually always.</b> Although the law foresees the possibility of a child to be heard in court upon reasoned decision <sup>39</sup> , in practice minor victims are rarely heard in court; usually they aren't present during the hearings and judges and prosecutors rarely interview children.		

Table 2. Regulation of the specific use of forensic interviewing. BELGIUM

<sup>37</sup> Marc Dutroux was arrested in 1996 and convicted in 2004 for the kidnapping, captivity, rape and murder of several girls.  
<sup>38</sup> Jessica Dommicent et al., 'Interviewing Children in Belgium: An Evaluation of Practices', The Police Journal, no. 81(3) (September 2008): 248–61, <https://doi.org/10.1350/pojo.2008.81.3.418>.  
<sup>39</sup> Art. 100 CCP. *The minutes of the interrogation and the audio-visual data carriers of the recording shall be submitted to the investigating court and to the sentencing court, instead of the personal appearance of the minor or the vulnerable adult. However, if the sentencing court deems the appearance of the person interviewed necessary in order to establish the truth, it may, by means of a reasoned decision, order the appearance.*



ESTONIA	
Video recorded interview to be used as pre-trial evidence.	
<b>Objective:</b> During criminal proceedings, all interviews with the child victim may be recorded audio visually and such recordings of the interviews may be used as evidence in criminal proceeding, to avoid the harmful effects of repeated interrogations.	
<b>Context</b>	Amendments on the Code of Criminal Procedure (CCP) entered into force on 1 September 2011 in compliance with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse approved by the Committee of the Ministers of the European Council and the practice of the European Court of Human Rights.
<b>Primary Legal Framework</b>	<p><b>Art. §2901 CCP</b> states that interviews with children under the age of 14 should be video recorded if the child victims' or witnesses' accounts given during preliminary investigation are to be used in court as evidence in criminal proceedings.</p> <p><b>Article 70 of the CCP<sup>40</sup></b> includes the specifications concerning the hearing of a child witness. That is, who can interview a minor, when an interview of a minor needs to be videorecorded and how can a suspect ask questions of the victim.</p> <p><b>Article 12(3) of the CCP</b> states that a court may declare that a session or a part thereof be held in camera in the interests of a child or a victim.</p>
<b>Regulation linked to the typology of crimes (Sexual crimes addressed)</b>	<p><b>Domestic violence.</b></p> <p><b>Offences against sexual determination:</b> rape, act of sexual nature against will, compelling person to engage in sexual intercourse or other act of sexual nature, sexual intercourse or other act of sexual nature using influence, sexual intercourse with descendant, sexual intercourse or other act of sexual nature with child and buying sex from minors. Abuse against children could be related to offences against liberty (trafficking in human beings, engaging children into prostitution, abduction and unlawful deprivation of liberty) and to child pornography.</p>
<b>Automatic use</b>	Children under 14. Depends on the case.
<b>Subjects</b>	<p>Witness up to ten years of age and when repeated hearing may have a harmful effect on the mind of a minor.</p> <p>Witnesses up to fourteen years of age and the hearing is related to domestic violence or sexual abuse.</p> <p>Witnesses with speech impairments, sensory or learning disabilities or mental disorders.</p>
<b>Professionals who conduct the interview</b>	<p>Specially trained police officers.</p> <p>A body conducting proceedings in the hearing of a minor may involve a child protection official, a social worker, a teacher or a psychologist (art. 70 CCP).</p>
<b>Environment</b>	<p>Children's House (<i>Lastemaja</i>).</p> <p>Police stations.</p> <p>Courthouses.</p>
<b>Replaces any intervention in which the child's testimony is required?</b>	<p><b>Sometimes.</b></p> <p>Children under 14 do not usually appear in court. However, the judge can summon a child (usually children between 14 and 18) if he/she finds that their hearing is necessary in court.</p>

Table 3. Regulation of the specific use of forensic interviewing. ESTONIA

<sup>40</sup> Code of Criminal Procedure, RT I, 29.12.2020, 10, <https://www.riigiteataja.ee/en/eli/512012021001/consolide>. The recent amendment to the Article 70 entered into force on 1 September 2013.



GREECE	
Video recorded forensic interview to be used as pre-trial evidence.	
<b>Objective:</b> Avoiding multiple examinations and interviews and therefore preventing secondary victimisation.	
<b>Context</b>	<p>Directive 2012/29/EU was incorporated in the Greek Penal Code through the implementation of the <b>Law N.4478/2017</b> (FEK 91 A'91/23-06-17), replacing Council Decision 2001/220/ΔΕΥ. This law establishes minimum standards on the rights, support and protection of victims of crimes.</p> <p><b>Ministerial Decision 7320/2019</b> (FEK 2238/B/10-06-2019) defends and takes into consideration minor victims' rights, interests, needs and wishes, as well as their fears and concerns. In addition, it takes into consideration secondary and/or repeated victimization by both the offender and the Criminal Justice System.</p>
<b>Primary Legal Framework</b>	<p><b>Ministerial Decision 7320/2019 (FEK 2238/B/10-06-2019)<sup>41</sup>:</b></p> <ul style="list-style-type: none"> <li>- Defines the standards for conducting forensic interviews with minor victims and witnesses of abuse, including sexual abuse.</li> <li>- Establishes the creation of the "Independent Protection Units for Minor victims – Child Home" in accordance with the best international practices: the Child Advocacy Centres of U.S.A.</li> <li>- Defines the interview stages and techniques that should be used, adapted to the age, gender, developmental stage, perceptual ability, mental state and specific interests and needs of the minor victim, as well as to the nature of the crime and its special characteristics.</li> <li>- Stipulates the necessary details for the: Assessment of the perceptual capacity and mental state of child victims. Formation of the appropriate conditions and places for their examination (including for the recording of their testimony). Manner and methodology of assistance provided by the "Independent Protection Units for Minor Victims – Child Home" to the pre-investigative, investigative, prosecutorial and judicial authorities for the examination of minor victims, as well as any other necessary details for the application of par. 1 of Art. 74 of the Law 4478/2017.</li> </ul>
<b>Regulation linked to the typology of crimes (Sexual crimes addressed)</b>	Human trafficking (article 323A PC); rape (article 336 PC); assault of sexual dignity (article 337 PC); abuse of person incompetent to resist to sexual act (article 338 PC); sexual actions with children or in front of them (article 339 PC); malpractice of children (article 342 PC); malpractice into sexual act (article 343 PC); sexual act among relatives (article 345 PC); facilitation to offend childhood (article 348 PC); child pornography (article 348A PC).
<b>Automatic use</b>	No
<b>Subjects</b>	Child victims and witnesses of abuse.
<b>Professionals who conduct the interview</b>	<p><b>According to law.</b> Only psychologists or psychiatrists specifically trained on the field should have the authority to interview the minor victims or witnesses of abuse. Especially in crimes of sexual abuse, the law stipulates that an expert psychologist must be present, accompanying the police officer during the collection of the testimony.</p> <p><b>In practice:</b> Police officers not necessarily qualified.</p>
<b>Environment</b>	<p><b>According to law:</b> Independent Protection Units for Minor Victims – Child Home.</p> <p><b>In practice:</b> Police precincts, courtrooms, prosecution offices.</p>
<b>Replaces any intervention in which the child' testimony is required?</b>	<b>Sometimes.</b> Children who are victims of sexual crimes, are rarely ordered to testify in court, instead their statement is read aloud in the courtroom.

Table 4. Regulation of the specific use of forensic interviewing. GREECE

<sup>41</sup> Ministry of Justice, Transparency and Human Rights, 2019. Ministerial Decision 7320/2019 FEK 2238/B/10-6-2019, <https://www.e-nomothesia.gr/kat-dikasteria-dikaioisune/upourgike-apophase-7320-2019-phok-2238b-10-6-2019.html>

<b>ITALY</b> <b>Protected hearing (<i>Audizione protetta</i>) carried out during the judicial phase called Special evidence pre-trial hearing (<i>Incidente probatorio</i>)</b>	
<b>Objective:</b> To protect the victim from the risk of secondary victimization and to ensure the reliability of the contents of the statements made during the protected hearing. The judicial system establishes the prohibition of a new evidence collection on the same facts during the trial if the vulnerable victim or witness has already been heard in a pre-trial hearing (art. 190 bis paragraph 1- bis <b>C.P.P.</b> ( <i>Codice di Procedura Penale</i> )).	
<b>Context</b>	The <b>pre-trial hearing</b> is a judicial tool included in <b>art. 392 C.P.P.</b> anticipating the acquisition of evidence at the preliminary investigations phase, prior to the trial phase and often outside the court premises (i.e. a hospital, a prison, or a protected environment), as long as the evidence is relevant for the trial pursuant to <b>art. 190 C.P.P.</b>
<b>Primary Legal Framework</b>	<b>Art. 398.5 bis C.P.P.</b> , establishes that during a protected hearing, a video or, at least, an audio recording of the hearing is mandatory. The main rule in this field is <b>art. 498 paragraph 4 C.P.P.</b> , stating that the interview of the minor victim or witness is carried out by the judge, who asks the questions proposed by the Prosecutor and by the defendant (through the lawyers).
<b>Regulation linked to the typology of crimes (Sexual crimes addressed)</b>	<b>Sexual violence.</b> "A crime committed when anyone forces a person to perform or endure sexual acts through force, threat, abuse of authority, taking advantage of the victim's mental or physical inferiority at the time, or deceit by changing places with someone else (art. 609 bis C.P.P.). Including rape and sexual abuse" <sup>42</sup> .
<b>Automatic use</b>	Depends on the case.
<b>Subjects</b>	The protected hearing is envisaged until the age of 16. <b>In practice</b> from the age of 14 and the age of 16 the decision to use this procedure or to carry out the interview in court, during a regular hearing, is taken by the judge case by case.
<b>Professionals who conduct the interview</b>	The <b>judge</b> or/and an <b>expert assisting the judge</b> : Children up to 12 years old. An appointed expert interviews the child and acts as a kind of a "mediator" between the minor and the judge. Children from 12 years of age onwards. Usually, the judge asks the questions directly, even if with the support and assistance of the expert being in the same room. Art. 498 paragraph 4 C.P.P., envisages the participation of an <b>expert in child psychology</b> , without further specifications (e.g., competences and background).
<b>Environment</b>	Courtrooms, judge's office. Associations, NGOs and other entities.
<b>Replaces any intervention in which the child's testimony is required?</b>	<b>Sometimes.</b> Based on a case-by-case assessment. <b>The judge, assessed by the expert, can decide that it is not appropriate to interview the minor</b> (even the protected hearing), or can consider the testimony not fully reliable, based on particular vulnerabilities and traumas suffered by the victim or the witness.
<b>Other comments</b>	The Italian judicial system has extended the <b>definition of vulnerable victims</b> with the introduction of the <b>atypical victim</b> category (Legislative Decree no. 212 of 15.12.2015). It is applied to underage victims, most of all in cases of abuses and sexual crimes, and first of all of sexual violence. <b>The victim is identified as an atypical vulnerable victim</b> by the Public <b>Prosecutor</b> , during the phase of the preliminary investigations and by the <b>Judge</b> , during the trial. Only after this identification, and the following official declaration, the victim can be considered vulnerable and can take advantage of the special procedures and protections. Legislative Decree no. 24/2014 introduced the art. 398 – Paragraph 5-ter, allowing the use of the protected hearing <b>not only for vulnerable victims but also for the witnesses revealing a condition of vulnerability</b> according to the art. 90-quater C.P.P.

Table 5. Regulation of the specific use of forensic interviewing. ITALY

<sup>42</sup> RE-TREAT project. Italy's National Report, 2021, available at: <https://sexualviolencejustice.eu/>

SPAIN		
<i>Entrevista forense como prueba preconstituida/ Forensic interview as pre-constituted evidence</i>		
<b>Objective:</b> A legal formula that, when implemented in cases of especially vulnerable victims, functions under two main objectives: protecting the victim's testimony (cognitive evidence) of the subsequent deterioration of multiple and inappropriate interventions and avoiding the child victim's secondary victimization due to their way through the criminal process <sup>43</sup> .		
<b>Context</b>	<p>In June 2021, Spain approved the <b>Organic Law 8/2021</b> on the comprehensive protection of children and adolescents against violence (LOPVI). The law establishes measures for the prevention of violence against children and adolescents and normative modifications, among which stands out the obligatory nature of the pre-constituted evidence for victims under 14 years of age or for persons with disabilities in need of special protection in some crimes, among which are sexual crimes.</p> <p><b>Prior to the current regulation</b>, it was used according to the assessment of the investigative judge, with the support of the Public Prosecutor. Its use varied depending not only according to the position of each professional, but also to the resources available.</p>	
<b>Primary Legal Framework</b>	<b>Art. 449 bis and ter LECrim.</b> Since June 2021 the pre-constituted evidence is <b>mandatory</b> for children under 14 years of age.	
<b>Subjects</b>	<b>Art. 449 ter LECrim:</b> A person under fourteen years of age or a person with a disability in need of special protection is called as a witness in legal proceedings concerning the investigation of an offence:	The current regulation allows for a broad interpretation, so that for the rest of the victims, this measure would not be mandatory but could be used when justified on a case-by-case basis, as was previously the case, before LO 8/21.
<b>Regulation linked to the typology of crimes (Sexual crimes addressed)</b>	Against sexual freedom and sexual indemnity ( <i>mandatory</i> )	Case by case assessment
<b>Automatic use</b>	Yes	No
<b>Professionals who conduct the interview</b>	<b>OL 8/2021 and arts. 449bis and ter LECrim</b> establishes that forensic interviews must be carried out by <b>experts</b> , however it does not define this figure. <i>"The judicial authority may agree that the hearing of the minor under fourteen years of age be carried out through psychosocial teams that will support the Court in an interdisciplinary and inter-institutional manner".</i> (art. 449 ter LECrim). <b>An expert: Forensic psychologist or police officer.</b>	
<b>Environment</b>	Courtrooms, judge's office, prosecution facilities.	
<b>Replaces any intervention in which the child' testimony is required?</b>	<b>In some cases.</b> Children under 14 years. Case-by-case assessment.	

Table 6. Regulation of the specific use of forensic interviewing. SPAIN

<sup>43</sup> José L. González et al., 'Propuesta de Protocolo Para La Conducción de La Prueba Preconstituida En Víctimas Especialmente Vulnerables', Papeles del Psicólogo, no. 34(3) (2013): 227–37.

## 2.2 IMPACT OF THE INTEGRATED JUSTICE SYSTEM ON THE FORENSIC INTERVIEW

Children's rights in ENCLAVE's partner countries are recognised and supported by a structured framework of specific protection measures. However, there are significant gaps in practice, which we attribute to two general concerns:

- The lack of appropriate specialization, which is sometimes intensified by an equally insufficient, superficial or cumbersome regulation.
- The success of the forensic interview depends largely on the framework of the justice system who conceived it and more specifically on the coordination of different professionals. Thus, optimal use of the forensic interview cannot be made if the structure in which it is conducted is not considered.

### Textbox 3. The integrated justice system

We use the term *integrated justice system*, in reference to a system capable of harmoniously coordinating the judicial, health and social arenas under the same structure, so that the treatment received by the child victim/witness is coherent, in the form of a holistic response.

The specificities of underage victims, especially in the context of sexual violence, require this kind of comprehensive system to ensure real respect for their rights.

**The Nordic model of Children's House** (in Icelandic *Barnahus*) includes numerous essential elements to guarantee this comprehensive approach, which have direct and indirect impacts on the quality and use of the forensic interview as pre-trial evidence.

This reference model in Europe, inspired by the **Children's Advocacy Centres** in the US (CACs), translates this idea into an "under one roof principle" (a child-friendly facility), comprised of 4 multidisciplinary and interagency coordinated doors<sup>44</sup>:

Child Protection  
Criminal Justice  
Physical wellbeing  
Mental wellbeing

The roof, as seen in the illustration, represents coordination between the different professional groups and the joint investigative interview (which entails the co-hearing of the interview in an adjacent room). This invites to reflect on whether it is possible to reduce the different encounters with child victims/witnesses by means of these sequential and simultaneous joint interventions from different professionals<sup>45</sup>.

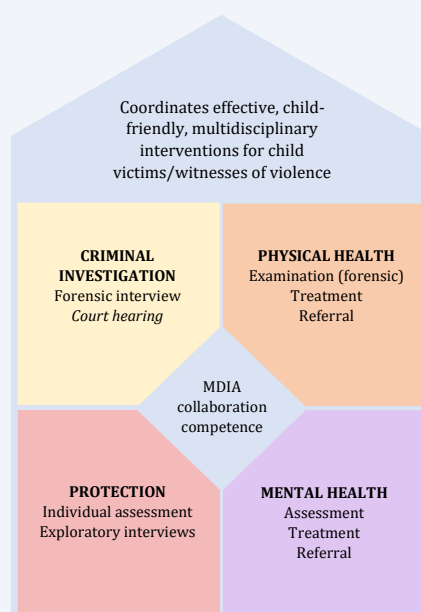


Illustration 1. Barnahus Model  
<https://www.barnahus.eu/en/vision/>

Although a comprehensive approach to the protection of children's rights is possible without a specialised structure, whether a Children's House or a **Specialised Court for violence against children**, their presence facilitates a great deal monitoring and supervising the specialised expertise, the use and outcomes of unified protocols and the coordination between different services.

Moreover, the functioning of a comprehensive justice system allows for a coherent incorporation of children's rights in line with a child-sensitive and child-centred approach, which is particularly clear in the access to justice in a strict manner. That is, in those rights

<sup>44</sup> For more information: <https://www.barnahus.eu/en/about-barnahus/>

<sup>45</sup> Susanna Johansson et al., 'Implementing the Nordic Barnahus Model: Characteristics and Local Adaptions', in *Collaborating Against Child Abuse: Exploring the Nordic Barnahus Model* (Switzerland: Palgrave Macmillan, 2017), 6.

and measures that ensure that the child victim/witness can initiate a judicial process in an adequate manner.

Next are presented a set of key elements which would qualify a justice system as comprehensive or, conversely, as fragmented.

### 2.2.1. Specialized systems or structures: Specialised Courts for violence against children and Children's Houses

#### A) Specialised Courts for violence against children

- ✓ *Minimization of stress-mental health (art. 20)*
- ✓ *Dignity (art. 18 & 23)*

Although none of the **five countries** have implemented Specialised Courts for violence against children, there are Juvenile Courts when the offender is a minor, on the understanding that the adult system, or the ordinary procedure, does not respond to their specific rights.

This discrimination against child victims should be understood according to the evolution of the role of the victim in the criminal process. Traditionally the focus was and still is in the offender, but in the recent years there has been a paradigm shift towards the attention provided to the victim. This change is present in adult victims; however, it has not sufficiently permeated towards child victims/witnesses. Thus, the need for adaptation –consistent with the rights of the child– is clearly observed when the offender is a minor but not when it is a victim<sup>46</sup>.

#### Textbox 4. Court Specialized in Violence Against Children and Adolescents

- In **Spain** since the approval of the Organic Law 8/2021 on the comprehensive protection of children and adolescents against violence (LOPVI), the country is in a decisive moment in the creation of these specialised courts. Gran Canaria, part of the autonomous community of the Canary Islands, is the home of the first Court specialized in Violence against children and adolescents in Spain. Its opening in October 2021 is a reference in the implementation of this new system of protection, foreseen by the Organic Law 8/2021<sup>47</sup>.

#### B) Children's Houses: Barnahus, Lastemaja, CACs.

- ✓ *Minimization of stress-mental health (art. 20, 23)*
- ✓ *Privacy (art. 21)*
- ✓ *Dignity (arts. 18 & 23)*

As previously said, this specialized structure represents a “multi-professional approach to child victims of abuse with the double aim of facilitating the legal process and ensuring

<sup>46</sup> It is important to note that cases of sexual offenses among minors can be given less importance than cases where the perpetrator is an adult. We would like to address the risk of making the interests of the minor victims/witnesses invisible if the impact is not properly assessed.

<sup>47</sup> The law establishes measures for the prevention of violence against children and adolescents and normative modifications, among which stands out the obligatory nature of pre-constituted evidence for victims under 14 years of age or for persons with disabilities in need of special protection in some crimes, among which are sexual crimes. It also highlights the importance of the adequacy of the process to ensure the safe participation of underage victims and the professional specialization of all those who will be in contact with the child victim.



that the child receives necessary support and treatment”<sup>48</sup>. As well as a systemic intervention at “avoiding repeated contacts and interviews by multiple professionals in localities not adjusted to children’s needs and thus to reduce the risk of “secondary victimisation”<sup>49</sup>.

#### Textbox 5. Barnahus, *Lastemaja*, CACs

- In **Belgium** a 2017 pilot project led to the creation of the **Care centres after sexual abuse**, where victims can reach this multidisciplinary centre, 24h a day, 7 days a week, to file a complaint with the police if desired and to get examined in view of initiating a forensic investigation as well as for medical and psychological care and follow-up. Besides, Belgium is a PROMISE Barnahus network founder, although there are no Barnahus or similar models<sup>50</sup>.
- Nowadays, **Estonia** counts with three *Lastemaja* (the national name for the Barnahus model). It is present in the regions of Tallinn, Tartu and Jõhvi, and a 4th centre will open in 2022. Their service is made available for the whole country, have an interagency partnership<sup>51</sup> and is coordinated on the national level by the Social Insurance Board (SKA). The centres are comprised of a multidisciplinary team that assess the child’s health, social situation and skills, the need for (further) assistance. Besides, they offer follow-up services for the child and the family. They attend instances of sexual and physical violence, whether there is an open court case or not and coordinate investigative activities. For instance, a structured pre-interview (recorded) in the Children’s House to assess the initiation of the criminal proceeding.
- In **Greece**, articles 74, 75 and 76 of the 4th part of Law N.4478/2017 establish the **Independent Protection Units for Minor victims**, in accordance with the best international practices, namely the Child Advocacy Centres of the US. However, in practice these Units do not operate, except for the Athens’ Unit, where after years of delays it has started to coordinate comprehensive services for children impacted by sexual assault and also for their families.
- There are **Italian** models of Children’s Houses, with similar and some of the functions of the Barnahus model. Although, not widely known by participants of this study. These centres are usually in the North and Centre of Italy, that count on more funds (public funds and private donations). They address cases of child victims and witnesses of physical abuse and sexual violence and in some only child victims of sexual violence.
- **Spain** is a member of the PROMISE Barnahus Network. There are pilot projects, on the initial stages of development and implementation of this model, in different autonomous regions (i.e., Barcelona, Madrid, Vasque country).

### 2.2.2. Reception and referral of child victims

- ✓ Information (arts. 6 & 7)
- ✓ Security and protection (art. 18)
- ✓ Minimization of stress-mental health (art. 20)
- ✓ Dignity (arts. 18)

Establishing clear procedures for the treatment and referral of children victim/witness until the forensic interview is carried out notoriously facilitates:

- Monitoring the satisfaction of their rights and interests.
- Tracking the victims’ journey and reducing the number of contacts with different professionals and agencies.

<sup>48</sup> Johansson et al., ‘Implementing the Nordic Barnahus Model: Characteristics and Local Adaptions’, 6.

<sup>49</sup> Idem.

<sup>50</sup> PROMISE Barnahus greater network: <https://www.barnahus.eu/en/greater-network-map/>

<sup>51</sup> Regional Prefectures of the Police and Border Guard Board, districts’ Prosecutor’s Office, the Forensic Science Institute, the Children’s Mental Health Centre of the Tallinn Children’s Hospital, the Tartu Sexual Health Clinic, the Tartu Children’s Support Centre and local governments.



- Assessing the training needs of each professional group that comes in contact with the child.

In this regard, when the roles and competences of each institution are not well defined and limited, the significant variations in the victim's journey also make it difficult for professionals to have clear procedural guidelines and standards for action.

In **Belgium**<sup>52</sup> there are different clear referral channels. In **Estonia**, it is case-dependent, although there are defined channels, as well as in the remaining three countries. Despite this, there is a common trend among **Greece**, **Italy**<sup>53</sup> and **Spain**<sup>54</sup>, as there is no homogeneous and consolidated system concerning this matter. Since there is not a defined regulation regarding this phase, it can vary a lot from region to region, even from city to city, and there is not a common procedural standard.

Consequently, the absence of a solid and institutionalized response is a big barrier to the whole process. The lack of shared action protocols known by the different entities can lead to fragmented responses. For this absence is sometimes made up for by the non-institutionalised collaboration of different professionals, public and private entities, NGOs or professional associations.

On the other hand, within this equation, it must also be pondered the homogeneous distribution of economic and human resources, factor that has a direct impact on the quality and consistency in service delivery. These differences among regions (e.g., North-South; Urban-Rural; Flemish-French-German communities) concerning consistency in service delivery, due to budget allocation and funding and the variations between regional and local authorities' competences, are present in the **five countries**.

#### Textbox 6. Care Centres After Sexual Abuse.

**Belgian** Care Centres after sexual abuse, (*Zorgcentra na Seksueel Geweld*, -ZSG- in Dutch), present in some regions of the country<sup>55</sup>, functions as an **all-in-one specialized care centre** for victims of sexual abuse where a multidisciplinary team trained in these issues can provide with the necessary care for victims. Victims can reach these centres for medical and psychological care and follow-up, to file a complaint with the police if desired and to get examined in view of initiating a forensic investigation.

The *time* between the sexual abuse and the visit to the care centre will be decisive:

If the sexual violence took place less than a week ago (ideally within 72h). The victim can address the Care Centres and receive immediate medical, forensic and psychological care. A police complaint can also be filed at the centre.

If the sexual violence took place more than a week ago but less than a month ago. The victim can call or email for an appointment where it is going to be explored what is still possible in terms of medical, psychological and forensic care. For filing a complaint: an appointment can be made with the police at the centre.

<sup>52</sup> Belgium is a federal state composed of three communities (Flemish, French and German), three regions (Wallonia, Flanders, Brussels) and four linguistic areas (French, Flemish, French-Flemish, German). The context analysis is primarily based on the Flemish community.

<sup>53</sup> Italy is organized in 20 administrative Regions, having a relevant role in many administrative and political sectors as health, welfare, and education.

<sup>54</sup> Spain is a parliamentary monarchy organised into 17 autonomous communities, made up of 50 provinces and two autonomous cities. In the Spanish State there is no single authority with general responsibility for child protection, these are divided between different ministries and between national, regional and local authorities. Child protection services are the responsibility of national, regional and local authorities who may outsource child protection services to the private sector and/or subcontract to private actors. In Fundamental Rights Agency (FRA) "Decentralised child protection responsibilities". Mapping child protection systems in the EU, (2015). <https://fra.europa.eu/en/publication/2016/mapping-child-protection-systems-eu#publication-tab-2>

<sup>55</sup> Located in the hospitals of UZ Gent, UMC Sint Pieter in Brussels, UMC Liège, Charleroi in UMC Marie Curie and in Antwerp in UZA. In 2022-2023, 5 new centres will open in Roeselare, Leuven, Namur, Genk and Arlon.

If it happened more than a month ago. It is recommended to make an appointment to examine which range of medical and psychological care is required and possible referrals to an existing range of care services.

In the zones where these centres have been implemented, victims can benefit from their services even when they've initiated contact at a police precinct. However, at present these centres are not yet equipped with a TAM interviewing room, thus, the audio-visually recorded interview will still take place at the enabled interviewing rooms in police precincts.

#### Textbox 7. Special National Bodies and Specialised Entities

In **Spain**, State Law Enforcement Agencies and Units at regional level (competent for receiving these complaints) count on two **specialised national bodies**: the Civil Guard has the Women-Minor Teams (EMUME)<sup>56</sup>, and the National Police has the Family and Women's Attention Units (UFAM)<sup>57</sup>.

The LO 8/2021 establishes the requirement to have specialised units (state, regional and local) and that all members of the police forces receive specific training for dealing with these situations, with the establishment of clear criteria for action in the first contact (complaint) in these cases<sup>58</sup>.

Regarding the availability of **specialised entities and/or professionals**<sup>59</sup> in case specific adaptations are necessary (e.g., disability, cultural background), the *Victim Support Offices*<sup>60</sup> could serve as a bridge to obtain this resource, improving the current situation.

### 2.2.3 Mechanisms to guarantee children real access to justice

Some of the measures to protect the rights and interests of the victims that can be recognized in adulthood as mechanisms to protect the mental health, dignity or safety of the victims should also be recognized in childhood as mechanisms that guarantee the right to participation. This is because the absence of adaptation or recognition of some of the figures mentioned below can not only affect the general interests indicated in a general way -for all victims- but could also make their participation impossible<sup>61</sup>, thus violating the specific rights of children.

These mechanisms for guaranteeing access to justice can be divided into two thematic blocks: Child Victim's complaint, free legal aid and Specialised figures; Child-friendly environment.

<sup>56</sup> See website <https://www.guardiacivil.es/es/institucional/Conocenos/especialidades/emumes/index.html>. Created in 1995, their scope of action includes crimes against sexual freedom within and outside the family environment, and they are also competent when the offenders are minors.

<sup>57</sup> The National Police has been organized since 2015 to attend to victims of sexual crime in units for the family and the minor, UFAM. Their competence excludes that of crimes committed by minors, which corresponds to the GRUME (Group of Minors, created in 1986), unlike the units of the Civil Guard. See: [https://www.policia.es/org\\_central/judicial/ufam/ufam.html](https://www.policia.es/org_central/judicial/ufam/ufam.html).

<sup>58</sup> The recent LO 8/2021, in its art. 50, includes clear criteria for action in the police phase, highlighting the following: The immediate adoption of provisional measures of protection; the practice of proceedings with the intervention of children and adolescents will only be carried out in strictly necessary cases, giving, as a general rule, a single statement and always through specifically trained professionals; the absence of delay in the intervention of the victim, previously verifying that he/she is in a position to submit to it; protection against any type of direct or indirect contact with the person under investigation; information on their right to free legal assistance; the adaptation of language and forms to their age, degree of maturity and other personal circumstances; the guarantee of the right to be accompanied by a person of their choice.

<sup>59</sup> Madrid relies on the Child Sexual Abuse Intervention Centre (CIASI), which currently focuses mainly on assistance work, carrying out an assessment of the victim's condition and establishing an intervention plan based on this assessment. Their reports are sent to Social Services and the Public Prosecutor's Office or, if requested by the judge, to the judge and the party's lawyer (although the general absence of a request from the latter is noted). They also accompany the victim in the event of having to testify in court, a service that must also be expressly requested through the Directorate General for Childhood, Family and Promotion of Births.

<sup>60</sup> Victim Support Offices are of recent creation and in different degrees of development. They depend either on the Autonomous Communities that have transferred powers or on the Ministry of Justice in the rest of the territory. See: <https://www.mjusticia.gob.es/es/ciudadanos/victimas/oficinas-asistencia-victimas>

<sup>61</sup> The three dimensions of participation: right to be informed, to express their opinion and be heard and to have their voice duly considered in matters that concern them, in accordance with their maturity and development. Anna Massons-Ribas, M. Ángeles Basells, and Neus Cortada, 'The Participation of Children and Adolescents in the Protection System: The Case of the Spanish Legislation', Social Sciences, no. 10 (7) (2021): 268, <https://doi.org/10.3390/socsci10070268>.

## A) Child Victim's complaint, free legal aid and Specialised figures

- ✓ Information (arts. 6 & 7)
- ✓ Participation (arts. 10, 13, 24, 25)
- ✓ Minimization of stress-mental health (art. 23)
- ✓ Dignity (arts. 18 & 23)

To ensure real access to justice, it is crucial to recognize child victims/witnesses as true rights holders –in accordance with the Human Rights Theory–. Part of this entails the requirement that child victims should have the right to make a complaint for themselves<sup>62</sup>, without the presence of representatives, and be assigned legal assistance immediately.

We find regulation differences on the right to complain and/or participate in the process by themselves, with limitations based on the age of the child (**EL** and **IT**), the need of legal representatives (to act as a civil party **BE**, but not to file a complaint), or without specific legal measures in this regard (**EE**). In **Spain**, minors can file a complaint either through their representatives or by themselves without the presence of their legal guardians. Regarding access to free assistance from a legal counsel, it also varies across jurisdictions. In some member states no conditions are set and it is free of charge (**BE**, **EE** and **ES**), in others there are means-test or is free depending on the type of offense (**EL** and **IT**).

The **five states** have representation figures for minors in the process, that covers all stages of the proceedings and specifically when there is a conflict of interest with the parents. In this regard, the role of the legal professional is of particular importance. Defining their role in the different phases of the judicial proceeding, as well as the training and experience is needed. Having a lawyer at the child disposal should not only depend on their circle of trust's decisions, family income or type of offence. Free and specialized legal assistance should be guaranteed from the first moment.

At the different stages of the process, information appropriate to their personal situation (of their rights and the services available to them from a legal, health and social perspective, in a child-friendly way), and at the right time (differences between procedural times and victims/witnesses' times) should be provided both to the child and to his/her parents or legal representatives.

Broadly speaking, it is a common trend the undefinition of who should be informed and about what and by which professional. As well as the adult-centric vision and regulation, which results in a lack of sufficient adaptations or the assumption that certain actions must necessarily be taken by a representative<sup>63</sup>.

## B) Child-friendly environment

- ✓ Minimization of stress-mental health (arts. 20, 23 and 24)
- ✓ Privacy (art. 21)
- ✓ Dignity (arts. 18 and 23)

The main concern is guaranteeing real access to justice for all children in a safe, neutral and child-friendly environment to minimize or avoid the risk of secondary victimization.

What does "**Child-friendly environment**" really mean? It is not a trivial question, as there

<sup>62</sup> It is important to differentiate between a complaint and a communication (e.g., helplines and web gateways).

<sup>63</sup> Age limits can end being too strict and arbitrary and result in unjust consequences as it doesn't consider the diversity in capacities and levels of understanding between children. Dependent on the individual child's development capacities, life experiences, cognitive and other skills. *Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly justice*. Council of Europe Publishing (2011): 75

are different perspectives in how it should be achieved, among countries, professionals and agencies involved. For instance, it is part of Barnahus Quality Standards, where it means “focused on, adapted and sensitive to, the specific needs of children”<sup>64</sup>. But it seems that the aesthetic-spatial element of child-friendliness is a theme of many layers (e.g., users’—children and adults— and professionals’ perceptions, accessibility, interior design, privacy) and that it is far from fixed<sup>65</sup>.

In this definition quest of an elusive concept, we introduce the design movements of **Humanizing care environments** (in the health sector, e.g., children’s hospitals or

*“It was the first moment we realized we had to get science into the courts”*  
(Judge, ES).

children’s wards) and **Architecture of the Victim**. There, architects and interior designers, with their professional vision, come in play and pay close attention to different elements: the tone of the colours, the shapes of the furniture, the presence of plants, the light and the temperature.

Different remarks were made by **every member state** concerning a child-friendly environment. In some national context it is detailed and regulated (**BE** and **EL**), but not always entails its full implementation. There is a spectrum, from police precincts with no adapted environment to Children’s House models. We observed that the professionalization in the adaptation of the environment was lacking. Meaning that usually legal professionals, or other professionals who are going to use these spaces, adapt them according to their own criteria.

We also noticed two poles:

- Pleasantly but neutrally decorated, to avoid distracting the minor’s attention or stimulating fantasy and avoid suggestion provoked by external stimuli. Which can turn into excessively cold rooms.
- Soften the impression of a formal adult space. Which can lead to childish rooms, with plants, pictures, TV sets, full of toys, that do not accommodate adolescents<sup>66</sup>.

*“Now we just have white walls, but we want to have a carpet and special curtains to let the minor be more at ease. Because now it’s like a fridge.”*

(TAM trainer and interviewer, **BE**)

#### Textbox 8. Child-friendly environments

- In **Belgium**, there is a project<sup>67</sup> coordinated by LUCA School of Arts in which a multidisciplinary team of professionals from diverse domains (architects, designers, police officers, child psychiatrists and others), together with a team of design students, have created a renewed space of the reception and interrogation rooms, where neutral and warm can coexist to offer the child an improved interviewing experience. The pilot project will take place at Eeklo and a 3D tour<sup>68</sup> of the reception and interview rooms is available online.
- In **Spain**, it is worth highlighting the work carried out in the Canary Islands, in its Specialised Court project, as a pioneer in the professionalisation of the adaptation of the appropriate environment to the needs of victimised children. Particularly noteworthy are the optimisation of resources and the

<sup>64</sup> Olivia Lind Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence*. (Council of the Baltic Sea States Secretariat and Child Circle, 2020), 63, <https://www.barnahus.eu/en/wp-content/uploads/2020/02/PROMISE-Barnahus-Quality-Standards.pdf>.

<sup>65</sup> Susanna JOHANSSON et al., ‘Implementing the Nordic Barnahus Model: Characteristics and Local Adaptions’, in *Collaborating Against Child Abuse: Exploring the Nordic Barnahus Model* (Switzerland: Palgrave Macmillan, 2017), 37.

<sup>66</sup> Idem.

<sup>67</sup> <https://www.vlaamsehogescholenraad.be/nl/blikopener/spraakmakers/videoverhoorkamer-politie-meetjesland>

<sup>68</sup> <https://www.youtube.com/watch?v=HEoqH3VHE0A>



On the other hand, the availability of means necessary for the forensic interview process as pre-trial evidence and of child-friendly environments reduces the risk of negative impact on the victim. Proper coordination and the use of clear protocols are key in this regard. When there is no availability, there is a dilemma between postponing the meeting, carrying it out in an unsuitable environment or moving it to another location.

*"(the child) was summoned at eleven o'clock in the morning but testified at four o'clock in the afternoon. During those five hours, missing school, he was in that friendly room I described to you before [not really child-friendly]." (Judge, ES)*

Furthermore, although out of the scope of the project, it is significative to add that child-friendly environments are not only about the physical space but also about interactions

*"Sometimes we cooperate with the child psychiatrist of the social service but the service closes at noon. After four o'clock no one is available – what am I supposed to do then? Having the child waiting all night? Where? In my office or at the hospital?" (Police, EL)*

among users and staff (e.g., welcoming routines, the routines for the meeting with the interviewer<sup>69</sup> and other professionals)<sup>70</sup>. Children and adult caretakers as well as professionals (as they are constant users) should be invited to co-create these spaces, as their insights, experiences and comments are invaluable, in sight of improving service delivery<sup>71</sup>.

#### **i. Building Access and Waiting area**

As a general observation, the presence and adaptation of the interview rooms is notably prioritized, leaving the *access to the building* and the *waiting room* in the background.

The trend was to find few buildings with adequate access (especially in **BE**, **EL**, in police precincts and in Children's Houses), as there are few buildings specifically dedicated for this purpose. Thus, it is not uncommon for children to go to court or to police stations not specifically adapted for this purpose. Furthermore, forensic interviews take place in different places, depending on the country, the case and the age of the child. Police precincts with a specifically equipped interrogation room (**BE**), Children's Houses, police stations and courtrooms (**EE**), police stations, prosecution structures and Courtrooms (**EL**) and Courtroom facilities and Prosecution Offices (**ES** and **IT**). Also in hospitals, schools and child's home.

Public funding plays a big role in the physical environment; therefore, the objectives need to be adapted to the resources and possibilities existing in each of the partner states. For example, when other buildings such as court buildings or police stations are used, temporary adaptations should be made to allow safe entry for children.

<sup>69</sup> In Belgium, the day of the interview, the interviewer will meet the minor and accompanying person upon their arrival in a designed reception area. The reception area is a separate room, separated from the general waiting room, in order to avoid additional trauma and ensure the necessary privacy for the minor.

<sup>70</sup> Kari Stefansen, 'Staging a Caring Atmosphere: Child-Friendliness in Barnahus as a Multidimensional Phenomenon', in *Collaborating Against Child Abuse.*, by S. Johansson et al. (Switzerland: Palgrave Macmillan, 2017), 49, [https://doi.org/10.1007/978-3-319-58388-4\\_2](https://doi.org/10.1007/978-3-319-58388-4_2).

<sup>71</sup> Nicky Stanley et al., 'Rethinking Place and the Social Work Office in the Delivery of Children's Social Work Services', *Health Soc Care Community*, no. 1 (January 2016): 86–94, <https://doi.org/10.1111/hsc.12192>.

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#### Textbox 9. “Vía libre a la infancia”

In the **Spanish** Specialised Court of the Canary Islands, professionals advocate for the “*Vía libre a la infancia*” (Free way to children) in the judicial headquarters, because although their objective is that there are no children in the courts:

*“(…) it is not the appropriate space because it has not been conceived from the beginning as a space that allows full attention.” (Judge, ES)*

It is necessary to remedy these deficiencies with adequate measures, even if only on a temporary basis. There, children have an exclusive space in the judicial headquarters, as a mechanism to make up for the absence of a place for them outside the judicial headquarters.

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As for waiting areas for children, which should ensure that the right to privacy is protected, these spaces are usually not present, children are made to wait where all beneficiaries wait. With some exceptions in **Belgium**<sup>72</sup> and **Estonia**. Besides, in the absence of these rooms, it is noted the use of other rooms with different purposes (e.g., libraries in **ES**) to bridge the gap of a real adaptation of the environment.

#### ii. Interview room and Technological equipment

The presence and use of specialised interview rooms is varied across the **five countries** and in their own regions. Except for **Belgium** (see Textbox 9) and in some cases **Estonia** (Children’s House and some police precincts), although we observed many good practices, these are specific experiences that cannot be generalised at the national level. The availability of material resources in the different regions and of public funding contribute to the quality and coherence in service delivery (**EL, ES, IT**). This availability of spaces also makes it difficult to ensure easy access to the room, which should be the closest to the child’s home. Where there are no adapted rooms, it is observed (in **EE, EL, ES, IT**<sup>73</sup>), the use of judges’ chambers, police’s offices or courtrooms (to make use of the CCTV systems). Other teams of professionals choose to use the rooms they already have as a multi-purpose space in the same buildings or to coordinate with external entities that have a more suitable environment (**IT**, see Textbox 10).

*“In many cases, during the forensic examination phones are ringing, doors are knocking, and colleagues are coming in.” (Police officer, EL)*

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#### Textbox 10. Interview rooms

■ In **Belgium**, interviews take place only in soundproof and specifically equipped interrogation rooms (art. 94 CCP), approved by the public prosecutor located closest to the home of the minor<sup>74</sup> (35 interrogation rooms are available nationally and mobile kits, if for instance the interview needs to take place in a hospital). There aren’t any toys or posters on the wall, to avoid distracting the minor’s attention or stimulating fantasy. The technological equipment<sup>75</sup> consists of omnidirectional microphones, sensitive enough to record audible whispered conversations and cameras: one fixed and at least one movable with zoom function, able to view the entire room and register the presence of persons other than the person being interrogated and the interrogator in the room. This avoids having to make a choice from the recorded images.

■ In **Italian** big cities, a special room adequately furnished and equipped is generally used for this kind of hearings/interviews, while smaller Tribunals don’t have that commodity. This is why the main part of

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<sup>72</sup> Belgian legislation mandates that three spaces should be provided to minors upon the day of the interview: an interviewing room, an observation room and a reception room.

<sup>73</sup> Usually, the protected hearing is carried out in the Court’s premises and the forensic interview is carried out in the Prosecutor’s office during the investigation phase.

<sup>74</sup> Circular Nr. 03/2021, section 4.2.

<sup>75</sup> Explicitly defined in Annex 2 of the Joint Circular of 14 October 2021.



association, NGOs, and other entities (including – but not limited to – the Barnahus type centres) working in the field have taken care of furnishing and equipping at least one room in their own premises to be used for protected hearings and forensic interviews. In those cases, considering this availability, magistrates can (and often will) organise the activity at the external subject's premises.

While some partner countries have interview points with a high quality of technical means (**BE**), in others we find heterogeneity of means between large and small cities and between regions (**EL**, **IT**, **ES**). Thus, the heterogeneity of child victims' journeys means that the existence of rooms and adapted technology depends on the place where they are interviewed.

Furthermore, we noticed that having specialised facilities (e.g., Gesell chamber) does not ensure their proper use. For example, the quality of the recordings is not always optimal and verified and the availability of technicians and their specific training to meet the demands of what entails conducting a forensic interview is not sufficient (e.g., **ES** in contrast with **BE**<sup>76</sup>).

The quality of the technical means has a direct impact on the correct development of the interview, not only in the subsequent viewing but also in the fluidity of the interview.

Thus, it is advisable to use mechanisms that allow the expert to receive the responses of the people in the observation room without having to leave the interview room<sup>77</sup>.

On another note, there is some debate on the visibility or no visibility of the cameras. Under some circumstances, e.g., type of offences, it is advised to make a previous assessment. Some in practice experiences point to the need not to hide them, but to make them friendly (e.g., in the Spanish Court Specialised in violence against children and adolescents, the device is in full view and children can interact with it just like with a Mr. Potato head toy, creating different appearances with interchangeable parts and pieces (e.g., mouth, eyes, ears).

### **iii. Observation room**

The observation room should allow for the assistance of other professionals needed in the interview to ensure due process (including for the offender), to reduce the number of interventions and preserve the child's privacy. In this regard, those who will follow up the interview should be kept to a minimum. In addition, it is important to explain to the victim/witness the existence of this room -and/or the connection with other professionals- and its purpose and, if the room is adjacent, propose visiting it before starting the interview.

However, some practitioners refer to the importance of overcoming the existence of the "adjoining room" as it generates concern for the victim and, if used, to move her/him away from the interview room and witness the interview using teleconferencing technologies and follow the interview via a television screen. This system also has the advantage that

<sup>76</sup> Where TAM interrogators work in pairs, one in the interview room and other in the observation room (in the Director's chair) accompanied by the investigator in charge. For each TAM interrogation there is a director present in the adjacent observation room. Strictly speaking, a director operates the buttons and takes care of the technical follow-up arising from the audio-visual recording of the interview.

<sup>77</sup> Belgian regulation establishes the presence of a visual alarm in the interview room to indicate any technical problems or other interventions from the control room (Annex 2 of the Joint Circular of 14 October 2021).

the installation is simpler and cheaper -in the long-term-, and the room is less intimidating for children than a double-mirrored room. Isolation is much simpler, and it makes it easier to avoid crossings between the victim and the accused, and their lawyer or family members<sup>78</sup>.

### 2.3. The forensic child investigative interview

Over the course of the journey of the child victim of sexual abuse<sup>79</sup> several professional interventions, called interviews, with different objectives take place.

We briefly address the concept of "*interview*" to delimit the object of study and to adapt the interpretation of the practices to be analysed. In the project ENCLAVE our interest is in the forensic child investigative interview as pre-trial evidence.

#### Textbox 11. Terminology clarification

■ **Preliminary or Exploratory interview:** Interview carried out by the police or social services, when they receive the complaint or request. Sometimes, the information provided by the adults close to the child is sufficient<sup>80</sup>. In the first contact (in the police phase). In some Children's Houses, it is carried out to elicit the narrative of the child "where disclosure is absent or ambiguous at the request of the local child protection services". Also, to obtain "the child's testimony in cases where the suspected offender is below the age of criminal responsibility at the request of the child protection services"<sup>81</sup>. It is important to record these interventions in order to keep a record of the questions asked and the child's answers<sup>82</sup>.

■ **Forensic interview:** Its main purpose is assisting legal practitioners in their decision making and is therefore carried out by specialised personnel<sup>83</sup>. Forensic assessment uses the interview and is enriched by the use of observation of the individual, different tests, medical and psychological reports, information provided by the family and court records<sup>84</sup>. Thus, it has a descriptive outcome, and its actions are limited in time.

It can happen in pre-trial phase as pre-trial evidence with the aim at:

Reducing repeated questioning on the event(s) by non-specialised professionals, thus reducing the psychological toll and risk of secondary victimisation.

<sup>78</sup> Virginia Berlinerblau, Mariano Nino, and Sabrina Viola, *Guía de Buenas Prácticas Para El Abordaje de Niños/as, Adolescentes Víctimas o Testigos de Abuso Sexual y Otros Delitos*. (Argentina: Junta Federal de Cortes y Superiores Tribunales de Justicia (JUFEJUS), Asociación por los Derechos Civiles (ADC), UNICEF, 2013), 45, <https://www.unicef.org/argentina/media/1746/file/Guia%20de%20Buenas%20Pr%C3%A1cticas%20para%20la%20protecci%C3%B3n%20de%20derechos%20y%20el%20acceso%20a%20la%20justicia%20de%20ni%C3%B1os%20v%C3%ADctimas%20de%20abuso%20sexual.pdf>.

<sup>79</sup> Throughout the report reference is made to minor victims/witnesses, and not "alleged" victims/witnesses, because although, procedurally, they cannot be considered as such until the end of the process, the recommendations are focused on the adequate attention of minor victims, with special relevance to their character as victims, and not only as a party in the process.

Of course, this does not imply the assumption of the absence of the presumption of innocence of the accused party in the process, whose guarantees will be addressed numerous times throughout the process.

Finally, it is also important to mention the concept of victim in a broad sense, and not only linked to the strictly procedural response. Even more so in these cases in which evidence is particularly difficult to obtain. A victim of this type of crime may not be procedurally recognised as such precisely because of this lack of evidence, which will have to be dealt with in other areas, as will be pointed out.

<sup>80</sup> Margarita Diges Junco and Nieves Pérez-Mata, 'La Entrevista Forense de Investigación a Niños Supuestas Víctimas de Delitos Sexuales: Guía de Buenas Prácticas (I)', *Diario LA LEY*, no. 8919 (2017).

<sup>81</sup> Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence*, 15.

<sup>82</sup> Diges Junco and Pérez-Mata, 'La Entrevista Forense de Investigación a Niños Supuestas Víctimas de Delitos Sexuales: Guía de Buenas Prácticas (I)'.

<sup>83</sup> When the interview is conducted by a non-specialised professional (e.g., Judiciary or Public Prosecutor's Office), it is not strictly speaking a "forensic interview" but a "statement taking".

<sup>84</sup> Enrique Echeburúa, José Manuel Muñoz, and Ismael Loinaz, 'La Evaluación Psicológica Forense Frente a La Evaluación Clínica: Propuestas y Retos de Futuro', *International Journal of Clinical and Health Psychology*, 11, no. 1 (2011): 144.

Respecting the rule of minimum intervention with the child<sup>85</sup> and the consequent generation of false memories, by incorporating post-event information, by reconstructing the event or by the effect of information from the environment<sup>86</sup>.

Adequately collecting the child's testimony in timely manner and form and preserving the cognitive evidence<sup>87</sup>.

The *credibility assessment* of the testimony of the child is requested together with the report of the audiovisually recorded interview.

The pre-trial evidence must meet a list of requirements in order to ensure the defendant's due process rights by incorporating the evidence in a differentiated manner into the proceedings.

■ **Clinical interview:** Its main purpose is the evaluation of the patient for subsequent psychotherapeutic intervention or treatment and can provide information both on the state of the victim —influencing his/her capacity to testify— and on the after-effects that can be included in the judicial response<sup>88</sup>.

It is important to clarify the difference between all these interventions so as not to overstep the boundaries of each, and to be clear about their objectives and limitations.

### 2.3.1. Regulation of the forensic interview

#### A) Criteria for the use of the video recorded forensic interview as pre-trial evidence

- ✓ Participation (arts. 10 & 25)
- ✓ Security and protection (art. 18)
- ✓ Minimization of stress-mental health (art. 20, 23 and 24)

Following the overview of the five jurisdictions, provided in section 2.1.3, even if it is a truism, we need to acknowledge the contrast between each system. In some cases, like in **Belgium**, the legal framework provides clear and uniform standards on how to carry out the interview of children as pre-trial evidence. Whereas in others, for instance, **Estonia** **Italy** or **Spain**, there are only a few prescriptions and, in some respects, such as the professionals in charge of the interview, a bit unspecific (e.g., professional competences or background).

Furthermore, depending on the age of the victim, the type of crime, or the recognition of the victim as "particularly vulnerable", we observed different degrees of implementation of the forensic interview as a protection measure. In **Spain**, since Organic Law 8/2021, it is regulated as an automated reflex in cases of children under 14, victims of specific sexual crimes. However, its use is limited to the criteria of the investigative judge or public prosecutor for certain offences, like it also happens in a similar way in **Belgium**. Whereas in some criminal justice systems, like the **Italian**, its use is assessed case by case.

<sup>85</sup> Diges Junco and Pérez-Mata, 'La Entrevista Forense de Investigación a Niños Supuestas Víctimas de Delitos Sexuales: Guía de Buenas Prácticas (I)'.

<sup>86</sup> Fernando Álvarez Ramos, 'Asistencia Psicológica a Las Declaraciones Infantiles En Sede Judicial: La Prueba Preconstituida Como Forma de Evitar La Victimización', in *Niñas y Niños Víctimas y Testigos En Los Procedimientos Judiciales: Implicaciones Desde La Psicología Forense* (Vitoria-Gasteiz: Eusko Jaurlaritzaren Argitalpen Zerbitzu Nagusia, 2016), 93–112.

<sup>87</sup> This is particularly relevant when there is a long time lag between the complaint and the trial. In Spain, some participants stated an average of 2 years between the end of the pre-trial phase and the trial.

<sup>88</sup> Echeburúa, Muñoz, and Loinaz, 'La Evaluación Psicológica Forense Frente a La Evaluación Clínica: Propuestas y Retos de Futuro', 144.

It is worth addressing the process of translating the regulation into daily practice. Even when having clear standards, public funding to provide for the physical infrastructure and the development of a training structure for the specialisation of the professionals involved is lacking. It would clearly be the case of **Greece** with the detailed Ministerial Decision 7320/2019 and the no implementation of the “Independent Protection Units for Minor victims – Child Home”. This imbalance between regulation and practice which may prejudice or jeopardise the rights of victims/witnesses is also present in **Spain, Italy** and **Estonia**.

Additionally, even if the five countries put this measure in motion to:

- preserve the victim or witness testimony from the deterioration effect of multiple and unnecessary interventions;
- avoid or minimise secondary victimization, from the traumatizing effect of frequent questioning;
- ensure the reliability of the contents of the statements;
- avoid the confrontation between the minor and the suspected offender.

The videorecorded interview as pre-trial evidence not necessarily replaces any intervention in which the child’s testimony is required. Except for **Belgium**, as a result of the TAM legislation and the fact that children virtually never need to appear in court. Nevertheless, in some cases, related to some age groups and sexual crimes in **Estonia, Greece, Italy** and **Spain**, the videorecorded interview substitutes the presence of the child victim or witness in court.

## B) Professionals who conduct the forensic interview

- 
- ✓ Information (arts. 6 & 7)
  - ✓ Participation (arts. 10, 13, 24, 25)
  - ✓ Minimization of stress-mental health (art. 20)
  - ✓ Dignity (arts. 18 & 23)

As briefly introduced in section 2.1.3, there are obvious differences among the five member states regarding the professionals tasked with the responsibility of conducting the forensic interview as well as on their specific training.

Specialised police officers in the case of **Belgium** (TAM interrogators) and **Estonia**; forensic psychologist, child psychologist or psychiatrist (sometimes just named *experts* in the regulation) in **Greece, Italy** and **Spain**.

In some countries, the role of the expert is made redundant in daily practice. For instance, in **Italy**, it is the judge who conducts the interview and the expert assists him/her. While in **Greece**, even if the regulation states something different, usually non-qualified police officers carry it out. In **Estonia**, psychologist can assist the police officer during the interview, however, as it is not mandatory, their presence is not an extended practice.

The different degrees of definition in each member state regulation on the role of the expert, meaning, competences, training programme and background, implies that practice varies according to the resources available for each case and region (**EE, EL, ES** and **IT**).

Under the premise of urgency, the need to collect the evidence quickly and also to assess if the minor needs some further special assistance (e.g., medical care), the interview is foreseen in the preliminary phase of the process. Consequently, it can explain that some

countries have taken the prerogative of entrusting police units with this task, not only in **BE, EE**, but also in **EL, ES** and **IT**.

### C) Procedural safeguards

- ✓ Information (arts. 6 and 7)
- ✓ Participation (arts. 10)
- ✓ Dignity (arts. 18 and 23)
- ✓ Defendant's rights (BQH 6.5)

To ensure the proper functioning of the process and to allow the forensic interview to be used in the process as evidence it is important that the protection of the defendant's due process rights is duly regulated. In this regard, it is relevant to pay attention to the professionals and other individuals present during the forensic child investigative interview as pre-trial evidence in the observation room, as well as to the ways in which they intervene. Besides, the efficiency with which the defendant's defence can ask questions or request clarification of the interview in progress. All this depends on the regulation of each country and its translation into practice.

The representatives of the criminal investigation present in the observation room vary among the **five countries**. The technical process implies that they can follow the interview in real time thanks to a live-video link or an intercom audio-visual system. In **Belgium**, one can find the second interviewer who follows up the forensic interview and operates the audio and video equipment to ensure the quality of the recording (technical operators are also found in **EE, ES** and **IT**); a police case officer from the investigating unit with full dossier knowledge; a prosecutor and an investigative judge (as well as in **ES** and **IT**). However, in practice, in **Belgium** the lack of economical and personal resources hinders the performance of legal and justice professionals, and prosecutors and magistrates are rarely present in this room. Whereas in **Italy**, depending on the case, the judge is in the interview room assisted by the expert<sup>89</sup>. In **Greece**, all legal and justice professionals participating in both the survey and the interviews reported that given the no implementation of the "Independent Protection Units" and the non-existence of the needed facilities, infrastructure and equipment these practices are not guaranteed.

Other professionals can be present in the observation room. Lawyers play an essential role in sexual violence cases, both for the victim and for the defendant, to monitor the respect of their rights respectively. The counsel for the defendant will be present in the observation room (**ES** -mandatory-, **IT**)<sup>90</sup>. The presence of the defendant's counsel, and where appropriate the accused party's counsel, is relevant to ensure his/her proper defence and to enable him/her to ask questions -with professional figures to control rude,

<sup>89</sup> In Italy, usually, a psychologist/psychiatrist is in the room together with the Prosecutor or the judge; in some cases, an interpreter or a social worker is also present. Other subjects that may be in the room, although this is less common, are a member of the technical staff, a childhood expert, or a lawyer. In very few cases, even Law Enforcement officers and staff have been asked to remain in the room during the hearing, which has been strongly criticized (their participation is not envisaged in the judicial system, and their presence can result intimidating in many cases).

<sup>90</sup> The European Court of Human Rights in Strasbourg has expressed itself in this sense, warning that "If the accused has had adequate and sufficient opportunity to respond to these statements, at the time they were made or later, their use does not in itself violate Articles 6(1) and 6(3)(d)". Judgment of the European Court of Human Rights of Strasbourg 96/2001, (Section 1), 27 February 2001. *Lucà v. Italy* (2001).



useless, or disrespectful questions-. The victim's lawyer may be present in the interview room (BE) or in the observation room (BE<sup>91</sup>, ES, IT).

In **Belgium**, an expert psychiatrist or psychologist can be required by the public prosecutor or the investigative judge, although participants stated that they are rarely present. Whereas in **Estonia**, a child protection worker can be present, to assess situations of risk and the need for protective measures.

Additionally, other people may be present in the interview room. For instance, minor's adult of choice (parents or another significant figure), except when the public prosecutor or the investigative judge decides otherwise (BE, ES). Although their presence is not recommended, not even in the observation room, as their presence can negatively impact the victim's account<sup>92</sup>. Another professional present in the interview room is the language interpreter<sup>93</sup>, when needed. Which often presents an added challenge during the interview as training in interviewing techniques or in CSA issues is not a pre-requisite. This need for a multidisciplinary approach to interpreter-mediated interviews has spurred some projects in **Belgium**<sup>94</sup>. Whereas in **Estonia**, that has a remarkable share of Russian-speaking population (32%) it is desirable that the interviewer is a native or fluent in Russian.

Therefore, the roles of each of these professionals should be clarified and simple, and effective communication channels should be provided to facilitate the development of the forensic interview and the fulfilment of each professional's actions.

Finally, precautions should be taken to ensure that the audio-visual record of the interview can be used throughout the process.

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#### Textbox 12. Failure in respecting procedural guarantees

In **Estonia**, a 14-year-old girl was raped by two 16 years old boys. She resorted to the Sexual Assault Crisis Centre (SACC) where the medical examination was made, and the rape kit was stored. The girl reported the crime and on the very same day a criminal procedure was opened. The first forensic interview lasted three hours, due to exhaustion and that the interview was not complete a second forensic interview was agreed

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<sup>91</sup> Joint Circular of 14 October 2021. 2.6.2. "When the lawyer attends the hearing, he/she does so preferably from the control room. If he or she wishes to assist the person being interviewed from the interview room, he or she should preferably sit in the background, out of the field of vision of the person being interviewed. The purpose of the presence of the lawyer is, among other things, to control the regularity of the hearing by ensuring that the person being heard is treated properly, in particular that no unlawful pressure or coercion is manifestly exerted and that an interpreter is present if necessary to take the testimony of the person being heard in accordance with Article 47bis, § 6 4) and 7) CCP. He is expressly recommended not to intervene directly, not to interrupt the hearing and to wait until the end of the hearing to make any observations. If he or she considers that he or she has observed procedural irregularities, he or she may have his or her remarks recorded in the hearing minutes in accordance with Article 47bis, § 6, penultimate paragraph, CCP." (p. 16).

<sup>92</sup> Berlinerblau, Nino, and Viola, *Guía de Buenas Prácticas Para El Abordaje de Niños/as, Adolescentes Víctimas o Testigos de Abuso Sexual y Otros Delitos*, 58.

<sup>93</sup> In Belgium, both interviewers and interpreters state the desirability to provide prior knowledge on the interviewing strategy and the specificities of the case. A preliminary meeting can provide the interpreter with useful information on the characteristics of the child (e.g., linguistic ability), the nature of the facts which will be addressed, the interviewing techniques and the expectations of the interviewer. To deliver a high-quality interpreted-mediated interview it is highly recommended that a briefing and de-briefing takes place prior and after the interview.

<sup>94</sup> From December 2015 to March 2016, and under the scope of the CO-Minor-IN/QUEST project, Katalin Balogh and Heidi Salaets provided training to the Belgian Federal Judicial Police (FGP) in working with an interpreter in a TAM interview. Resulting from CO-Minor-IN/QUEST II a joint training module was developed for the various professionals as well as training materials to enable the joint training of legal actors, interpreters, psychologists and social assistants. Katalin and Heidi are currently teaching a fixed module twice a year at the National Police Academy in Etterbeek.

for the next day. However, the second interview never took place as the girl committed suicide. When the prosecutor took the case to court, the judge determined that the interview was not valid because the transcription was not signed by any of the parties. Additionally, the interview had not been audio visually recorded, because in Estonia it is only mandatory for children up to 13 years and child victims from 14 and onwards are expected to attend court and give their testimony again there.

## D) Elapsed time between the complaint and the interview

✓ Participation (arts. 10)

✓ Minimization of stress-mental health (art. 20.a)

It is highly recommended that the forensic interview occurs as close as possible to the moment the justice system becomes aware of the facts, which usually happens during the police complaint<sup>95</sup>. The time between the report and the forensic interview impacts the quality and quantity of information in the child's testimony. Less time elapsed may equate to more details remembered, less difficulty in recounting the facts and preservation of the testimony as evidence at trial<sup>96</sup>.

However, as will be discussed later on, it is important to collect sufficient information and to allow for adequate preparation of the interview, so setting excessively short timeframes is not advisable. The setting of fixed timeframes should allow for quicker proceedings and avoid undue delays but should be tailored to the specific circumstances of the victims.

In this regard, it may sometimes be beneficial to delay this interview if it is in the interest of the victim's psychological well-being – which may result in a better-quality interview–. Adequate accompaniment of the victim must also be considered during this transitional period to protect the victim from external pressure to retract their statement<sup>97</sup>.

The transposition of the recommendations of Directive 2012/29/EU (art. 20a) can be observed in the **5 partner states**. Although, the concept of avoiding "undue delay" is used it has a very mixed result *in practice*:

BE	0 - 15 days	Depending on the assessed urgency by the prosecutor and on the time to find a couple of TAM interrogators.
EE	1-3 working days	As soon as possible.
EL	Months or even years	Depending on the sensitivity of the prosecutor and the credibility of the allegations. In cases where there is no evidence or the victim is a pre-schooler or has a disability, the difficulties are much more, and long delays are expected <sup>98</sup> .
ES	15 -30 days or more	Depending on the crime, perceived seriousness, and on human and material resources available.
IT	15 -60 days or more	Depending on the crime, its (perceived) seriousness, the organisation in place, the resources available case by case.

Table 7. Elapsed time between the complaint and the interview

Greater speed is observed in cases where there is a suspected perpetrator in custody.

### Textbox 13. Some national practices.

<sup>95</sup> Sovino Meléndez and Ulloa Jiménez, *Use of the Investigative Interview in Trials. "Video-Recorded Investigative Interview of Child Victims of Sexual Abuse"*, 58–101.

<sup>96</sup> Michael E. Lamb et al., *Tell Me What Happened: Questioning Children About Abuse* (Wiley-Blackwell, 2018).

<sup>97</sup> Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence*.

<sup>98</sup> It was noteworthy the fact that 28.6% of the legal and justice professionals who participated in the survey revealed that they "don't know how much time intervenes between the initial report and the forensic interview".

- In **Belgium**, some regions have on-duty systems that make it easier to schedule interview appointments, which in turn result in shorter waiting times for child victims from the moment of first report to the actual interview.
- In **Spain**, Madrid's Juvenile Public Prosecutor's Office, for cases where the perpetrator will be a minor, has a unified working headquarters, which means that interprofessional coordination is fluid and the time between the complaint and the interview is shorter (1-3 days). In the Specialised court of violence against children and adolescents of Gran Canaria a 3-day working method has been established:
  - First day: Representation of the victim and witnesses and legal actions available to the victim.
  - Second day: Forensic interview as pre-trial evidence.
  - Third day: Statement of the investigated person with all the evidence provided for the prosecution.

### 2.3.2 Training

Internationally, there is no consensus on the specific profession responsible of the child forensic investigative interview. Depending on the country the interview will be conducted by those in charge of the criminal investigation or by professionals from a mental-health discipline (e.g., psychology, psychiatry, social work).

The decision to choose one profession over another can depend on factors such as the structure of the criminal process, the economic costs and the level of trust the Justice System and the society has in the institution in charge<sup>99</sup>. Although, it is worth noting that internationally the “child forensic interviewer” has become a career choice, which is a sign of the need of a specialized training<sup>100</sup>.

In addition, for the proper development and use of expert interviews, the training of other professionals involved in forensic interviewing, even if they do not carry it out, should be addressed.

## A) Interviewers training

- ✓ Information (arts. 6 & 7)
- ✓ Participation (arts. 10, 13, 24, 25)
- ✓ Minimization of stress-mental health (art. 20)
- ✓ Dignity (arts. 18 & 23)

In the **five justice systems** is established that the forensic interview as pre-trial evidence is to be performed by an expert (see **Tables 2, 3, 4, 5** and **6, section 2.1.3**). However, the definition of the expert varies across countries as well as its translation into daily practice. In addition to clearly indicating who should conduct this interview and requiring their specialisation, which all states are aware of, these *training requirements* need to be **properly regulated**. This regulation would allow a clearer assessment of the quality of the interviews. It is therefore important to have a differentiated regulation that specifies:

- Basic training,
- Specialised training and expertise,
- Joint training in multidisciplinary teams and
- Continuous training.

<sup>99</sup> Sovino Meléndez and Ulloa Jiménez, *Use of the Investigative Interview in Trials. “Video-Recorded Investigative Interview of Child Victims of Sexual Abuse”*, 119–48.

<sup>100</sup> Mark D. Everson, ‘Child Forensic Interviewing: A 30-Year Perspective’, *Children’s services. Practice notes*, 20, no. 2 (2015), <https://practicenotes.org/v20n2/Everson.htm>.

**Basic training.** The cases of sexual violence and sexual abuse call for an extensive knowledge on developmental psychology, on basic cognitive mechanisms (e.g., attention, memory, perception, language) and training to build a good rapport with the child<sup>101</sup>.

After literature research and analysing the differences and commonalities between the five countries, our suggestion is to require basic training in forensic psychology, to collect adequate information, and in clinical psychology, to build a supportive environment, as well as to properly incorporate the trauma perspective (i.e., factors that mitigate and enhance the impact of the crime) while preparing<sup>102</sup> and conducting the forensic interview. As said in [section 2.3.1 B](#), while in **Belgium** and **Estonia** the police will be conducting these interviews, in **Greece, Italy** and **Spain** the participation of psychologists is required (suggested in **EE**). Although in practice, in **Greece** it will virtually always be conducted by police officers and in **Italy** it will be conducted by the judiciary with the support of a forensic psychologist, child psychologist or psychiatrist (or even a qualified social worker). Therefore, the basic training required is very varied in time and content and is not comparable depending on the professional branch to which the interviews are entrusted.

**Specialised training<sup>103</sup> and expertise.** The training to become a child interviewer is varied among the different countries (see [tables 11-15](#) for more details). Only **Belgium** has a clear structure of compulsory specialised training. In the **remaining four countries** we observed specialised training in CSA and a predominance of voluntary training. Specialised training must be accredited and required to be able to participate in these interviews. Besides, expertise should be considered, and interviewers should spend one year under supervision (or be paired with a more experienced interviewer) in the work post.

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<sup>101</sup> Olga Themeli and Maria Panagiotaki, 'Forensic Interviews With Children Victims of Sexual Abuse: The Role of the Counselling Psychologist', *The European Journal of Counselling Psychology*, no. 3 (1) (March 2014): 1-19, <https://doi.org/10.5964/ejcop.v3i1.17>.

<sup>102</sup> "Interviewers and those involved in investigating child abuse may need to modify their expectations of what a traumatized child is able to report. They should not attempt to force a disclosure or continue an interview when a child becomes overly distressed, which may revictimize the child"; Chris Newlin et al., 'Child Forensic Interviewing: Best Practices' (Cherry Lane: Office of Juvenile Justice and Delinquency Prevention, 2015).

<sup>103</sup> It is recommended to avoid cascade training. Although it is a cost-effective training practice as well as a way of reaching geographically disperse staff, if it is not well planned and monitored and there are too many training levels, it can result in the dilution of content, the repetition of bad practices, false beliefs (e.g. ideal victims) and mechanised responses. Besides it is not advised for soft-skills and complex technical skills that require constant feedback to guarantee a well transfer of knowledge. In "Webinar: Training health workers virtually during covid-19 – lessons from Angola and India (2021). Best practice brief: Cascade training". Available in:

[https://www.linkedimmunisation.org/wp-content/uploads/2021/01/4\\_BestPractices\\_Cascade-Training.pdf](https://www.linkedimmunisation.org/wp-content/uploads/2021/01/4_BestPractices_Cascade-Training.pdf)

**Joint training in multidisciplinary teams.** Due to the number of professionals involved in child sexual abuse cases there is a need for interagency collaboration and teamwork. Besides, as stated in Barnahus Quality Standard 9, “*joint training can help enhance multidisciplinary and interagency collaborative teamwork for example by building a common understanding and consensus as well as better understanding of the respective agencies’ roles and responsibilities*”<sup>104</sup>. These trainings would be of particular interest for those states in which there are tensions between the different professional groups that will be directly or indirectly involved in the interview (observed in IT and ES).

*“Justice Professionals should have more knowledge of social scientists’ field, while mental health professionals should have more knowledge of the justice framework. For instance, we, from the other side, ignore the factors leading to secondary traumatization; while mental health professionals ignore the information required to collect in order to prosecute a case. In this way, all of us contribute to making children victims suffering even more. In my opinion, such an intersectional training is needed to avoid secondary victimization.”*  
(Prosecutor, EL)

**Continuous training**<sup>105</sup>. To ensure up-to-date training, it should be renewed at least once a year, with case analysis, individual performance review and supervision. Internationally, there are many differences in specialised training programs, however, four aspects have been identified in maintaining good interviewing practice: provide trainees with a structured interview protocol, training is spaced over time (instead of being confined to an intensive block of time) and expert feedback and opportunity to practice is provided<sup>106</sup>. Besides, to protect interviewers from burnt-out it is recommended supervision (i.e., address professional and emotional strain) to enable them to deal with the challenges inherent in working with abuse children, to support them to handle difficult and complex cases.

Here is presented an overview of the training of the interviewers in each of the five countries:

BELGIUM: TAM interrogators	
<b>Basic training</b>	Their <i>base-training</i> as police officers consist of a one-year training, but some TAM interrogators have acquired degrees before joining the force (e.g., psychologist, criminologist) and most have a frontline function within the police in intervention or specialised teams (e.g., domestic violence, vice crimes, human trafficking, prostitution, and family crimes).
<b>Specialised training and expertise</b>	Intensive training course in Brussels taught by senior forensic interviewers (“TAM trainers” <sup>107</sup> ), often with expertise of more than five years as a TAM interrogator and by other specialised professionals (e.g., magistrates, psychiatrists, interpreters). Consists of: <b>Theory (60h):</b> Plea for audio-visual interrogation and interview schedule (step-by-step plan); Drawing up specific reports; Daily practice of a magistrate with different actors and legal aspects; Introduction to language learning behaviour and language development; Psychological profiles & sexuality of the child – problems of

<sup>104</sup> Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence.*, 120.

<sup>105</sup> Supervision and feedback are tackled in *section 2.3.5 B*.

<sup>106</sup> Mairi S. Benson and Martine B. Powell, ‘Evaluation of a Comprehensive Interactive Training System for Investigative Interviewers of Children’, *Psychology, Public Policy, and Law*, no. 21 (3) (2015): 309–22, <https://doi.org/10.1037/law0000052>.

<sup>107</sup> The hours spent on doing forensic interviews or training new interviewers are not (or rarely) compensated in financial terms, nor in a lightened workload.



	<p>mistreatment and abuse; Minor-adult: interaction in case of abuse; Profiles of the perpetrator of sexual abuse; Roles of the expert; Working with interpreters; Legal framework of the TAM interrogation; Child development, language of and communication with children and child victims, children with mental disabilities; The importance of social media.</p> <p>After the theoretical part a <b>theoretical exam</b> takes place.</p> <p><b>Practice (56h):</b> included exercises and explanations on how to use the audio-visual material and Integration workshop and training evaluation; role-play interrogations. The <b>final exam</b> consists of role-playing, with one member from the jury playing the minor victim or witness. Candidate-interrogators are evaluated on knowing the procedures and the different steps of the protocol, but also on social skills and empathy.</p>
<b>Joint training in multidisciplinary teams</b>	<p>Forensic interviewing is a <b>team effort</b>, as the director (second TAM interrogator) and the case investigator follow the interview closely and can provide input at the later stages of the interview. Training is also provided on how to work jointly with an interpreter during interpreter-mediated interviews.</p> <p><b>Intervision days</b> are also considered important in terms of teambuilding, because of the strain of doing forensic interviewing with minor victims and witnesses.</p> <p>New TAM interrogators immediately join a TAM <b>network</b> and are paired with a more experienced interviewer.</p>
<b>Continuous training</b>	<p>Interrogators arriving back at work after a long absence, receive a two-day “integration” course.</p> <p>TAM interrogators are required to do a minimum of 10 interviews a year.</p> <p>TAM interrogators must attend compulsory training every year, there are local (once or twice a year, depending on the network<sup>108</sup>) and national (once a year) <b>intervision days</b>, where interrogators, trainers and coordinators meet to engage in intervision of their cases and to freshen up their techniques via role-play and to update the interrogator’s training.</p>

Table 8. Interviewers' professional training. Belgium

ESTONIA: Specialised police	
<b>Basic training</b>	Police officers receive a 3-year training in the Estonian Academy of Security Sciences. Professional skills are acquired through work experience and additional training
<b>Specialised training and expertise</b>	Although there is <i><b>no specialization as a forensic interviewer</b></i> , the specialists (police officers, in child sexual abuse cases) that interview minors must pass a special training: a three-week capacity building course organised for investigators who focus on offences against minors, at the Estonian Academy of Security Sciences <sup>109</sup> .
* NO Joint training in multidisciplinary teams, and without information about Continuous training.	

Table 9. Interviewers' professional training. Estonia

GREECE	
<b>Basic training</b>	<p>There are regulatory requirements in this respect: Psychologists trained in the USA on issues regarding forensic examination by the best international educational/ training centre, The National Children's Advocacy Centre – Training Centre” Huntsville – Alabama.</p> <p>Child psychologists and Child psychiatrists. Or in their absence, psychologist or psychiatrist in the list of experts.</p>
<b>Specialised training and expertise</b>	<b>In practice</b> , police officers and prosecutors who, in most cases, <i><b>are not specialised and/ or adequately trained on forensic interviewing and on minor issues.</b></i>

<sup>108</sup> Forensic interviewing in Belgium is organised in the heterogeneous context of nearly 200 police zones with notorious differences in terms of density, population size, police force size and surface area. Within those police there is also quite a difference in terms of internal organisation, which is the prerogative of the police chief. The work of forensic interviewers, in this context, is organised in geographical TAM “networks”, which are, again, quite heterogeneous in terms of size, but also in how they are distributed in provincial, urban, municipal or judicial districts.

<sup>109</sup> The specialisation is better developed in **urban areas**. The study centres of the Academy of Security Sciences are located in Tallinn, Paikuse, Väike-Maarja, Meriküla and Narva.

<b>Joint training in multidisciplinary teams</b>	<b>NO Joint training in multidisciplinary teams.</b> However: In 2018 an interdisciplinary team (prosecutor, juvenile judge, juvenile probation officer, criminologist, and psychologist) were trained in the USA on issues regarding forensic examination by the best international educational/ training centre, The National Children's Advocacy Centre – Training Centre" Huntsville – Alabama. In 2020, a scientific team visited, for education purposes, the structure of the Lighthouse: "A safe space for child sexual abuse victims in the UK" <sup>110</sup> .
<b>Continuous training</b>	<b>NO, although</b> in the survey, the trainings showed to be quite recent (2018-2021). The participants stated the need for officially provided training and for ongoing training.

Table 10. Interviewers' professional training. Greece

ITALY	
<b>Basic training</b>	The law establishes that the professional in charge of the interview is the magistrate with the support of a forensic psychologist, child psychologist or psychiatrist or a qualified social worker. They can come from public institutions or from the private domain, in most cases, they work in NGOs dealing with minor victims of crime. Usually, magistrates do not have specific training and are not aware of the criticalities of this kind of interview. A specialized CV for the forensic psychologist is not requested and neither the attendance to child sexual abuse (CSA) training courses, as this is done voluntarily <sup>111</sup> . Although, the main guidelines (The Noto Charter, SINPIA Guidelines, National Guidelines) in selecting experts and professionals for the protected hearing have been set out by professionals' associations. Their authority is recognised by the judiciary, the Supreme Court and law enforcement agencies.
<b>Specialised training and expertise</b>	The need for specific mandatory training for professionals supporting magistrates during forensic interviews as well as for magistrates themselves is in debate <sup>112</sup> .
<b>Continuous training</b>	<b>NO</b> , however, the experts are required to ensure their constant interdisciplinary professional updating.

\* NO Joint training in multidisciplinary teams<sup>113</sup>

Table 11. Interviewers' professional training. Italy

SPAIN	
<b>Basic training</b>	Psychologist. However, there is no homogeneous training (national level). Training in <b>forensic</b> psychology is <i>generally</i> not required. No membership of a professional association is needed.
<b>Specialised training and expertise</b>	It is not regulated so it is up to the practitioner and specialisation, or accreditation of previous experience <b>is not required</b> . The lack of sufficient professionals leads to a lack of permanent teams, which could make it difficult for professionals to consider specialised training as appropriate. This issue has not been resolved by the recent LO 8/2021.
<b>Continuous training</b>	<b>NO, although</b> many professionals (questionnaire and interviews) report receiving training <i>motu proprio</i> and updating it.

\* NO Joint training in multidisciplinary teams

Table 12. Interviewers' professional training. Spain

<sup>110</sup> <https://www.barnahus.eu/en/the-lighthouse-a-safe-space-for-child-sexual-abuse-victims-in-the-uk/>

<sup>111</sup> According to the sample, usually, specific training on CSA is done voluntarily and often updated (annually, biannually, every 5 years). Trainings are no longer than 100 hours and generally from external trainers.

<sup>112</sup> On the 11<sup>th</sup> of November 2021, a well know psychotherapist has been condemned to 4 years in prison in the so called trial "Angels and Demons". According to the sentence, he manipulated many child victims and witnesses during protected hearings, providing false evidence of abuses, in order to have the children removed from their families of origin in the city of Bibbiano and assigned to new ones (more details e.g., at [https://www.corriere.it/cronache/21\\_novembre\\_11/bibbiano-psicoterapeuta-claudio-foti-condannato-4-anni-affidi-illeciti-c776c5c4-42d4-11ec-84b2-370e2b694419.shtml?refresh\\_ce](https://www.corriere.it/cronache/21_novembre_11/bibbiano-psicoterapeuta-claudio-foti-condannato-4-anni-affidi-illeciti-c776c5c4-42d4-11ec-84b2-370e2b694419.shtml?refresh_ce), in Italian).

<sup>113</sup> Some professionals' associations are particularly active on multidisciplinary cooperation. The association, *Psicologia in Tribunale* (Psychology in Court) born in 2020 was created to foster better and reliable cooperation among professionals with different backgrounds during all the phases of the trial, and of the investigations. Although promoted by forensic psychologists, lawyers, magistrates, social workers, and other interested stakeholders are also part of it.

As a **reference example**, we present training models from the Nordic countries leading in the implementation of the Barnahus Model or similar<sup>114</sup>:

- In **Norway**, police officers complete a three-year bachelor's degree in the Norwegian Police University College (NPUC). After a minimum of years in service, the police officer can access specialisation within investigation (15 ECTS credits in the university accreditation system). One of the formal specialisations is investigative interviewing of children and minors (approximately 420h/15ECTS over a period of three-quarters of a year). After conducting at least fifty investigative interviews with children (under the age of 16 years), further specialisation (10 ECTS/ 280 h) focusing on vulnerable persons is possible.
- In **Iceland**, children between 15 and 18 are mostly interviewed by specially trained police officers (3-week course in "Achieving Best Evidence in Criminal Proceedings") at the police station and children under 15 by specially trained forensic interviewers (psychologist with clinical background and specialisation with APSAC and NCAC and in the NICHD protocol) at the Barnahus. However, the decision between one profession or the other depends on the judge in charge.
- In **Sweden**, all interviews of children under 15 are conducted by specialised police officers whose training (less than 1 year) focuses on research procedure and methods in the context of victimised children, and research interview methods and techniques, on the PEACE model and the NICHD protocol, and conduct real interviews in criminal proceedings and are supervised and receive feedback from expert trainers.
- In **Finland**, child investigative interviews are conducted by police officers or forensic psychologists. They receive a one-year training offered by the Finish National Police Board. They are trained in the use of the NICHD protocol and receive feedback and supervision (in small groups) on their use through the whole year.

## B) Related professionals' training

- ✓ Information (arts. 6 & 7)
- ✓ Participation (arts. 10, 13, 24, 25)
- ✓ Minimization of stress-mental health (art. 20)
- ✓ Dignity (arts. 18 & 23)

One of the complexities in the proper use of the forensic interview is that it is embedded in a complex structure involving numerous professional groups. While it is key to ensure that forensic interviewers are highly trained, the training of other professionals in a range of issues that may directly or indirectly affect the performance of the forensic interview should not be disregarded. For instance, its request, acceptance, possible counter interventions or the use of the results of the interview.

In general terms, we highlight the following professional groups:

- **Reception police.** While there are specialised units at police headquarters, it is essential to require basic training for non-specialised units (concern stated in **BE's** and **ES's** samples, that can be extended to the remaining countries), either to collect basic information (**IT**), or to make a correct referral to specialised units. Clear indications of "*no consultation with the victim*" by these groups when they do not have specialised training is highlighted as good practice (**BE**<sup>115</sup> and **ES**).
- **Prosecutor's Office and Judiciary (pre-trial phase).** In some cases, they will be responsible for assessing whether or not to use the forensic interview - or the recognition of a situation of particular vulnerability - (stated in **BE**, **ES** and **IT**). Moreover, in some cases,

<sup>114</sup> Trond Myklebust, 'The Nordic Model of Handling Children's Testimonies', in *Collaborating against Child Abuse. Exploring the Nordic Barnahus Model*, by Susanna Johansson et al. (Switzerland: Palgrave Macmillan, 2017).

<sup>115</sup> Frontline police officers are told not to take the statement of the child themselves and to hear the accompanying adult separately. They're instructed to notify the public prosecutor's office immediately, who will assess the urgency of the case and the upcoming investigative measures.

their presence -in the observation room- will be required during the forensic interview. We find training requirements in this sense (**BE**), some of these being particularly recent (**ES**<sup>116</sup>) and not always compulsory or not being able to be assured in all cases (**EE**). Regarding optional training, it should be noted that it is inadequate unless it is accompanied by additional compulsory training, which should combine theory and practice.

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#### Textbox 15. Some national practices

■ In **Belgium**, while the legislation allows for the interviewing of minors to be done by the prosecutor or the investigative judge, this is considered bad practice and not done according to the interviewees. Prosecutors receive some training on interrogation techniques (although, not levelled up to TAM interrogators' training) or on how to deal with children. There is also a full module on interrogation techniques with role-playing, which used to be an optional training, but has been made compulsory since 2013.

Judges and prosecutor attend short-compulsory trainings. A five-day training course on domestic and sexual violence (prosecutors). A three-day compulsory introductory course on sexual and intra-family violence (judges). Besides, Judges with a speciality in youth and family crime are obliged to do an intensive course of 5 days on sexual violence and intrafamilial violence. These trainings, although specific, are considered basic. Besides, the judicial school offers a set of additional, optional trainings, which, are difficult to combine with the daily workload.

■ In **Spain**, until the recent LO 8/21, Public Prosecutors<sup>117</sup> have had insufficient basic compulsory training in children's matters (professionals from the juvenile prosecutor's offices are a specialised branch). The only training available was that provided by the General Council of the Judiciary, which is predominantly on a voluntary basis. The same applies to the judiciary in the pre-trial phase. It is important to remember the obvious fact that it is the professional group responsible for making decisions on the participation of specialised professionals in taking the statement of victims (between 14 and 18 years of age, as with the modification of the LO 8/21 the forensic interview as pre-trial evidence is compulsory for minors under 14).

■ **LO 8/2021 aims to reverse this situation**, establishing "*a selection course with a theoretical programme (on children's law) of multidisciplinary training, a period of supervised internships in different courts of all jurisdictional orders and a period in which trainee judges will carry out substitution and reinforcement functions. Only the successful completion of each of these periods will allow access to the next. Only the successful completion of each of these periods will allow access to the next*". Besides, it incorporates selective tests for entry and promotion in the judicial and prosecutorial careers, as well as continuous training.

In these trainings, it is recommended to deepen on multidisciplinary care, i.e., basic knowledge of the protocols followed by other professionals who come into contact with the victim throughout the process is required, as well as practical training.

- **Trial judge.** It is central to require basic training for those professionals who will be assessing the outcome of the forensic interview. Even more important when they are the ones that will request the victim to testify again at trial (e.g., due to insufficient information, poor quality of the recording, procedural errors affecting the guarantees of the parties) or that will acquit for lack of evidence (see [section 2.3.1.C](#) on procedural safeguards).
- **Lawyers and other figures aimed at the protection of the rights and interests of child victims.** In the **five countries** it is observed the absence of a specific figure for the

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<sup>116</sup> The specialisation in children's rights in the Judiciary, the Public Prosecutor's Office and the Bar has been incorporated since 2021.

<sup>117</sup> The role of the Prosecutor's Office depends on the phase in which it participates. Besides, sometimes the Prosecutor in the pre-trial phase is not the same one in trial phase. This is especially relevant as this figure is mentioned as a possible guarantor of the child victim's interests.

protection of childhood interests, despite that all count with figures tasked with that objective<sup>118</sup>. For example, insufficient or empty use (**ES**), lack of relevant specialised training (**IT**) or a somewhat superficial interpretation of the need for these figures, i.e., only when a conflict of interest is detected.

Specialised training is needed for these professionals and especially for the legal profession, as they will be responsible for supervising that the rights of child victims/witnesses are respected –and may be the ones to demand the participation of other professionals for adequate care (**IT**)–.

It also needed to ensure the appointment of accredited and well-trained professionals that acts as single contact person, as well as his/her availability at all stages of the proceeding.

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**Textbox 16. Some final remarks regarding:**

- **The role of the lawyer.** It is important to recognise the assistance of a specialist child legal aid lawyer independent of the holder of parental responsibility. This requires that the right to free legal aid be recognised for these victims, immediately and even requiring that a professional from outside the victim's circle of trust be appointed.
  - **Minimum standards appropriate to each professional group** should be set in accordance with the role exercised in each of the systems, including the review of malpractice related to the performance of certain actions. For this purpose, the following items may be highlighted:
    - Training in the detection of situations of particular vulnerability.
    - Specialised training on the rights of children and victims of sexual offences.
    - Basic training with a guide on what to do/what not to do (theoretical and practical).
    - Referral protocol.
    - Regularly updated according to international best practices.
    - Basic training on forensic interview objectives and mechanisms.
    - Training in determining and assessing children's interests (Legal defender; Victim's lawyer; Intermediaries).
- In addition, it is essential to provide clear and simple guidelines and protocols for action.
- 

### 2.3.3. Forensic interviewing protocols

#### **A) Forensic interviews are carried out according to evidence-based practice and protocols, which ensure the quality and quantity of the evidence obtained**

- ✓ Participation (arts. 10)
- ✓ Security and protection (art. 18)
- ✓ Dignity (arts. 18, 22 and 23)

There are dozens of interview structures, developed in academic institutions (e.g., Ten Step Investigative Interview; Cognitive Interview) or by agencies charged with interviewing children (e.g., NCAC; CornerHouse), which vary from scripted (e.g., NICHD), to semi-structured (e.g., RATAC) to flexible (Faller's Child-Focused Flexible Interview)<sup>119</sup>. Most of the interview protocols have been developed in English-speaking countries (e.g., Achieving Best Evidence in Criminal proceedings (ABE); American Professional Society of Abuse of

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<sup>118</sup> In **Estonia** exists the figure of the Child protection specialist, at the local government level, who has case management duties. This professional assists children and families, is responsible for the protection of the rights and interests of children, makes appointments for the reception of the Children's House (*Lastemaja*), looks for rehabilitation services, assesses the child's need for help and identifies how it affects his/her interests and well-being.

<sup>119</sup> Kathleen Faller, 'Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks', *Social Sciences*, no. 1 (December 2014): 34–65, <https://doi.org/10.3390/socsci4010034>.



Children (APSAC); PEACE (Acronym of the phases of the interview protocol: Planning and preparation; Engage and explain; Account; Closure; Evaluate)<sup>120</sup>.

Numerous studies point to the NICHD protocol (*National Institute of Child Health and Human Development*)<sup>121</sup> as the most appropriate in cases of sexual abuse<sup>122</sup>.

In fact, many protocols incorporate elements of the NICHD protocol in their interview structure (e.g., RADAR; Michigan forensic interview protocol) and rely on its extensive research<sup>123</sup>. In practice, the NICHD seems to be the most extended in the **five countries** of this project.

**Belgian** interviewers use a protocol regulated by Joint Circular of 14 October 2021<sup>124</sup>, developed by the Behavioural Science Department of the Federal Police, inspired on the NICHD protocol, that consists of a structure of four phases divided in ten steps (see *Textbox 17* and *Annex 3*). In **Estonia**, although there is no unified forensic interview protocol, the Cognitive interview and NICHD protocol are known and used as well as a handbook for interviewing children and guidelines for interviewing children with special needs. While in **Greece**, Ministerial Decision 7320/2019 sets an evidence-based protocol funded on standardized protocols: NICHD, The protocol of the Child Advocacy Centre of Alabama and The Memorandum of Good Practice of the U.K. However, in daily practice this protocol is not officially and/ or uniformly applied. While in **Italy**, as well as in **Estonia, Greece and Spain**, there is no unified forensic interview protocol, but some of the standardised protocols more employed are the Cognitive interview, the Memorandum of Good Practice, and the NICHD. It is worth mentioning that when the interview is carried out fully and directly by the magistrate in charge, there is usually no science-based protocol, and forensic psychologists and other professionals do not have a direct role, they can only provide support if the magistrate so requires.

In **Spain**, although there is no unified forensic interview protocol, the NICHD protocol and the Cognitive interview are known and used.

Some professionals report not following any protocol; however, this is not a common practice. On the other hand, it is common to adapt the protocols used to the specific case - and generally within a working team. As research suggests, interviewers often are confronted with the dilemma of following the protocol (with which the child is unfamiliar) and following the child<sup>125</sup>. Some interviewers are trained in different protocols and apply the more convenient one.

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<sup>120</sup> Sovino Meléndez and Ulloa Jiménez, *Use of the Investigative Interview in Trials. "Video-Recorded Investigative Interview of Child Victims of Sexual Abuse"*.

<sup>121</sup> Yael Orbach, 'Assessing the Value of Structured Protocols for Forensic Interviews of Alleged Child Abuse Victims', *Child Abuse & Neglect*, 24, no. 6 (June 2000): 733–52, [https://doi.org/10.1016/S0145-2134\(00\)00137-X](https://doi.org/10.1016/S0145-2134(00)00137-X).

Michael E. Lamb et al., 'A Structured Forensic Interview Protocol Improves the Quality and Informativeness of Investigative Interviews with Children: A Review of Research Using the NICHD Investigative Interview Protocol', *Child Abuse & Neglect*, no. 31(11-12) (November 2007): 1201–31, <https://doi.org/10.1016/j.chiabu.2007.03.021>.

Gunn Astrid Baugerut and Miriam Sinkerud Johnson, 'The NICHD Protocol: Guide to Follow Recommended Investigative Interview Practices at the Barnahus', in *Collaborating against Child Abuse. Exploring the Nordic Model*, by Susanna Johansson et al. (Switzerland: Palgrave Macmillan, 2017), 123.

<sup>122</sup> Carolina Gutiérrez de Piñeres Botero, 'Análisis de Las Prácticas de Entrevistas Forenses Durante La Etapa de Investigación Por Denuncias de Delitos Sexuales En Contra de Niños, Niñas y Adolescentes', *Psicogente*, no. 20 (37) (April 2017), <https://doi.org/10.17081/psico.20.37.2422>.

<sup>123</sup> Faller, 'Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks'.

<sup>124</sup> Previously was Ministerial Circular of 16 July 2001.

<sup>125</sup> Faller, Kathleen Coulborn. "Chapter 7: Interview Structure, Guidelines, and Protocol." In *Interviewing Children about Sexual Abuse: Controversies and Best Practice*. New York: Oxford University Press, 2007, pp. 66–89. Cited in Faller, Kathleen.

Nevertheless, it must be highlighted that the absence of a common interview protocol among interviewing professionals leads to a great variety of interviewing practices. As well as the absence of a clear structure in the system for the use of forensic interviewing or the professionals involved.

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#### Textbox 17. NICHD protocol

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In brief, the NICHD protocol consists of the following phases<sup>126</sup>:

**Introductory phase:** Explaining the purpose and ground rules. “The interviewer introduces him/herself and his/her role, clarifies the child’s task (the need to describe events in detail and to tell the truth), and explains the ground rules and expectations”.

**Rapport building phase:** “designed to create a relaxed, supportive environment for children and to establish rapport between children and interviewers, primarily by getting to know the child. Children are encouraged to talk openly about both positive and negative issues and are prompted to respond in detail to the gentle questions provided by attentive and manifestly interested adults”.

**Narrative training phase (or training in episodic memory):** “the interviewer is advised to identify a neutral event the child experienced recently (first day of school, birthday party, holiday celebration, etc.) so that s/he can ask questions about that event. Interviewers are advised to monitor the way children describe the event to ensure they are eliciting from the child an episodic account of a specific incident or event, to promote and prepare the way for episodic (rather than script) recall during the substantive phase”.

**Substantive phase (or transition to substantive issues):** “the interviewer attempts to shift the child’s focus to the substantive issues as non-suggestively as possible so that the recollection process can commence”. “The Protocol provides nine different probes, from open-ended to more close-ended to assist the interviewer and the child in this transition”<sup>127</sup>.

**Free-recall phase (or investigating the incidents):** “when an allegation is made, the free-recall phase begins with the first substantive invitation (“Tell me everything that happened from the beginning to the end as best as you can remember”) followed by open-ended prompts (“Then what happened?” “Tell me more about that”) aimed at eliciting spontaneous recall accounts of the alleged incident/s”.

**Break:** “interviewers are encouraged to give children and themselves a short break to reflect upon the information reported and anything else that needs to be discussed. During the break the interviewer reviews the information received to determine whether there is any missing information, and plans the rest of the interview, formulating focused questions”.

**Eliciting information that has not been mentioned by the child:** “interviewers are advised to ask focused questions” (“who, what, when and where” questions<sup>128</sup>) “only if they have already tried other approaches and still feel that some forensically important information is missing”.

**If a child fails to mention information the interviewer expected:** “the interviewer uses externally derived information (e.g., a prior disclosure) in focused questions to elicit a disclosure or additional information”<sup>129</sup>.

**Disclosure information:** revolves around the disclosure history. Asking the child who they spoke to first often provides investigative leads that can be followed to better document exactly what happened to the child.

**Ending the interview (or closure):** “the interviewers complete the questioning phase by asking children whether they have additional information to report before thanking them for their cooperation and shifting the discussion to a neutral topic for closure”.

In comparison with other protocols, this one opts for a clearly structured interview, even if based on open-ended questions. However, it reiterates the importance of the proper handling of these protocols and the

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“Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks.” *Social Sciences* 4, no. 1 (December 24, 2014): 34–65. <https://doi.org/10.3390/socsci4010034>.

<sup>126</sup> Michael E. Lamb et al., “The NICHD Investigative Interview Protocols for Young Victims and Witnesses”, in *Tell Me What Happened: Questioning Children about Abuse*, 2nd ed. (Wiley-Blackwell, 2018), 87–100.

<sup>127</sup> Faller, ‘Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks’, 52.

<sup>128</sup> Idem.

<sup>129</sup> Idem.

professional's ability to adapt it to the specific case<sup>130</sup>, ensuring one of the key elements is to avoid or minimise secondary victimisation of the victim by this interaction<sup>131</sup>.

The benefits of using structured protocols are widely recognised, providing a homogenous procedural standard, and supporting the practitioner with practical guidelines. In addition, it offers certain guarantees to other professionals regarding the respect of the rights of the minor. It is also important to know how to adapt the protocols and not apply them in a mechanical way. Particularly relevant to the development of these skills is the ongoing training and the meetings mentioned above (see *section 2.3.2. A*).

*"Also, and very importantly, we always use adults to give us information about some neutral event, more or less coinciding in time with the possible abuse, to use it as an indubitable account, so that later on, apart from training the child in the free account, we can see the child's capacity for remembering."*  
(Specialised unit police officer, ES)

#### Textbox 18. Belgium's interview protocol

**Belgium** stands out from the other partner countries in terms of clearer and stricter regulation and monitoring in the use of protocols and interview techniques. The TAM interrogation relies in **four pillars**: Stepwise structure: the interview structure consists of ten steps, which are grouped into four phases according to the chronology of an "ideal interview" (introduction, free story, questioning and end of interview).

Non-suggestive: The answers of the minor may not be directed in a certain direction. The free story phase will provide the most reliable and accurate information and is therefore the most crucial phase of the interview.

The interview is aimed at finding the truth and not at confirming one or more hypotheses.

Respectful: means respecting the wishes and the rhythm of the child, which implies that no pressure should be put on the child.

The day of the interview, the minor, often accompanied by an adult of trust, will arrive at one of the sites enabled for carrying out the audio-visually recorded hearing. Both minor and adult are asked to wait in a waiting room where the interviewer will meet them to start with the protocol<sup>132</sup>.

Concerning the **timing** of the interview. The **length of the interview** will very much depend on the age, cognitive development, and special characteristics of the minor. Therefore, uniform results are not obtained given the relevance of tailoring such interviews to the specific situation of each child and the different responses of victims/witnesses in these interviews. However, in general terms, it can last 1h-1h and a half.

Furthermore, the interview should go at the **pace of the child** victim/witness, and sometimes comfort breaks will be required. When planning the interview, if possible, *"the interviewer should seek advice from people who know the witness about the likely length of time that the witness can be interviewed before a pause or break is offered"*<sup>133</sup>. In **Belgium**,

<sup>130</sup> Megan R. Greeson, Rebecca Campbell, and Giannina Fehler-Cabral, "Nobody Deserves This": Adolescent Sexual Assault Victims' Perceptions of Disbelief and Victim Blame from Police., *Journal of Community Psychology*, no. 44(1) (2016): 90–110, <https://doi.org/10.1002/jcop.21744>.

<sup>131</sup> Hjort Nielsen et al., 'Sexual Assault Victims Participating in Research: Causing Harm When Trying to Help?', *Archives of Psychiatric Nursing*, no. 30(3) (2016): 412–17.

<sup>132</sup> See Annex 3 for a detailed version of the TAM protocol.

<sup>133</sup> 'Achieving Best Evidence in Criminal Proceedings Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures' (UK Ministry of Justice, 2011), 62.

for instance, interviewers stated their preference for scheduling interviews in the morning, preferably without prior judicial procedures, e.g., medical examinations, or after a school day.

As for the use of **tools and props** to complement the protocol, it was frequently reported not using supplementary tools to foster disclosure or elicit more information. Usually, the additional material used was a white sheet of paper and a pen (**BE, EL, ES** and **IT**) to allow the child to write down or sketch certain elements when they have difficulties to explain anything with words and to help make the story clearer. The use of toys was also reported (**EL, ES** and **IT**), although in a lesser extent.

In **Belgium**, standard neutral drawings of a naked boy or girl of all ages, the front and the back, per developmental stage, are available in the interviewing room. This tool can be used in exceptional circumstances, under the premise of non-suggestiveness, to indicate or name certain things. However, interviewers often report never having used them due to its suggestive potential.

The use of emotional cards, body diagrams or anatomically corrected dolls does not seem to be as

*"Sometimes we let the children make a drawing of the house or the room where the facts happened. It gives an idea to the interviewer what the child is talking about. It's a tool to make the story more comprehensible and also to make it easier for the child to explain what happened. But, we don't have like any drawings or stuffed animals or dolls. We don't use toys to explain what happened, we only use words. I don't think that would be better, because it stimulates the phantasy of the child, and we don't get the real facts."*  
(TAM interviewer and trainer, **BE**)

common. However, a small percentage do use them, even though *"empirical research has discouraged the use of dolls because of their suggestive potential, especially with pre-school children"*<sup>134</sup>.

On another note, interview protocols should specify the following elements:

- **Preliminary data collection**

Part of planning the child investigative interview is organizing the information to conduct the interview<sup>135</sup>. However, there is debate between researchers and professionals on the scope of previous information the interviewers should gather, on account of the potential harm the interviewer bias (e.g., confirmation bias, expectancy effects) and the inaccurate pre-interview knowledge can inflict on the investigation and on the reliability of the children's report<sup>136</sup>.

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#### Textbox 19. A topic in debate

While some authors consider that it is "necessary to keep records that will include information concerning the age of the child, his/her family, level of development, the possible existence of health problems and traumas, his/her school performance, cultural background, possible malfunctions with regard to basic skills such as the use of language, etc."<sup>137</sup>, as it allows the interview to be **tailored to the victim**.

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<sup>134</sup> Margarita Diges Junco and Nieves Pérez-Mata, 'La Entrevista Forense de Investigación a Niños Supuestas Víctimas de Delitos Sexuales: Guía de Buenas Prácticas (I)'.

<sup>135</sup> Kevin Smith and Rebecca Milne, 'Planning the Interview', in *Children's Testimony: A Handbook of Psychological Research and Forensic Practice*, ed. Michael E. Lamb et al. (John Wiley & Sons, Ltd, 2011).

<sup>136</sup> Monica Rohrabough, Kamala London, and Ashley K. Hall, 'Planning the Forensic Interview', in *Forensic Interviews Regarding Child Sexual Abuse: A Guide to Evidence-Based Practice*, ed. W.T O'Donohue and M. Fanetti (Springer International Publishing, 2016), 197–218, [https://doi.org/10.1007/978-3-319-21097-1\\_11](https://doi.org/10.1007/978-3-319-21097-1_11).

<sup>137</sup> Olga Themeli and Maria Panagiotaki, 'Forensic Interviews With Children Victims of Sexual Abuse: The Role of the Counselling Psychologist'.



In this same line, from a practical perspective, some researchers stress the importance of doing so to ensure a **complete and gap-free interview**<sup>138</sup>, considering the type of offence in each case and aiming to reduce the number of interviews that might subsequently be necessary in order to complete the story.

Others address the importance of conducting “**blind**” interviews to eliminate expectancy effects. Although it is not a common practice and the effect of no prior knowledge on the forensic interview in child sexual abuse cases is an under researched topic<sup>139</sup>.

In brief, “(o)n one hand, confirmation bias and expectancy effects can unwittingly shape the architecture of the interview. On the other hand, some information about the child and allegations seems necessary for interviewers to focus their questioning and to develop alternative hypotheses”, as a means of countering expectancy effects<sup>140</sup>.

As a general remark, we did not observe clear regulation on the collection of prior information, as we understand it depends on the professionals in charge of the interview (e.g., police officer, forensic psychologists, child psychologist/psychiatrist) and on previous interventions from other professionals and institutions. Usually, the previous information mainly comes from the judicial and medical reports. Additionally, the school<sup>141</sup> is highlighted as a relevant context, sometimes more objective than the information that can be collected from the inner circle.

For instance, in **Spain**, the psychosocial teams are entrusted with the interdisciplinary and inter-institutional task of bringing together the work of the professionals who have previously intervened and studying the personal, family and social circumstances of the minor or person with disabilities, in order to improve their treatment and the performance of the trial (art. 449 ter LECRIM).

In **Estonia**, in some cases, previous information can come from the structured and recorded pre-interview in the Child’s House, requested by the Child protection worker, to check for signs of abuse.

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#### Textbox 20. The premise of non-suggestiveness

In **Belgium**, the premise of non-suggestiveness is central to the TAM interview. Limiting prior knowledge is advised to TAM interviewers but the level of adherence to this premise varies across interviewers (some interviewers report that they feel more comfortable knowing relevant details from the investigation in advance).

Their preparation is often limited to the knowledge of key elements from the file. Some elements are however mandatory to know in advance since the Salduz law foresees that before the forensic interview is initiated the minor has to be informed about the reason for their citation. Before the interview finishes there will be a moment foreseen for the interviewer to go to the director’s room –where the second TAM interrogator and the case manager are– to ask for further questions to be addressed to the minor before concluding.

The case manager or investigator, who leads the police investigation and does the follow up of the case, knows every detail of the case. His/her presence is of primary importance, since the interviewer is usually

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<sup>138</sup> José Manuel Muñoz et al., ‘The Forensic Interview: Obtaining Cognitive Indicia in Children Who Are the Alleged Victims of Sexual Abuse’, *Psychologist Papers*, 37, no. 3 (n.d.): 205–2016, and José Ramón Juárez López and Fernando Álvarez Ramos, ‘Evaluación Psicológica Forense de Los Abusos y Maltratos a Niños, Niñas y Adolescentes. Guía de Buenas Prácticas’ (Asociación de Psicólogos Forenses de la Administración de Justicia, 2018).

<sup>139</sup> Rohrabough, London, and Hall, ‘Planning the Forensic Interview’, 11.

<sup>140</sup> Idem.

<sup>141</sup> It is relevant to note that in Belgium a file can be initiated from a direct report from an employee from the CLB (“*Centrum voor leerlingenbegeleiding*” or Student Guidance Centres). Every accredited school in Flanders works together with a student guidance centre which can help with issues affecting learning and studying, psychological and social functioning or with questions regarding preventative health care.



not part of the investigative unit and is encouraged to step into the interview with as little background information as possible.

Some additional preparation is also reported, for example, in the cases of minors with cognitive disabilities, when they come with their teacher.

### ▪ **Number of interviews**

There is some debate on the issue of preliminary data collection also linked to the objective of reducing the number of interviews, by gathering the information needed by the different stakeholders involved in later stages of the process in one single interview. Institutions entrusted with criminal investigation strive to ensure that child victims are formally interviewed only once<sup>142</sup>. However, in some circumstances a single interview is not enough, for instance, “when abuse is not disclosed in the first interview but there is good reason to suspect that it occurred”, where “allegations of multiple offences are involved”<sup>143</sup>, when the child experiences high levels of distress and it is difficult to establish a good rapport, when new information is obtained by other sources, or the child has remembered more details<sup>144</sup>. In cases where more than one interview is needed, “care must be taken to avoid repetition of the same focused questions over time, which could lead to unreliable or inconsistent responding in some witnesses and interviews being ruled inadmissible by the court”<sup>145</sup>.

Thus, it is necessary not to be excessively restrictive in the protocols, allowing for multiple and non-duplicative interviews, following the forensic interviewing best practices, when necessary and not contrary to the well-being of the victim/witness, to expand the information.

#### Textbox 21. Multiple non duplicative interviews

■ In **Greece**, according to M.D. 7320/2019 forensic examination should be conducted without culpable delay; by only one interviewer; within one hour; and only once (only in rare, specific cases forensic examination can last over an hour or be repeated); while governed by the principles of benefit and non-harm, autonomy, justice, absolute secrecy and confidentiality. However, in practice this is not guaranteed<sup>146</sup>.

■ In practice, in **Belgium**, child victims are mainly interviewed only once. The faithfulness to the protocol and the use of the audio-visual recording of the minor’s statement in court, seeks to avoid the child telling their story multiple times upon their contact with the justice system. In 2020, interviewing more than once happened in 3.98% of the cases. That does not always imply a second interview on the same facts, as it is observed that some children come back multiple times for other facts.

■ In **Spain**, in some cases, Specialised Units in the police phase (the *Criminal Behaviour Analysis Section of the Judicial Police Technical Unit*) carry out interviews with the child victim, without focusing into the alleged criminal acts. Therefore, the subsequent forensic interview will be approached with more information,

<sup>142</sup> David J. La Rooy, Michael E. Lamb, and Margaret-Ellen Pipe, ‘Repeated Interviewing: A Critical Evaluation of the Risks and Potential Benefits’, in *The Evaluation of Child Sexual Abuse Allegations*, ed. Kathryn Kuehnle and Mary Connell (Chichester: John Wiley & Sons, Ltd, 2009), 327–61.

<sup>143</sup> ‘Achieving Best Evidence in Criminal Proceedings Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures’.

<sup>144</sup> M. Sovino Meléndez and V. Ulloa Jiménez, ‘The Investigative Interview. Number of the Interviews’, in *Video-Recorded Investigative Interview of Child Victims of Sexual Abuse* (Ediciones Universidad Católica de Chile, 2018).

<sup>145</sup> ‘Achieving Best Evidence in Criminal Proceedings Guidance on Interviewing Victims and Witnesses, and Guidance on Using Special Measures’.

<sup>146</sup> In the **Greek** sample (n=21), 57.1% of the legal and justice professionals working with abused children believe that they testify 2-4 times; 23.8% believe that they testify 4-6 times; 9.5% believe that they testify only one 1 time; 4.8% believe that they testify 6-10 times, and 4.8% believe that they testify more than 10 times. In addition, 52.4% believe that they testify to 3-5 different legal and justice professionals; 33.3% believe that they testify to 2 different legal and justice professionals; 9.5% believe that they testify to only one professional, and 4.8% believe that they testify to more than 5 different legal and justice professionals.

allowing other types of evidence to be incorporated into the process, as well as evidence that complements or supports the victim's account.

Sometimes an assessment of the victim's competency is already made at this stage by the police. This will be of assistance to those professionals conducting the forensic interview or will avoid unnecessary later interventions if the victim lacks the competency - in a broad sense - to testify in conditions that are safe for their emotional wellbeing.

As a novelty, art. 449ter LO 8/2021 establishes that *"the work of the professionals who have previously intervened and studied the personal, family and social circumstances of the minor or person with disabilities, to improve their treatment and the performance of the test, must have been taken into account. (...)".*

▪ ***Assessment of the victim's competency to testify, in a broad sense, incorporating applied knowledge of psychological trauma***

Unless it has been previously assessed and the professional has sufficient and updated information, it should be ensured that the person interviewing the victim has a previous meeting to assess the victim/witness's capacity to testify –in a broad sense–.

This pre-assessment is sometimes incorporated into the forensic interview itself (in the rapport phase), which should be discontinued if the victim is unfit to proceed. This phase must be clearly differentiated from the rest of the intervention, as the questions asked have little or nothing to do with the criminal acts, and may include questions related to the victim's sexual experience, so that the professional can clarify the terms used by the victim and his/her knowledge of human sexuality.

*"Many times, the evaluation of the capacity is not only done to say yes or no, but to say: "okay, yes, but be careful". Because you must take into account that this witness has this and that, and the interview that was done, for example, temporal orientation is one of the last abilities to be acquired. For children and people with disabilities, it also happens."*

(Police officer, ES)

*"We are in favor of recording everything that is done in both the police and judicial levels because all this material is very important."*  
(Judge, ES).

Since the forensic interview will be recorded with the intention of being played back in its entirety at trial, an inadequate differentiation of these phases could infringe on the victim's right to privacy. The recording of all interventions with victims/witnesses is recommended with a view to accessing them if necessary, however, the appropriateness of showing them in their entirety at trial should be carefully considered.

The competence of the victim/witness to testify should be assessed in a broad sense, i.e. not only the possibility of obtaining information from him/her, but also that its performance is done under safe conditions for the child, which includes, as different participants stated, (in EE, ES), that the professional has knowledge on psychological trauma<sup>147</sup>.

**Textbox 22. The Criminal Behaviour Analysis Section**

In Spain, it deserves being mentioned the work of the Criminal Behaviour Analysis Section of the Judicial Police Technical Unit, a specialised unit that provides support in these crimes at the national level.

<sup>147</sup> There is no single psychopathological profile associated with child sexual abuse but many variables that modulate the psychic impact of a victim exposed to a situation of sexual victimization. Victims can sometimes be asymptomatic and not develop PTSD symptoms. In M.T. Scott et al., 'Admisibilidad En Contextos Forenses de Indicadores Clínicos Para La Detección Del Abuso Sexual Infantil', Anuario de Psicología Jurídica, no. 4 (2014): 57–63.

After collecting the available information on the case and requesting further information, if necessary, the team moves to the victim's location and goes to the place where the events are alleged to have taken place. There they *photograph* the scene, which will be later used in their meeting with the victim and gather information through the victim's environment (e.g., personality, general difficulties, disclosure and context). They also use the *CAPALIST*<sup>148</sup> tool for a preliminary assessment of competency. Although the interview is not considered as evidence, it is recorded and provided in order to ensure that no suggestive or inappropriate questions have been asked and, in case they have been, that they can be kept into account for the subsequent pre-trial evidence (in which they recommend the participation of the same expert).

### ▪ **The participation of two interviewing experts**

Local customs, requirements and the presence of clear and structured means and regulations often dictate the professionals involved in carrying out the forensic interview. Team interviewing may reduce the need for multiple interviews and cover a broader range of topics<sup>149</sup>. Having two experts for each forensic interview is a practice considered essential as a:

- Mechanism for supervision and malpractice control.
- Mechanism to increase the quality of the interview, by receiving support from external/outside professional.
- Safety mechanism, to guarantee that a switch of roles between the interviewers is possible if beneficial or necessary for the victim/witness. For instance, if the main interviewer fails to establish a good rapport with the child victim/witness<sup>150</sup> (e.g., because the gender of the interviewer influences the interview<sup>151</sup>, due to the interviewer's resemblance to the suspect or culture<sup>152</sup> of origin differences).

*"I've had one time that my male colleague did it because it was really a family where women were looked down on very harshly."*  
(TAM interrogator, BE)

We observed the presence of two interviewers as an institutionalized practice in **Belgium**.

### **Textbox 23. Two interviewers**

■ In **Belgium**, interviewers work in pairs (TAM interrogator and Director). One in the interview room with the minor and another in the Control (or observation) room in charge of the technical follow-up arising from the audio-visual recording (in the Directors' chair). Now, by law<sup>153</sup>, both professionals are compulsory specialised TAM interrogators. The availability of a second trained TAM interviewer ensures the high-quality of the interview, as it may be possible to change roles (from main interviewer to support interviewer) in case it is not possible to establish good rapport with the child. Furthermore, the TAM protocol foresees that at least one time per interview a break will be called upon and the interviewer will address

<sup>148</sup> María José Contreras et al., 'Assessment of Testifying Ability in Preschool Children: CAPALIST', *Frontiers in Psychology*, 12 (July 2021), <https://doi.org/10.3389/fpsyg.2021.662630>.

<sup>149</sup> 'State of Michigan Governor's Task Force on Child Abuse and Neglect and Department of Human Services' (Select News, Publications & Information., 2016), [https://www.michigan.gov/documents/dhs/DHS-PUB-0779\\_211637\\_7.pdf](https://www.michigan.gov/documents/dhs/DHS-PUB-0779_211637_7.pdf).

<sup>150</sup> Diges Junco and Pérez-Mata, 'La Entrevista Forense de Investigación a Niños Supuestas Víctimas de Delitos Sexuales: Guía de Buenas Prácticas (I)', 12.

<sup>151</sup> It may be relevant to point out that Belgium's interview sample is composed by a higher percentage of female TAM interviewers. This may be in part due to the voluntary nature of the TAM training and a traditional view of the policing culture, making it challenging to attract male and female police officers in equal percentages.

<sup>152</sup> "Learning about a child's culture and how that might affect how s/he interacts with and responds to questions asked by unfamiliar adults is also important". In Lamb et al., 'The NICHD Investigative Interview Protocols for Young Victims and Witnesses', 87-100. . "Cultural competency is defined as the capacity to function in more than one culture, requiring the ability to appreciate, understand, and interact with members of diverse populations within the local community". In **National Children's Alliance. 2017. Cultural Competency and Diversity. In Standards for Accredited Members. Washington, DC: National Children's Alliance. Available in:**

[https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/os\\_nca\\_standards\\_child\\_advocacy\\_centers-508.pdf](https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/os_nca_standards_child_advocacy_centers-508.pdf)

<sup>153</sup> Circular Nr. 03/2021 from the Minister of Justice, the Minister of Interior and the College of Public Prosecutors relating to the audio-visual recording of the hearing of minors and vulnerable adults who are victims or witnesses of crime.

him/herself to the adjacent room to discuss with the director and the investigator<sup>154</sup> additional questions on the basis of the file (to be addressed to the minor). Besides, it is common practice that interviewer and director engage in de-briefing and in a feedback discussion right after the interview with the minor.

## B) Mechanisms/guidelines for adapting these protocols to the specificities of the case: age, context of victimisation, cultural background and disabilities

- ✓ Information (arts. 6 and 7)
- ✓ Participation (arts. 10)
- ✓ Minimization of stress-mental health (art. 20)
- ✓ Dignity (arts. 18, 22 and 23)

Attention to the different needs of the child in the preparation phase of the interview is key to be able to carry out an appropriate intervention. In addition to needing professionals specialised in interviewing children, sufficient support is required to make adaptations to the circumstances of the case and the child (e.g., age, type of victimisation, culture of origin, disability, etc.).

We observe that the main type of professional with whom the respondents usually cooperate is the interpreter, most of all (and as expected) when addressing foreign or unaccompanied minors. The cooperation with a specialised childcare professional is quite common when dealing with minors with auditory disabilities. Additional preparation is emphasised when the victim/witness is a person with cognitive disabilities, although in these cases support from the minor's environment (family, teachers, etc.) is observed, i.e., not professionalised. Also, there are variances when the interviewer is a child psychologist or a police officer.

### Textbox 24. The role of interpreters and facilitators

■ In **Belgium**, art. 47bis § 6; 4) CCP foresees the right to a sworn **interpreter** to any victim or suspect who cannot understand or speak the language of the proceedings, or who suffers from hearing or speech impediments. When required, the interpreter will be present in the interviewing room<sup>155</sup>.

Often, interpreters are not trained in the specificities of the TAM interview or in CSA issues and although it is not a pre-requisite, specific training or experience in these issues is highly desirable.

In these cases, interviewers and interpreters state the desirability to provide prior knowledge on the interviewing strategy and the specificities of the case. A preliminary meeting can provide the interpreter with useful information on the characteristics of the child (e.g., linguistic ability), the nature of the facts which will be addressed, the interviewing techniques and the expectations of the interviewer. To deliver a high-quality interpreted-mediated interview it is highly recommended that a briefing and de-briefing takes place prior and after the interview.

With a view to establish clear quality standards, justice professionals state the desirability to create an up-to-date national list for sworn interpreters stating their expertise and experience. As it can be challenging both on a technical and emotional aspect due to the nature of the facts.

■ In **Spain**, in the context of disability, the entity of reference most frequently mentioned is the Unit for the Care of Victims with Intellectual Disabilities (UAVDI). It participates in the process by providing **facilitators**, which means that they do not conduct the interview themselves, but rather give guidelines to the person who is going to conduct the interview, indicating the necessary adaptations.

Therefore, the assistance does not end up being fully specialised, but is rather a support for the best care. Moreover, it was noted that many professionals were unaware of their existence or had only recently discovered them.

<sup>154</sup> Police case officer from the investigating unit with full dossier knowledge.

<sup>155</sup> The role of the interpreter is regulated in Circular Nr. 03/2021, under section 2.5.

It is essential to review not only the specialization of the professionals and their competence to apply the protocols, but also the specific adaptations according to the disability. It is observed that disability is treated as one more variant in the situation of special vulnerability of the victims/witnesses. However, it is necessary to remember that each disability requires different adaptations. In addition, an intersectional approach to these cases is necessary for a proper understanding of violence against people with disabilities.

**C) Other elements related to rights and procedural safeguards:**

- ✓ Information (arts. 6 and 7)
- ✓ Participation (arts. 10, 13, 24, 25)
- ✓ Minimization of stress-mental health (art. 20)
  - ✓ Privacy (art. 20)
  - ✓ Dignity (arts. 18 & 23)

***i) Quality of the audio-visual recording in the judicial process and equality of arms principle***

A high-quality audio-visual recording that allows its use in the judicial process must be ensured. As well as equally safeguarding the guarantees and rights of the accused party and the victim.

A quality recording of the interview is an essential element to preserve procedural guarantees, and in this sense, there are some loopholes in some partner countries due to the absence or lack of quality of the recording (**EL**<sup>156</sup>, **IT**, **ES** – at least prior to the incorporation of LO 8/2021–). It is therefore essential to establish regulated mechanisms for checking the quality of this recording.

It is also essential that different people are present during the forensic interview. Regarding the requirement of the presence of other professionals, we refer to section *2.3.1.C. Procedural guarantees*. Although, in general, the presence of professionals in the room should be kept to a minimum. That is, only those persons who will interact directly with the victim/witness as well as the victim's trusted person, if any, should be kept. Allowing more people in the room can have a direct impact on the participation of the victim/witness, as it can drastically reduce their intervention, as well as their emotional well-being.

***ii) To duly inform the victim/witness, to be accompanied and to respect their privacy and dignity***

Although, protocols must be fully respectful of the rights of minor victims/witnesses, we spotted significant limitations in terms of respect for some rights, with adaptations not fully adjusted to children's rights, and from an adult-centric and androcentric perspective. In this regard, it is essential to:

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<sup>156</sup> For instance, in Greece, despite the existing legislation and the benefits of recording the forensic interview, in the survey it was revealed that, in practice, this does not apply, at least not on a systematic basis. When asked about how the child's testimony is registered, 77.8% of participants responded that the testimonies are on writing, and only 16.7% responded that they are recorded, while 5.6% answered that they do not know. At the same time, when asked about the frequency, most legal and justice professionals participating, reported that minor victims and witnesses of abuse testimonies are never recorded (47.6%); while 23.8% stated that they are always recorded, and 19% that they are frequently recorded.



- Adequately **inform** child victims of what is going to happen, how it is going to happen and why. Likewise, in accordance with their rights, they should be informed of the persons who will be listening to them and that the interview will be recorded, and, where appropriate, their **consent** should be obtained. We find a generally lax stance in this regard (**EE, EL, ES, IT**), presupposing that the information is generally inadequate, and therefore it is not uncommon that the victim/witness is not informed properly or considers his/her right to refuse to testify (if requested by the judge, **IT**<sup>157</sup>). A more accentuated stance in this sense can be seen among legal professionals than among psychologists. This entails a strong risk of instrumentalization of victims/witnesses in these processes.

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#### Textbox 25. Belgium's protocol

**Belgium's** protocol allows for greater clarity in this regard, achieving a higher level of protection of children's rights than in other four countries. The audio-visual recording has to be done with the consent of the minor (not of the parents<sup>158</sup>) and this consent can be withdrawn at any time (art. 95 CCP). If the minor is younger than twelve years of age it is sufficient to inform him/her of this decision (art. 92 § 1 CCP). If the minor refuses to take part in the audio-visual recording, although he understands the reasons for it, the interviewer shall propose an audio recording. If the minor refuses this, the refusal will be acted upon. In this case, the interviewer uses the classic interview procedure, but as far as possible follows the protocol taught, i.e., a respectful, non-suggestive and step-by-step interview<sup>159</sup>.

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- Protect victim's mental health, based on the right to **accompaniment**. Although there seems to be a fairly strong preference for parents not to be in the room on the grounds that the victim/witness may feel coerced or seek approval for their story, it is important to ensure that this does not undermine their rights.

In **Belgium** the minor is informed about the right to have a confidant (art. 91 bis CCP<sup>160</sup>) who can accompany him/her in the interview room. Although, as in the other partner countries, reference is made to the low likelihood of this being requested by the victim/witness. While it is true that the age of the victim and the role of the accompanying person in the life of the victim/witness may result in the victim/witness preferring that they not be present, it must be ensured that their dependency situation does not limit their right to accompaniment.

In this sense, we emphasise **animal accompaniment**, which can satisfy the interests of the victims/witnesses and overcome the disadvantages mentioned when accompaniment is carried out by family members (**ES**<sup>161</sup>).

On the other hand, it is important not to confuse the victim's legal aid with the person he or she trusts.

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<sup>157</sup> In the Italian judicial system, it is necessary to assess whether the child can testify, and whether he or she is fit to testify, and there are procedural rules that provide clear guidance on this issue from the judicial point of view. However, if the circumstances under which the minor is unable or unfit to testify are considered by the judicial system, the refusal to testify, even in the case of minors, is not considered. Therefore, with all the specifications and precautions foreseen by the law, the minor (whether victim or witness) is asked to testify.

<sup>158</sup> Circular Nr. 03/2021, section 5.3.2.2.

<sup>159</sup> Circular Nr. 03/2021, section 5.3.2.4.

<sup>160</sup> Except when the public prosecutor or the investigative judge decides otherwise in a reasoned decision in the best interest of the minor (Circular Nr. 03/2021, sections 5.2.2. and 5.2.3.).

<sup>161</sup> Internationally, the presence of Facility court dogs is growing. In cases involving child victims or witnesses to sexual violence, trained dogs can be present during forensic interviews and help decrease levels of discomfort and act as a communication aid. In the Spanish Specialised court of violence against children and adolescents, a similar type of program is present and professionals from the justice system invite the family pet to be present in forensic interviews to create a more welcoming ambience and decrease the levels of uncertainty and uneasiness.

- Respect for **privacy**, intimately linked to **dignity**. Clarify the phases of all recorded encounters with the child victim and differentiate between those that should be viewed "automatically" and those that should not. A better preparation of the victim/witness's interventions makes it possible to reduce those questions not directly related to the criminal acts in what we recognise as the forensic interview in the strict sense.
- We have not observed **clear mechanisms** to preserve the privacy of victims/witnesses in these cases. A more comprehensive study deserves to be taken, from a child-centred perspective and not from the needs and commonplaces about childhood of adults.

### *iii) Interviews being conducted by a person of the same sex as the victim. Gender perspective*

Although Directive 2012/29/EU states in art. 23.2.d the right of the victim to be interviewed by a person of the same sex, we have observed that in practice, in the case of children, this is an issue that is rarely addressed<sup>162</sup>. The interviews and surveys conducted reveal that in most cases this issue is not considered relevant by professionals<sup>163</sup>. It is sometimes seen as a secondary issue, justifying that what is "really important" is the expertise of professionals in their work (which should be a requirement).

The APSAC practice guide on forensic interviewing<sup>164</sup> in cases of suspected child maltreatment notes that effective interviewers can be both female and male, and that gender is an insignificant factor in comparison to professional skill, however, the child's preference should be considered as far as possible.

Studies indicate that, although the gender of the interviewer and the victim does affect the data collection process, this is minimised using standardised interview protocols such as the NICH<sup>165</sup>.

*"In principle, the interviewer can be changed if the minor is really blocking. For example, if that interrogator has the same appearance as the suspect, it might be possible to switch roles."*  
(TAM interrogator, BE)

*"My experience (...) is that a victim of 14/15 years old is full of modesty, of fears: they are already aware that their statement may already have consequences in their family, (...) they have a terrible time."*  
(Public prosecutor, ES)

This issue is sometimes more easily related to adolescent victims who show greater distress in their account of the events, despite the complexities involved in taking statements from younger victims.

It is therefore important not to lose sight of the welfare of the victims in this matter, which could be clouded by the technical difficulty of such cases for practitioners.

<sup>162</sup> The gender of the interviewer is not addressed in the Belgian law, however it is addressed in some internal police regulations.

<sup>163</sup> For instance, in Spain, 73.9% of the forensic psychologists surveyed revealed that the gender of the interviewer is not taken into account in relation to the gender of the CSA victims. A similar percentage was informed in the Italian sample of respondents. While in Greece, 57.1% of the surveyed participants stated the same.

<sup>164</sup> 'Practice Guidelines Forensic Interviewing in Cases of Suspected Child Abuse' (American Professional Society on the Abuse of Children (APSAC), 2012), <https://depts.washington.edu/uwhatc/PDF/guidelines/Forensic%20Interviewing%20in%20Cases%20of%20Suspected%20Child%20Abuse.pdf>.

<sup>165</sup> Michael E. Lamb and Michelle E. Garretson, 'The Effects of Interviewer Gender and Child Gender on the Informativeness of Alleged Child Sexual Abuse Victims in Forensic Interviews', *Law and Human Behavior*, no. 27(2) (May 2003): 157-71, <https://doi.org/10.1023/A:1022595129689>.

### 2.3.4. Use of the audiovisual child investigative interview in trial

#### A) The impact of the forensic interview at trial

It is established on the basis of the above that it is essential to include the recording of the forensic interview in the trial so that it can be viewed and, therefore, that the obligatory nature of this video and audio recording is clearly stated (**BE** articles 91bis<sup>166</sup> to 101<sup>167</sup> CCP, **EE** art. 70(3) of the CCP, **EL** Ministerial Decision 7320/2019, **IT** art. 398.5 bis CPP and **ES** art. 449 bis and ter LECrim) with the option in some countries to provide at least the audio recording (**BE** <sup>168</sup> and **IT**). We emphasize the importance of recording all interventions with the child, as for instance in **Belgium**, the recording of the interview shall start from the moment that the general overview of the interviewing room is given and shall stop after the interviewer and the minor have finished the interview and left the interviewing room<sup>169</sup>.

This viewing may be complete or partial, depending on the relevance of the content and preserving as far as possible the maximum privacy of the victim. Therefore, those fragments that deal with issues unrelated to the criminal acts should be marked so that they are not viewed unless strictly necessary (e.g., questions regarding the private life or sexuality of the victim if they are not necessary for the reconstruction of the facts).

On the other hand, we find distinctions in the ways in which the testimony will be incorporated into the trial, and the recording may be accompanied by other elements such as a report from the professional who has conducted the interview and even his or her presence at the trial. This is linked to the justification for the use of forensic interviewing by an expert. Sometimes, this professional intervention will be justified solely on the basis of the appropriateness of the way the information is obtained (mainly non-suggestion and ensuring the well-being of the child) and sometimes an assessment of this interview will also be required (e.g., expert rebuttal report).

Thus, while on some occasions the production of a report on the development and outcome of the interview will not be automatic (**ES**<sup>170</sup>), on the understanding that the assessment of the testimony is the full responsibility of the Judiciary, on other occasions, such a report will always accompany the interview (**BE**, **EE**, **IT**).

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#### Textbox 26. Recording and reporting of the interview

In **Belgium**, after the interview is carried out, the interviewer is in charge to make a written report within 48 hours or immediately if the suspect is deprived of liberty. This report should account for the entries referred to in art. 47bis CCP, include the main elements of the interview and possibly contain a transcription of the most relevant passages (art. 96 CCP).

*"The record shall show precisely the time at which the hearing begins, is interrupted and resumes, and is concluded. It shall specify the identity of the persons who are to participate in the questioning, or in part of it,*

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<sup>166</sup> Introduced through article 2 of the Law of 13 April 1995 on the sexual abuse of minors.

<sup>167</sup> Introduced through articles 38-40 of the Law of 28 November 2000 on the criminal protection of minors.

<sup>168</sup> If the minor refuses to take part in the audio-visual recording, although he understands the reason for it, the interviewer can propose an audio recording. If the minor refuses this, the refusal will be acted upon. Circular Nr. 03/2021, section 5.3.2.4.

<sup>169</sup> Circular Nr. 03/2021, section 5.4.

<sup>170</sup> The current regulation establishes that "The statement shall always be recorded and the judge, after hearing the parties, may request a report from the expert giving an account of the development and result of the hearing of the minor".

*and the time of their arrival and departure. It shall also mention the particular circumstances and anything which may shed particular light on the statement or on the circumstances in which it was made.” (Art. 47bis §6.1 CCP)*

The recording, together with a full report issued by the interviewer, will be sent to the public prosecutor and/or the investigative judge to be constituted as evidence in the further investigative process.

In the light of the different national results, there are significant differences in the structure and content of these reports, which seems to be a consequence of the insufficient training in this aspect, which depends on the professional in charge, as well as the lack of regulation or minimum standards set in this regard. Therefore, the following minimum standards are proposed here:

- Forensic interview report, transcriptions and recording.
- Established deadlines for the delivery of (expert) reports.
- Justification of the tools and protocols used.
- Necessary measures to protect the privacy, identity and image of child victims and to prevent the public dissemination of any information that could lead to their identification.
- Smooth channels of communication between professionals.

The visualisation of the audio-visually recorded hearing of minors is often reported to be problematic due to time constraints. It is reported as good practice by some practitioners drafting reports with cues regarding exact time frames relating to relevant parts of the child statement to facilitate the judiciary's assessment.

Systems must be in place to ensure the protection of the personal data of child victims, both at this stage and in particular with regard to the content of the recordings, as well as throughout the whole process.

#### **Textbox 27. Protection of victims' personal data**

In Greece, the absence of one system which would ensure the protection of victims' personal data in court proceedings, systematically allows the disclosure of their personal data and details regarding the abuse they suffered, by the media, making them recognizable, with further burden on their psychological state. This extremely painful and stressful process, which, as it is known, can last for many years, is equivalent to secondary victimization of minors by the system itself, whose mission is to protect them<sup>171</sup>.

## **B) Credibility assessment**

Professionals and the public perceptions on allegations of child sexual abuse have shaped interviewing practices, resulting in tensions between practices that enable disclosure and practices that avoid false allegations, given the devastating impact of false positives and false negatives errors<sup>172</sup>. Besides the fact that often the testimony of the child may become the only evidence of the crime, as in child sexual abuse, there are usually no physical injuries and no witnesses to what happened<sup>173</sup>.

<sup>171</sup> Hellenic Ombudsman, 2020. *Delay of the institution "Independent Offices for the Protection of Minor Victims – Child Home"*. p.3. [https://drive.google.com/file/d/137z89YJ6zj-KBio6rdlaOxj\\_w\\_shhPfw/view](https://drive.google.com/file/d/137z89YJ6zj-KBio6rdlaOxj_w_shhPfw/view)

<sup>172</sup> Faller, 'Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks'.

<sup>173</sup> Idem.

Therefore, sometimes, the Judiciary will rely on other tools to assess what is reflected in the forensic interview, notably credibility reports. While in some States it is not uncommon for this assessment to be requested when minors are involved, (EL, IT, ES<sup>174</sup>), in others it only occurs in specific cases (BE<sup>175</sup>).

The difficulty of having specialised professionals for this purpose is highlighted (e.g., shortage of experts, large caseloads) as well as knowing the limitations of these tools. In this regard, it is worth mentioning that we observed controversies and dilemmas in the use of tools to assess the veracity of statements.

*"Personally, I find that very difficult. I have mixed feelings about that because, what are the parameters by which you're going to infer whether that someone is telling the truth or not?" (Investigative judge, BE)*

As "credibility, in the broad sense, assimilated to veracity, corresponds exclusively to judges and magistrates" <sup>176</sup>. The Statement Validity Analysis (SVA) and one of its components, Criterion Based Content Analysis (CBCA), was one of the tools more commonly mentioned. Some participants stated the need of review of these tools to incorporate the knowledge currently available regarding trauma (ES), in addition to proper training for correct use. Besides the fact that, adherence to an evidence-based protocol improves the quality of the investigative interview. This last remark is crucial, as the quality of the information collected in the interview, repetitive interrogations and long delays between the complaint and the interview, highly influences the perceived credibility of the narrative<sup>177</sup>.

At this point, the importance of adequate coordination and collaboration between professionals is once again raised to be able to make use, when appropriate, of the idea of "joint interviews"<sup>178</sup> as previously mentioned.

In this sense, it is useful for the person who is going to conduct the forensic interview to be previously aware of the requirement to produce a credibility report (by the same professional or by another), so that the interview allows for such analysis by viewing the recording.

### 2.3.5. Professional practice. Room for improvement? Supervision and Feedback mechanisms conducting forensic interviews

#### A) Adherence and applicability of the interview protocol

As said in previous sections (section 2.3.3.A), research shows that the adherence to research-based interview protocols (e.g., NICHD) and the proper use of the interviewing techniques (e.g., open-ended invitations vs. option-posing and suggestive questions)

<sup>174</sup> In Spain, Circular 3/2009 on the protection of minors who are victims and witnesses includes the relevance of the psychology of testimony, indicating that although in the case of adults, credibility must be assessed, with some exceptions, only by the judge, in the case of minors it can be recommended.

<sup>175</sup> In the cases where there is a denying offender and a victim who indicates that very serious facts happened. Not all cases are eligible for a credibility assessment, for instance, Internet grooming, as the investigation starts with digital evidence.

<sup>176</sup> Juárez López and Álvarez Ramos, 'Evaluación Psicológica Forense de Los Abusos y Maltratos a Niños, Niñas y Adolescentes. Guía de Buenas Prácticas'.

<sup>177</sup> Michael E. Lamb et al., 'Case-Related Outcomes When the Protocol Is Used', in *Tell Me What Happened: Questioning Children about Abuse*, 2<sup>o</sup> (Wiley-Blackwell, 2018).

<sup>178</sup> Johansson et al., 'Implementing the Nordic Barnahus Model: Characteristics and Local Adaptions'.



enhances the quality of children's accounts<sup>179</sup>. It provides a homogenous procedural standard, supports the professional providing practical guidelines, and protects the rights and the privacy of the minor involved.

Throughout this comparative study we have observed several challenges in the adherence to the interviewing methods and guidelines regarding different factors.

The most obvious ones are the cases where there is no specialized training on its use and the professional conducting the interview is not a specialist. For instance, in **Italy**, when it is carried out by the magistrate, even if they can be assisted by an expert (i.e., forensic psychologist). Or in **Greece**, where police officers, usually with no specialised skills and knowledge, take the lead. Or in **Estonia**, even if there is available a handbook and guidelines, a compulsory protocol does not exist.

In this regard, there are some barriers in the adherence to the interviewing guidelines worth mentioning: the lack of awareness, lack of familiarity, lack of agreement, lack of perceived outcome and the inertia of previous practice<sup>180</sup>.

Another factor, related to training, is that its effects tend to decrease as "expert interviewing skills need to be developed and enhanced through both practice and regular guidance"<sup>181</sup>. For example, TAM interrogators from the **Belgian** police, who report a high level of adherence to the interviewing method, are part of networks where they receive supervision and feedback on their performance, attend intervision days (once, twice or three times a year) and are required do a minimum of 10 interviews a year<sup>182</sup>. The kind of supervision and feedback structures for TAM interrogators are not reported in the other **four countries** from this study (although regular training, without specifying the topics, of the specialised police officers is reported in **Estonia**).

On another note, even though according to the **Greek** questionnaire sample (n=21), the majority of legal and justice and victim support professionals implement quite often some of the stages and practices evidenced as beneficial to forensic interviewing<sup>183</sup> and interviewing techniques that increase the amount of provided information<sup>184</sup>.

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<sup>179</sup> Karen J. Saywitz, Thomas D. Lyon, and Gail S. Goodman, 'Interviewing Children', in *The APSAC Handbook on Child Maltreatment*, 4th ed. (United States of America: SAGE Publications, 2018), 310–29.

Michael E. Lamb et al., 'Use of a Structured Investigative Protocol Enhances the Quality of Investigative Interviews with Alleged Victims of Child Sexual Abuse in Britain', *Applied Cognitive Psychology*, 23, no. 4 (2009), <https://doi.org/10.1002/acp.1489>.

<sup>180</sup> Débora Cecilia Cabana et al., 'Why Don't Physicians Follow Clinical Practice Guidelines? A Framework for Improvement', *Pediatrics Research*, 45, no. 4 (April 1999): 90, <https://doi.org/10.1203/00006450-199904020-00719>.

<sup>181</sup> Michael E. Lamb, 'Difficulties Translating Research on Forensic Interview Practices to Practitioners: Finding Water, Leading Horses, but Can We Get Them to Drink?', *Am Psychol*, 71, no. 8 (November 2016): 710–18, <https://doi.org/10.1037/amp0000039>.

<sup>182</sup> Most interviewed TAM interrogators guess they do around 20 of them on a yearly basis, of which half are spent in the director's chair. In bigger zones with a permanence system, they do 2-4 days a month, in 24h shifts. During these days, interrogators sometimes do two or exceptionally even three interviews a day. TAM trainers (also interrogators), because they want to keep invested in their expertise may take on some more than their colleagues: "fifteen hearings a year that we do ourselves and about fifteen that we are the director." In all networks, the average seems to be three to six interviews a month. And while in one network 350 interviews are done yearly, in another only 35.

<sup>183</sup> Preparation (76,1%), Explaining the main rules (61,8%); Focus on specific issues to enable free narration (66,7%), Closure with a neutral topic (57%), Organization of a report (57%), Training in episodic memory (52,3%).

<sup>184</sup> Free narration (52,4%), Open questions (61,8%), Supplementary questions in terms of clarifying specific points that were vague, conflicted, not mentioned or not elaborated enough (71,3%). Techniques that impede narration, increase suggestibility or cause frustration received low percentages.

As well as in the **Spanish** questionnaire sample (n=39) which reported high percentages in following interviewing phases<sup>185</sup> and in the use of interviewing techniques that elicit more information<sup>186</sup>.

Situation that is replicated in **Italy**, where most of the professionals following a forensic protocol are very strict, and careful, and *always* follow all the different phases and use science-based interviewing techniques.

And even if in **Belgium** there is a general satisfaction with the existence and functioning of the protocol by legal and justice professionals, more specifically, trained TAM police officers, and public prosecutors and investigative judges who decide upon the enforcement of the TAM protocol, the adherence and applicability of the interviewing protocol is not guaranteed.

Usually, the protocols used are designed following a linear structure where it is assumed that the interviewer will be able to move through the phases in the order they are designated, which can challenge the interviewer who fails to follow the step-by-step plan<sup>187</sup>. The fact is that reality often differs from an ideal situation, some factors addressed by the participants that require a degree of flexibility in the use of the interviewing method are presented:

- *The age*. Pre-schoolers may not understand the dynamics of the interview, the training in episodic memory, have shorter attention spans, can't keep sitting still for long and experience fatigue faster than older children. Adolescents, who are more aware of themselves and may avoid embarrassing subjects (e.g., sexual acts), give brief responses and understand the consequences of disclosing. There may be difficulties in rapport building and creating trust. This need for adjustments in interviewing children from different ages are found also in scientific research<sup>188</sup>.
- *Certain typologies of criminality*, where the facts are prolonged in time and there is not one distinct criminal event and is complex to clearly establish a last time-first time-other time scenario (e.g., grooming, cyberbullying<sup>189</sup>). Where children often do not recognize their victimization and think of their experiences as an act of free will (i.e., child victims of loverboys<sup>190</sup>) (**Belgian sample**).
- *In cases where there is a multi-victim perpetrator* (**Spanish sample**).
- *Children who do not seem to fit the model from the theoretical training*. For example: children who do not have hobbies, friends or further interests. This presents a challenge in the introduction phase, when interviewers are trained to build rapport with the child and test the interviewing techniques through the discussion of "neutral topics", mainly school/friends, family and free time (**Belgian sample**).

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<sup>185</sup> Rapport building (61,5%), Explanation of ground rules (79,5%), Training in episodic memory (56,4%), Focusing and obtaining the narrative (79,5%), Admission and adaptation of possible judicial questions (89,6%), Closing with a neutral topic (66,7%).

<sup>186</sup> Free narration (92,3%), Open questions (89,7%) and Supplementary questions to clarifying specific points (61,5%). Techniques that impede narration, increase suggestibility or cause frustration received low percentages.

<sup>187</sup> Faller, Kathleen. "Forty Years of Forensic Interviewing of Children Suspected of Sexual Abuse, 1974–2014: Historical Benchmarks." *Social Sciences (Basel)* 4, no. 1 (2014): 34–65. <https://doi.org/10.3390/socsci4010034>.

<sup>188</sup> Magnusson, Mikaela, Emelie Ernberg, Sara Landström, and Lucy Akehurst. "Forensic Interviewers' Experiences of Interviewing Children of Different Ages." *Psychology, Crime & Law* 26, no. 10 (2020): 967–89.

<sup>189</sup> Out of the scope of this comparative study.

<sup>190</sup> Idem.

- *Children with disabilities and/or children in vulnerable situations.* For instance, in **Estonia**, there is a handbook on interviewing children with special needs (2019), part of the BADEV project. It is important to note that efforts to improve efficiency and adherence to guidelines should avoid simplified solutions and assessment tools and should address professional's needs and reality and the complexity of exploring child sexual abuse cases.
- *Children who don't speak the language and therefore require an interpreter* (e.g., unaccompanied foreign children). Usually, interpreters are not trained in the specificities of the forensic interview.
- *Children with a different cultural background.* For example, in **Belgium** some TAM interrogators mentioned addressing to *the OTA in Antwerp* to obtain certain cultural insights<sup>191</sup>.

*"When they come with their teacher, I talk a lot with the teacher, because the teacher knows a lot about them, certainly when they already go to a special school. They can tell me in advance if the child for example has a specific form of autism and doesn't really respond that well to that kind of questions. Then we know in advance."*  
(TAM interrogator, **BE**)

In many cases, professionals make up for the shortcomings of the system and the available resources with an extra effort and a high level of commitment to "sensitively" attend to child victims/witnesses.

In the **Belgian** context, with a specialized training structure more developed and institutionalized than in the remaining **four countries** in this matter, some TAM interrogators and teachers have stated that the basic training covers some of the issues mentioned before in a general and theoretical manner. However, it often does not seem sufficient to conduct these interviews, therefore it is relied on the experience of the interviewer (i.e., field experience and ongoing feedback) and on the forensic interviewing as a team effort. This circumstance, even if it was not reported, we believe, is present in the remaining **four countries**, where training is done on a voluntary basis or even if it is regulated, it is not implemented (**EL**).

In this sense, specialised training must be in line with the reality of professionals. Thus, regarding optional training, it should be stressed that it is insufficient if it is not accompanied by additional compulsory training, as in some professionals' groups it is noted the lack of time to attend them.

As a general recommendation, it is proposed that the following issues be addressed in the implementation of protocols and best practices<sup>192</sup>:

Acceptability	Perception by interested parties that the intervention is admissible: <i>Credibility, convenience, usability, motivation.</i>
Adoption	Intentions or decisions aimed at using the new intervention: <i>Effective use.</i>
Adequacy	Perception by interested that the intervention is appropriate in the environment, context, and audience: <i>Importance, compatibility.</i>
Viability	Possibility of executing the intervention. Implementation in real practice.
Fidelity	Degree of application according to the initial formulation.

<sup>191</sup> *Het Ondersteuningsteam Alloctonen*, The Support Team for Immigrants. A kind of helpline, where you can ask particular questions.

<sup>192</sup> Cabana et al., 'Why Don't Physicians Follow Clinical Practice Guidelines? A Framework for Improvement'.

Sustainability	Durability and maintenance of the intervention in practice. Implementation process cost + intervention cost.
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This analysis can help in some cases to understand why regulatory requirements are not being met, possible difficulties in adherence to or interest in protocols, or difficulties in implementation. Thus, it is important to focus on possible barriers and in the detection of facilitating factors, by addressing these factors: Knowledge/information, Motivation, Needs, Resources, Organizational constraint, Inertia of practice, Interviewers' personal characteristics and attitudes.

Research is still scarce regarding forensic interviewers' experiences; however, their concerns can help guide future improvements in ways of adapting child interviews in a standardized manner to respect children's rights and interests<sup>193</sup>.

## B) Supervision and feedback

In this section we want to acknowledge the importance of providing feedback beyond the training period, which entails enduring improvements in the interviewers practice<sup>194</sup>, as well as the imperative need for the interviewing protocols to have monitoring mechanisms in place, both to assess their impact on practice and to monitor and respond to malpractice. Which underlines the importance of having clear Guidelines and Protocols on which to base such monitoring.

We have observed the presence or absence of supervision and feedback mechanisms, depending on the country and its level of definition and implementation of the regulation regarding the forensic interview as pre-trial evidence and depending on the professional group.

For instance, in **Belgium**, there are different spaces where TAM interrogators can receive feedback after their specialized training:

1. From TAM Teachers and Coordinators once a year. An annual follow-up usually based on the study of video interrogations done by the forensic interviewer. However, in practice, it does not always happen. Some participants praise their feedback as really detailed, full of "good tips and tricks for not making the same mistakes again".
2. Their colleague, second TAM interrogator, present in the observation room, who is regarded both as personal support as well as a sounding board in conducting the interview.
3. In some TAM networks, interrogators, trainers and coordinators meet once or twice a year (during a day which is called in Dutch "*terugkomdag*", literally translated as "return day") to engage in intervision of their cases and to freshen up their techniques via role-playing.

*"Giving feedback takes a lot of time. The people who are teachers or coordinators take on this additional role because they want to do it. But you have to take the time for it, and in zones that it is not appreciated by the police, there is still a serious problem there: the time a teacher or coordinator gets to give the right support to colleagues. That's something we've been raising for years: we don't get time or budgets for it to properly support everyone."*  
(TAM, BE)

<sup>193</sup> Mikaela Magnusson et al., 'Forensic Interviewers' Experiences of Interviewing Children of Different Ages', Psychology, Crime & Law, 20, no. 10 (2020): 976–89, <https://doi.org/10.1080/1068316X.2020.1742343>.

<sup>194</sup> Niels Krause et al., 'The Effects of Feedback and Reflection on the Questioning Style of Untrained Interviewers in Simulated Child Sexual Abuse Interviews', Applied Cognitive Psychology, 31, no. 2 (February 2017), <https://doi.org/10.1002/acp.3316>.



Apart from the local intervention days, there is also one national intervention day (“*terugkomdag*”) organised in Brussels on a yearly basis.

Prosecutors and investigative judges do not have any formal arrangements in terms of feedback and supervision. The ones that seek advice do so in their own initiative. This very same circumstance is observed in **Estonia, Greece, Italy** and **Spain** in the different professional groups involved. Supervision and feedback on the interviewer’s performance is usually done informally, among colleagues. Improvement of professional practice is done voluntarily and depends on participating in trainings and study tours, conferences, and exchange events. However, a high workload represents an obstacle.

In **Greece**, the lack of supervision and feedback, regarding the procedure and outcomes of the forensic interview of minor victims and witnesses of abuse, is attributed to the no implementation of the corresponding protocol. The need for ongoing training and supervision is not only for psychologists, but also for judges and prosecutors involved in the collection of minors’ testimony.

*“No formal support or supervision is provided, although it is necessary. Support is received informally among colleagues. We need to be trained in basic self-care techniques, along with being provided with official support services and tools.”*  
(Police Officer, EL)

In **Spain**, as well as in **Greece, Estonia** and **Italy**, some professionals (i.e., judges, prosecutors and police officers) call on experts, when the option is available, such as psychologists, for assistance, guidance and/or advice.

As literature research suggests, we observed that “judges do not, as a rule, receive expert feedback on their verdicts, and objective knowledge regarding ground truth in CSA cases is rare, making correct learning from experience virtually impossible”<sup>195</sup>.

As Lamb suggests, it is not widely known by judges, prosecutors and social services agencies how much information children can provide in well-conducted interviews, and don’t fully grasp that the quality of children’s testimony is heavily influenced by the quality of the interviews in which it is elicited. Therefore, training and feedback should be two folded: for forensic interviewers so that they actually learn and utilize best practice interviewing strategies, and for other professionals in the criminal justice system, “so that they recognize instances of poor practice and insist that standards be improved”<sup>196</sup>.

As a final remark, a distinction should be made between the supervision that professionals may receive in relation to their knowledge, which should be part of continuous training ([section 2.3.2.A](#)), and the supervision carried out in the practice of their daily duties (e.g., follow-up, attention to disability).

*“(T)he mode of care, follow-up, counselling, accompaniment, attention to disability, cultural diversity and gender perspective can be monitored, (...).”*  
(Judge, ES).

<sup>195</sup> Julia Korkman et al., ‘Judges’ Views of Child Sexual Abuse: Evaluating Beliefs against Research Findings in a Finnish Sample’, *Scand J Psychol*, 55, no. 5 (October 2014): 497–504, <https://doi.org/10.1111/sjop.12147>.

<sup>196</sup> Lamb, ‘Difficulties Translating Research on Forensic Interview Practices to Practitioners: Finding Water, Leading Horses, but Can We Get Them to Drink?’, 716.



In Spain, the Court specialized in Violence against children and adolescents in Gran Canaria, has set up the programme called "*Los ojos que te miran*" ("The Eyes that Watch You"), which aims to monitor the project that has been set up. It does not monitor the jurisdictional activity, but it does monitor the care, follow-up, advice, etc. given to victims/witnesses. Any person who comes into contact with the victim must be subject to this audit and there must therefore be an external and independent auditing body<sup>197</sup>.

### C) Psychological support for forensic interviewers and other legal practitioners

The forensic interview as pre-trial evidence is designed, among other factors, to avoid the risk of secondary victimization in children. When forensic interviewers are repeatedly exposed to cases of child maltreatment, research points out an increased risk of secondary trauma and burnout <sup>198</sup>. This fact took us to plainly ask participants about their psychological wellbeing and if it is addressed in their organizations.

*"(I)n the end it's your job, if you get used to doing it, eventually as time goes by you end up keeping a certain distance and the way you ask questions to children, it affects you less and less."*  
(Police officer from a special unit, ES)

Broadly speaking, we realised that psychological support for people working in contact with child sexual victimisation is an issue that receives different attention in different professional groups (police officers, psychologist, judges, prosecutors, victim support personnel), but not exclusively, as it is also part of the idiosyncrasies of each individual to seek psychological support.

Also, as a general remark, there were few comments on existing measures of psychological support for professionals dealing with these cases, however, the harshness of the matter was ascertained.

For instance, in **Belgium**, psychological counselling for TAM interrogators is not encouraged and hard to access. Although, there is psychological support on demand, this opportunity is not known to all the interviewers, it is difficult to access (located on the capital), and its availability is insufficient to effectively meet the needs from forensic interviewers. Some interviewers report that intervision provides with their necessary space to vent their negative emotions, others however, have to resource to private counselling or the support from their family. Furthermore, expressing the need for psychological support is often met with the fear that their professional suitability would be questioned. As a general remark, support is done informally among colleagues in the **five countries**.

*"I've done that for about eight years, but it's quite hard to interview a child of six telling you how she's being sexually abused. So, after a couple of years, I stopped."*  
(TAM interrogator, BE)

<sup>197</sup> Possible public bodies involved: Directorate General for Dependency and Disability, Directorate General for Social Rights and Immigration, Directorate General for Child and Family Protection, Directorate General for Diversity, Canary Islands Institute for Equality, Others.

<sup>198</sup> For instance: Ashley K. Fansher, Sara B. Zedaker, and Patrick Q. Brady, 'Burnout Among Forensic Interviewers, How They Cope, and What Agencies Can Do to Help', *Child Maltreatment*, 25, no. 1 (2019): 117–28, <https://doi.org/10.1177/1077559519843596>, or Brian E. Perron and Barbara S. Hiltz, 'Burnout and Secondary Trauma Among Forensic Interviewers of Abused Children', *Child and Adolescent Social Work Journal*, 23, no. 2 (2006), <https://doi.org/10.1007/s10560-005-0044-3>.

In **Spain**, as reported in the interviews, in State Law Enforcement Agencies, support from practitioner-psychologists working within the Spanish police is present and informants emphasized the importance of early attention to detect professional burnout and of intervention plans in suicide prevention.

*"(...) this stress, this responsibility too, this management of suffering, of the harshness of life on the part of children, which is what disarms me the most, (...)."*  
(Judge, **ES**)

*"(I)ssues with competence and social skills are partly caused due to high staff turnover among police investigators due to increased stress and low wages. Therefore, to make sense of training and resources, this work should be supported, appreciated and paid better and make available supervision to the police"*  
(Public Prosecutor, **EE**)

Additionally, it was a common trend among the **five samples** the impact of organizational factors, such as the access to material resources, budget allocation, the need to continually seek solutions in the face of a fragmented system, and scarcity of human resources to face heavy workloads (e.g., inadequate time, too many cases)<sup>199</sup>. In the **Estonian sample**, high staff turnover and low wages were specifically mentioned. Sometimes, the lack of support results in a questioning of the will to continue carrying out the job.

In the light of these results, to fulfil the rights of children and the wellbeing of the professionals, we stress the need to foster an open and supportive work culture to facilitate professionals' mastery of emotional turmoil and applied training of emotion regulation strategies and self-awareness<sup>200</sup>, as well as rethinking and reframing the organizational culture (e.g., teamwork vs. fragmented approaches), roles, structures, functions, budget allocation and funding.

<sup>199</sup> For instance, in Belgium, due to the workload and lack of human resources, the presence of prosecutors and judges during the forensic interview is currently unthinkable, however desirable. Some magistrates even report not having enough time to watch the entire recorded interview, therefore relying majorly on the drawn report from the TAM interrogator.

<sup>200</sup> Ane U. Albaek, Per-Einar Binder, and Anne Marita Milde, 'Plunging Into a Dark Sea of Emotions: Professionals' Emotional Experiences Addressing Child Abuse in Interviews With Children', *Qualitative Health Research*, 30, no. 8 (2020): 1212–24, <https://doi.org/10.1177/1049732318825145>.

### 3. CHAPTER 3. FINAL COMMENTS

As a synthesis exercise, the main points of this report are addressed here in the form of ten main conclusions, following the categories of ENCLAVE's one-size-fits-all model:

**I.** The importance of an *Integrated System* vs. a *Fragmented System*, which requires being aware of the following issues:

- Coordination protocols and timeframes for support and care. Establishing priority processes.
  - Existence of protocols indicating the tasks of each professional (group) and defining interagency working teams (e.g., roles, members).
  - Regulated requirement for specialised training of professionals involved in child victimization.
  - Requirement of coordination roundtables.
  - Specialised physical access for child victims.
  - Immediate protection mechanisms.
  - Comprehensive Forensic Assessment Unit on Violence against Children and Adolescents.
- Overcoming the fragmented view of the child victim's journey means enabling functional mechanisms for cooperation and coordination between the different professional groups involved in the legal, health and social arenas in processes involving underage victims/witnesses and facilitating clear protocols in this regard.

**II.** *Mechanisms to guarantee children real access to justice* must be established in order not to render useless an Integrated System and to make possible the safe and real participation of children. To achieve these purposes, the following points should be guaranteed:

- Recognition of the right to file a complaint on their own.
- Clear mechanisms for allocation of specialised legal aid.
- Free legal aid.

In addition, this participation should be matched by the following measures to ensure that it is safe and supervised by specialised professionals, and addresses the rights and interests of victims:

- Legal assistance.
- Assigned representation in case of conflict of interest.
- Professional supervision of the interest of the child victim (tailored participation).
- Information and notification by mean of a fixed reference person.
- Accompaniment by their legal representative or a person of their choice.

**III.** The *Specialised Training* is a matter of importance, equally for forensic interviewers and for all professionals who come in contact with the child (specifically in the forensic interview as pre-trial evidence process).

*Interviewers' professional training*, should entail:

- Basic training: Forensic psychology and Clinical psychology.

- Specialised training and expertise.
- Joint training in multidisciplinary teams.
- Work in pairs (presence of two professional interviewers).
- Continuous training.

Meaning that their professional profile, role and training must be defined and appropriately regulated. Additionally, robust supervision mechanisms shall be in place to guarantee high quality standards in children's assistance. As well as, follow-up, training updating and objective feedback on performance and outcomes evaluation. Attention must be given to organizational factors that can affect professional practice (e.g., heavy workloads, scarcity of human resources or work culture).

Besides, a trauma informed approach is a factor that needs to be considered for an adequate interpretation of the forensic interview report, for the correct previous assessment of the victim/witness and use of the interview.

*Basic training of related professionals.* For the proper development and use of expert interviews, basic specialised training should be required. It should entail:

- Training in the detection of situations of particular vulnerability.
- Specialised training on the rights of children and victims of sexual offences.
- Basic training with a guide on what to do/what not to do (theoretical and practical).
- Referral protocol.
- Regularly updated training according to international best practices.
- Basic training on forensic interview objectives and mechanisms.
- Training in determining and assessing children's interests (Legal defender; Victim's lawyer; Intermediaries).

**IV. *Clear Criteria for the use of the forensic interview as pre-trial evidence.*** It is key to facilitating the proper work of all these professionals. Here are some highlights to keep in mind:

- Regulation in which specific cases the forensic interview should be used.
- The assessment on a case-by-case basis should be focused on increasing, and not reducing, protection measures.
- The protection of the defendant's due process rights should be duly regulated.
- Possibility of interviews being conducted by a person of the same sex as the victim.

Regarding the timing of proceedings, it is important to use objective guidelines in order to better assess the treatment of victims/witnesses. Meaning that:

- The protocol should be put in place immediately and the forensic interview should be conducted within a maximum of 1 week for the pre-trial evidence to take place, because the welfare of the victim/witness should always be paramount:
  - 1-4 days to collect external information.
  - 1-3 days to conduct the interview.
- Assessment of the timing of the interview (time of the day, duration, breaks, attention lapse according to age) and of child's fatigue. Stigmatisation.

**V. *Multidisciplinary and interagency cooperation.*** The regulation and protocols of forensic interviewing must be harmoniously accommodated within a system that is consistent with the rights, needs and interests of child victims. In other words, this implies not only having an adequate and coordinated system, but also a professional team trained in coherence with this systemic vision.

**VI. *Achieving best evidence.*** A successful forensic interview requires an overhaul of the justice system, where the rights, needs and interests of children are like a second skin and the child-centred approach, as opposed to the adult-centred and androcentric perspectives, permeates policies, cultures and practices.

- In order to do so, it is essential to apply protocols and practical recommendations based on reviewed and updated scientific evidence and attend victimised children from a coordinated perspective: legal, health and social spheres.
- This is particularly clear in forensic interview protocols where it is imperative to ensure the psychological well-being of the child by obtaining the best evidence possible.
- In any case, the victim's non-participation should be interpreted as a measure to protect his/her rights (and on the quality of the interview as pre-trial evidence) so that it should never restrict his/her rights – and participate if he/she wishes to do so and it is not contrary to his/her well-being–. In case of participation in the oral hearing, it is imperative that all necessary protective measures are in place.

**VII. *Child-friendly environment.*** The physical environment in which the interview takes place is of utmost importance. It comprises the building's access, the waiting, interview and observation rooms and the technological equipment. As well as the design of these spaces, experts from different fields should collaborate to adapt the environment in which victims/witnesses will come to the various interventions.

*An Adequate building access and Appropriate waiting area*, should satisfy the following points:

- The access ensures no visual contact with the offender.
- Presence of non-uniformed professionals.
- Accessibility.
- Private areas available to ensure privacy.
- Set up so that contact between victim and alleged offender can be always avoided.
- Protected area with access designed only for the victim (not a transit point).
- Furnishing and material are child and family-friendly and age-appropriate.

*The Interview and Observation rooms and Technological equipment*, should address the following issues:

- “Physically safe room for children at all ages and developmental stages, including for children with disabilities and/or special needs” (BHQS 4.2).
- Equipped with a high-quality camera (visible and friendly) able to move and focus properly on the victim, and with a high-quality sound system and live broadcast.
- Security measures and restricted access to the recording.
- Gesell camera or video conference connection (preferable to double mirror).
- Interaction system between interviewer and observers.



**VIII. The use of a Standardised Interview Protocol** (e.g., NICHD, NCAC, ABE). Provides clarity in the work of all professionals, allows for a correct evaluation of the practices carried out and, where appropriate, intervention in case of malpractice.

*The Forensic Interview Protocol* -in the strict sense-:

- “Forensic interviews are carried out according to evidence-based practice and protocols, which ensure the quality and quantity of the evidence obtained” (BHQS 6.1).
- Shall tackle the following questions:
  - Preliminary data collection.
  - Assessment of the victim's capacity to testify, in a broad sense, incorporating applied knowledge of psychological trauma.
  - Information about the interviewing process in a language adapted to the child's personal situation.
  - Including information on the reason and purpose for the interview; description of all the rooms, technical equipment, persons present and their role, the right to be accompanied by an adult of choice and the right to consent to the recording, after receiving information regarding its purpose, who has access to it, and its destination.
  - The participation of two interviewing experts.

The use of tools and props is a controverted topic. It can be useful under certain circumstances (e.g., children under 5, reluctant children, to overcome linguistic barriers) but it can also compromise children's reliability (e.g., anatomical dolls may elicit sexualized play)<sup>201</sup>. Proper guidelines, caution in its use and appropriate training are emphasised.

Even if it sounds as a truism, on account of the pervasiveness of the adult-centred approach, observed in the making of this report, it should be remembered that the interviewing protocols must be respectful of children's rights, needs and interests.

Therefore, the following points shall be carefully pondered:

- Mechanisms/guidelines for adapting these protocols to the specificities of the case: age, context of victimisation, cultural background and disabilities.
- Protocols must be fully respectful of the rights of minor victims/witnesses, in particular: to duly inform the victim/witness, to be accompanied and to respect their privacy and dignity.
- The gender perspective is addressed.
- Possibility of interviews being conducted by a person of the same sex as the victim.

**IX. Procedural safeguards.** It is essential to ensure that the guarantees and rights of the accused party and the child victim are equally safeguarded. In consequence, the issues presented below should be addressed:

- Ensure that the quality of the recording allows its use in the judicial process and, follow the criteria set out in the next section regarding the documentation of the interview process
- Ensure the presence of all necessary professionals at the interview - in the observation room.

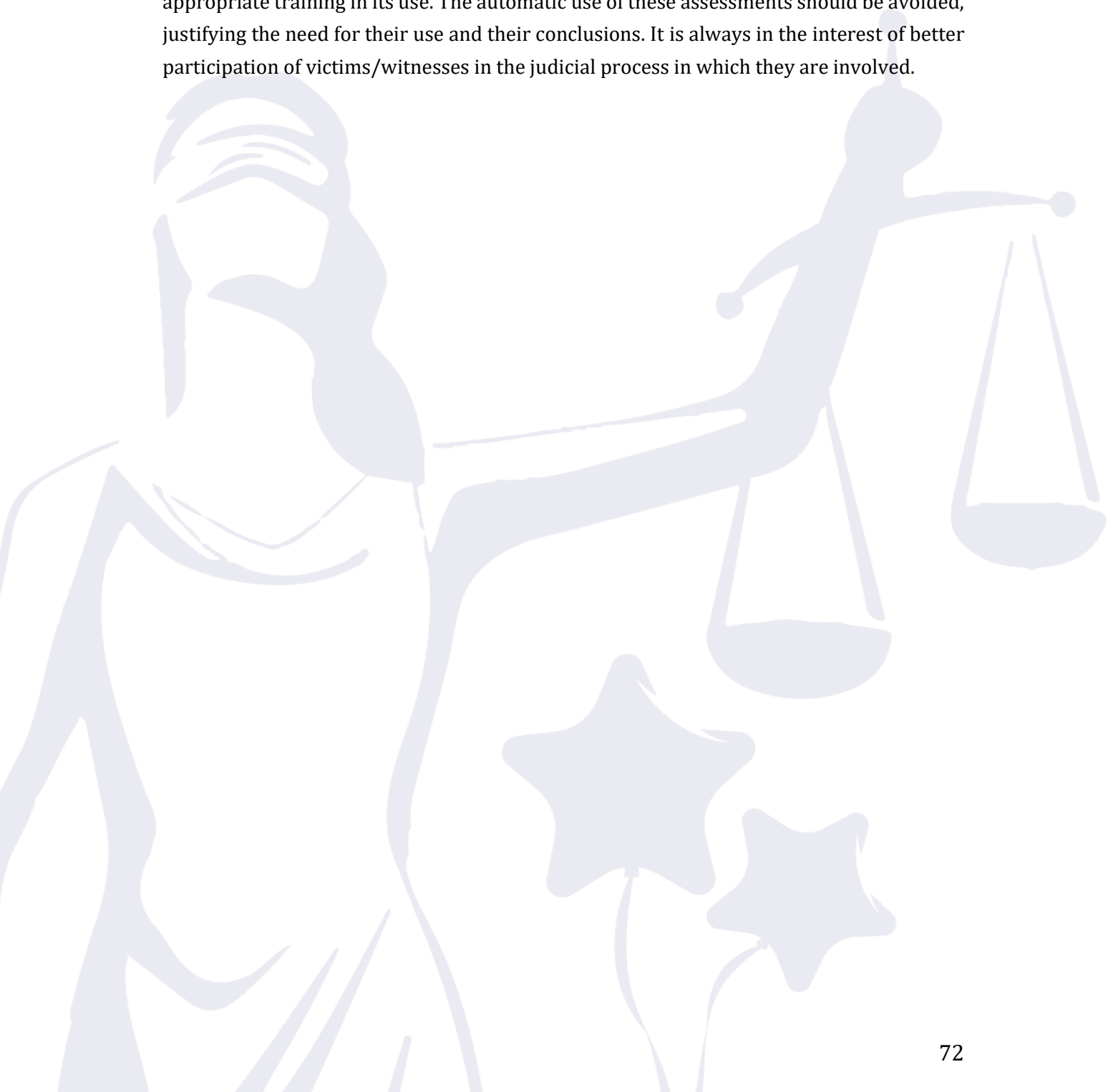
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<sup>201</sup> Michael E. Lamb et al., 'Using Tools and Props to Complement the Protocol', in *Tell Me What Happened: Questioning Children about Abuse*, 2nd ed. (Wiley-Blackwell, 2018).

**X. The Interview's outcome** is a significative element in the whole process. We put the following topics on the spotlight:

- Forensic interview report, transcriptions and recording.
- Established deadlines for the delivery of (expert) reports.
- Justification of the tools and protocols used.
- Necessary measures to protect the privacy, identity and image of child victims and to prevent the public dissemination of any information that could lead to their identification.
- Smooth channels of communication between professionals.

The focus of expert's tools to assess the credibility of the child's testimony should be reviewed and updated to include current knowledge about trauma, as well as to promote appropriate training in its use. The automatic use of these assessments should be avoided, justifying the need for their use and their conclusions. It is always in the interest of better participation of victims/witnesses in the judicial process in which they are involved.



## CHAPTER 4. POLICY RECOMMENDATIONS

### 4.1 OBJECT

In the past few decades, legal provisions on child victim's rights and protection have been set, in the form of international soft law standards or European standards (e.g., Guidelines of the Committee of Ministers of the COE on a Child-Friendly Justice). As well as international standards (e.g., United Nations Convention on the Rights of the Child - UNCRC-) or European standards (e.g., Lanzarote Convention, Directive 2011/93/EU<sup>202</sup> or Victims' Rights Directive).

Although ratified and/or transposed in **BE, EE, EL, ES** and **IT** there are many imbalances between law and practice and a need for sound policy in matters of sexual violence against children. On this chapter, we make a set of policy recommendations addressed to policy makers to ensure:

1. The proper implementation of forensic interview procedures as well as of the Directive 2012/29/EU in the participating countries,
2. A suitable context in which to implement International Best Practices in a solid and effective manner, as opposed to a simple theoretical or formal development.

The impact of these recommendations depends on their implementation; therefore, we stress the need for an implementation plan to put them into effect. First, by creating an implementation group to consider the recommendations and design the next steps in a defined manner and timeframe. Second, by setting an implementation oversight group composed of the departments and agencies involved in those actions and interventions<sup>203</sup>, and finally by providing it with material and human resources.

### 4.2 STRUCTURE

The recommendations are funded in the Victim's Rights Directive, the Lanzarote Convention and its Explanatory report, COE Guidelines for child friendly justice and COE Rec. Child-friendly social services. The structure is as follows:

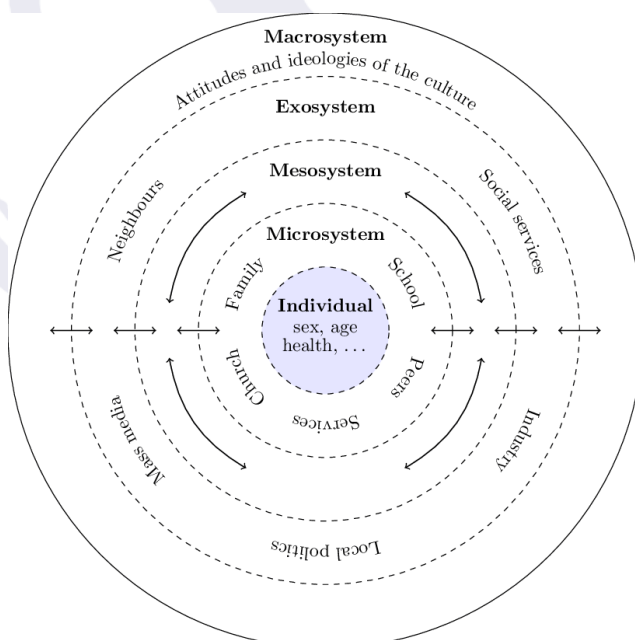
<sup>202</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

<sup>203</sup> Supporting a victim's journey. A plan to help victims and vulnerable witnesses in sexual violence cases (2020); p.12-14. [https://www.justice.ie/en/JELR/Supporting\\_a\\_Victims\\_Journey.pdf/Files/Supporting\\_a\\_Victims\\_Journey.pdf](https://www.justice.ie/en/JELR/Supporting_a_Victims_Journey.pdf/Files/Supporting_a_Victims_Journey.pdf)

1. The categories from the 'one-size-fits-all' model presented in ENCLAVE's Benchmark Protocol and on this Report.

INTEGRATED CHILD PROTECTION SYSTEM		Directive 2012/29/EU articles
<i>INTEGRATED SYSTEM</i>		Art. 6, 7, 9.3.b, 18, 19, 23.3.a, 20 (a, b, d), 21, 23.
<i>MECHANISMS TO GUARANTEE CHILDREN REAL ACCESS TO JUSTICE</i> Child Victim's complaint and free legal aid Specialised Figures		Arts. 3, 5, 6, 7, 10, 11, 12, 13, 18, 20.c, 23.2.b and c, 24.1.b, 25)
<i>CHILD-FRIENDLY ENVIRONMENT: REPORTING AND INTERVIEW POINTS</i> Adequate building access and Appropriate waiting area Interview and Observation rooms and Technological equipment		Arts. 3, 18, 19, 20, 21, 23.2.a, 24.1.a.
FORENSIC INTERVIEW OR VIDEO RECORDED INTERVIEW		Directive 2012/29/EU articles
<i>CRITERIA FOR THE USE OF THE FORENSIC INTERVIEW AS PRE-CONSTITUTED EVIDENCE</i>		Arts. 9.3.b, 20, 24.1.a.
<i>TRAINING</i> Interviewers' professional training: requirements Basic training of related professionals		Arts. 3, 6, 7, 9.3.b, 10, 11, 12, 13, 18, 25
<i>METHODOLOGY: STANDARDISED PROTOCOL</i> Interview Protocol Interview's outcome		Arts. 3, 6, 7, 9.3.b, 10, 18, 19, 20, 21, 23, 24.1.a, 25

2. Bronfenbrenner's ecological systems model<sup>204</sup>.



**Figure 1.** Illustration of Bronfenbrenner's ecological framework for human development (Roseaux, Emmanuel)

According to Bronfenbrenner<sup>205</sup>, a child's environment is divided in five systems: the *microsystem* (e.g., parents, siblings, teachers, school peers), the *mesosystem* (interactions between different microsystems, for instance, child's parents and teachers), the *exosystem* (e.g., neighbourhood, parent's workplaces, parent's friends and the mass media), the *macrosystem* (e.g., society and culture, the socioeconomic status, ethnicity or geographic location) and the *chronosystem* (e.g., major life transitions or historical events, such as parental divorce, starting-finishing school, migration to a new country or war); which contains and

<sup>204</sup> Emmanuel Rousseaux, 'Modelisation and Information System Tools to Support the Discovery of Interactive Factors of Vulnerabilities in Life Courses', 2018, 10.13097/archive-ouverte/unige:120604.

<sup>205</sup> María Rosa Edinete and Jonathan Tudge, 'Urie Bronfenbrenner's Theory of Human Development: Its Evolution From Ecology to Bioecology', Journal of Family Theory & Review, no. 5 (2013): 243–58, <https://doi.org/10.1111/jftr.12022>.

**permeates the other four systems. This concentric system is child-centred and child sensitive. The five systems are interrelated, meaning that the relationship between each system has an impact on the child, i.e., a ripple effect in the Individual.**

Furthermore, we would like to emphasise the importance of the chronosystem, as it addresses the effect of time on child development and the different perception of time between children and adults. Consequently, to never lose sight of the importance of a system that prioritises serious and urgent cases, as irreversible consequences could arise if no immediate action is taken<sup>206</sup>.

### 4.3 EU LEVEL POLICY RECOMMENDATIONS

The EU level policy recommendations presented here are common trends observed in this comparative report. Considering the impact of sexual victimisation of children across the lifespan and in society, we deemed relevant to include policy recommendations on prevention.

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<sup>206</sup> For instance, the Urgency principle in the Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly justice. Council of Europe Publishing, 2011.



## (A) PREVENTION RECOMMENDATIONS

<b>Added value</b>	<ul style="list-style-type: none"> <li>– Increases knowledge and awareness of this type of victimisation.</li> <li>– Increases the likelihood of early detection and referral to appropriate services.</li> <li>– Increases the quality of the response given.</li> <li>– Increases the probability that the victim/witness will recognise him/herself as a victim/witness and seek external assistance to end the situation that violates his/her rights.</li> <li>– Helps mobilise bystanders.</li> <li>– Promotes progressive autonomy of the child.</li> <li>– Promotes respect for children's rights (e.g., privacy).</li> </ul>
<p>► <b>Education for children and for parents and adults exercising parental authority</b></p> <ol style="list-style-type: none"> <li>1. Ensure, via legislative or other measures, that <i>“children receive information, in primary and secondary education, on how to identify dangerous situations, refuse an abuser’s approach, break off an interaction, and summon help<sup>207</sup> and the risks of sexual abuse. As well as on the importance and meaning of consent in sexual relationships, on formal or non-formal education contexts, on the context of sex education<sup>208</sup>, adapted to their age, maturity and visual, auditive or intellectual impairments.</i></li> <li>2. Incorporate mandatorily human rights, including children’s rights, in school curricula.</li> <li>3. Care should be taken not to negativize children and not to undermine their trust on adults.</li> <li>4. This must not relieve adults and State authorities of their duty to protect children against sexual violence.</li> <li>5. It should involve parents and adults exercising parental authority. Therefore, it should be fostered their awareness on children’s rights and on the importance and meaning of consent in sexual relationships.</li> </ol>	<p><b>Microsystem and Mesosystem</b></p> <p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victims’ Rights Directive:</b> Art. 26.2.</li> <li>• <b>Lanzarote Convention:</b> Art. 6, Explanatory report 59, 60, 61 and 62.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> V. Promoting other child-friendly actions, h-i.</li> </ul>
<p>► <b>Community education: awareness-raising activities</b></p> <ol style="list-style-type: none"> <li>6. Promote and conduct awareness raising campaigns addressed to the broader society on the phenomenon of sexual abuse and sexual violence against children (e.g., <i>“effects, consequences, possible signals that could be given by children) and on the preventive measures that can be taken”</i>, to foster a zero-tolerance attitude towards child sexual abuse.</li> </ol>	<p><b>Exosystem and Macrosystem</b></p> <p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victims’ Rights Directive:</b> Art. 26.2.</li> <li>• <b>Lanzarote Convention:</b> Art. 8, explanatory report 52.</li> </ul>

<sup>207</sup> David Finkelhor, ‘The Prevention of Childhood Sexual Abuse’, The Future of Children, 19, no. 2 (2009): 169–94, <https://doi.org/10.1353/foc.0.0035>.

<sup>208</sup> “[...] religious or philosophical convictions of the parents on the matter should be respected to the extent that these do not come into conflict first and foremost with the child’s best interest but also with the public interest which is served through the provision of education to children to protect them from all forms of sexual violence”. In «2nd implementation report. Protection of children against sexual abuse in the circle of trust: The strategies», p. 25. Council of Europe, 2018. <https://rm.coe.int/2nd-implementation-report-protection-of-children-against-sexual-abuse-/16808d9c85>

7. To promote disclosure, reduce self-blame, and mobilise bystanders <sup>209</sup> .	
► <b>Participation of the media</b>	<b>Exosystem and Macrosystem</b>
8. The media should “provide appropriate information concerning all aspects of child sexual abuse –with due respect for the independence of the media and freedom– and help raise awareness about” child sexual abuse, the phenomenon of sexual violence against children “and the scale of the problem”.	► <b>Reflected in:</b> <ul style="list-style-type: none"> <li>• <b>Victims’ Rights Directive:</b> Arts. 21.1-2.</li> <li>• <b>Lanzarote Convention:</b> Art. 9.3, Explanatory report 74; article 31. E</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 2. Protection of private and family life, 6-7.</li> </ul>
9. Media organisations should refrain from disseminating any information that could lead to the identification of a child victim of sexual abuse and be compelled to follow practice standards that minimise secondary victimization. Breaches in the child victim’s privacy shall be met with lawful responses.	
► <b>Preventive intervention programmes or measures</b>	<b>Exosystem and Macrosystem</b>
10. Ensure that <i>people afraid of committing offences of sexual nature against children and persons who have committed such offences but have not been brought to the attention of the authorities</i> (e.g., not being investigated or prosecuted or serving a sentence), have the possibility to access <i>effective intervention programmes or measures designed to evaluate and prevent the risk</i> of these offences being committed. And <i>pay special attention to children who fear they may offend</i> <sup>210</sup> .	► <b>Reflected in:</b> <ul style="list-style-type: none"> <li>• <b>Lanzarote Convention:</b> Art. 7, Explanatory report 64.</li> </ul>
► <b>Prevention of repeated offences</b>	<b>Exosystem and Macrosystem</b>
11. Prevent and minimise the risk of repeated offences by developing and fostering effective intervention programmes for sexual offenders, for underage children and for adults. Accessible at any time of the proceeding, not obligatory and as part of healthcare or welfare systems.	► <b>Reflected in:</b> <ul style="list-style-type: none"> <li>• <b>Lanzarote Convention:</b> Arts. 15.1-2, 16, 17, Explanatory report 101 and 104.</li> </ul>

## (B) INTEGRATED CHILD PROTECTION SYSTEM RECOMMENDATIONS

<b>Added value</b>	<ul style="list-style-type: none"> <li>– Increases the harmonious coordination of services.</li> <li>– Increases the quality of the response provided.</li> <li>– Increases better attention to children's rights, needs and interests.</li> <li>– Increases the probability that the victim/witness will recognise him/herself as a victim/witness and seek external assistance to end the situation that violates his/her rights.</li> </ul>
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<sup>209</sup> Finkelhor, ‘The Prevention of Childhood Sexual Abuse’.

<sup>210</sup> «2nd implementation report. Protection of children against sexual abuse in the circle of trust: The strategies», p. 43. Council of Europe, 2018. <https://rm.coe.int/2nd-implementation-report-protection-of-children-against-sexual-abuse-/16808d9c85>

- Promotes progressive autonomy of the child.
- Reduces/prevents secondary victimisation.
- Improves responses adapted to the specific circumstances of victims/witnesses.
- Improves the adaptation of procedural times to the times of the victims/witnesses.
- Ensures the implementation of best practices and protocols outlined and the consistency of response and services at national level.

► Data collection	Macrosystem
<p>12. Development of a national registry or data bank on sexual violence against children, with due respect for the requirements of personal data protection, including type of crime, number of cases that are investigated and persons prosecuted and sentenced, relationship between victim and aggressor, resources used by the victim (e.g., support services) and data on the victim (e.g., age, gender and disability).</p> <p>13. With the aim at highlighting and improving multi-agency responses, creating public awareness on Child sexual abuse, for academia research purposes, effective policymaking and evidence-based legislation and procedures.</p> <p>14. Consider it as part of an integrated child protection system.</p>	<p>► Reflected in:</p> <ul style="list-style-type: none"> <li>• <b>Victims' Rights Directive:</b> Recital 62.</li> <li>• <b>Lanzarote Convention:</b> Art. 10.2. b, Explanatory report 83-84.</li> </ul>
► State funding: consistency in service delivery	Macrosystem
<p>15. Government funding and specific budget allocation to guarantee consistency and quality in service delivery throughout the country (e.g., between rural and urban areas; north and south regions).</p> <p>16. Consider establishing specialised units to centralise responsibilities on child protection in matters of sexual violence and to lead policy settings on the management and handling of sexual offences against children throughout the country, paying special attention to the treatment of child victims and witnesses<sup>211</sup>.</p> <p>17. Consider establishing a child budgeting system, allowing for better visibility of the budgets addressing children and for better protecting children from the impact of economic crisis in the context of budget restrictions<sup>212</sup>.</p>	<p>► Reflected in:</p> <ul style="list-style-type: none"> <li>• <b>CoE Rec. Child-friendly social services<sup>213</sup>.</b></li> </ul>
► Specialised environment	Macrosystem

<sup>211</sup> O'Malley, Tom; Fernee, Ursula; Hudson, Susan; Lynch, Michael and Ward, Tom. Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (2020); pp.41-41. [https://www.justice.ie/en/JELR/Review\\_of\\_Protections\\_for\\_Vulnerable\\_Witnesses\\_in%20the\\_Investigation\\_and\\_Prosecution\\_of\\_Sexual\\_Offences.pdf/Files/Review\\_of\\_Protections\\_for\\_Vulnerable\\_Witnesses\\_in%20the\\_Investigation\\_and\\_Prosecution\\_of\\_Sexual\\_Offences.pdf](https://www.justice.ie/en/JELR/Review_of_Protections_for_Vulnerable_Witnesses_in%20the_Investigation_and_Prosecution_of_Sexual_Offences.pdf/Files/Review_of_Protections_for_Vulnerable_Witnesses_in%20the_Investigation_and_Prosecution_of_Sexual_Offences.pdf)

<sup>212</sup> Fernandes Guerreiro, Ana Isabel and Sedletzki, Vanessa. Financing in the context of austerity. Belgium budgeting for children, p 14-15 In Report of the implementation of the Council of Europe Recommendation on children's rights and social services friendly to children and families (2016). <https://www.coe.int/en/web/children/child-friendly-social-services>

<sup>213</sup> Only found addressed to social services but not to the justice system. Here it is focused on policy recommendations to policy makers.

<p>18. As a holistic recommendation to reduce the risk of secondary victimisation during criminal proceedings, consider <i>implementing child-friendly, multiagency and interdisciplinary centres where children could be interviewed, medically examined for forensic purposes, get their protections needs assessed and receive therapeutic services</i> from appropriated trained professionals (e.g., specialised courts, Child Advocacy Centres, Children's House).</p> <p>➤ <b>Protected building access for child-victims and witnesses</b></p> <p>19. Establish protected access to the facilities for children and adolescents, including children with reduced mobility.</p> <p>➤ <b>Child-friendly waiting area</b></p> <p>20. Establish a separate waiting area, or reception room, for the exclusive use of children without being a passageway for other professionals.</p> <p>➤ <b>Child-friendly interview room</b></p> <p>21. Ensure soundproof, private and accessible interview rooms, decorated for children of different developmental stages in a friendly way that prevents distractions, with the necessary technological equipment to guarantee the proper examination of the child.</p> <p>➤ <b>Science-based design</b></p> <p>22. Incorporate a science-based vision in the design of child-friendly (including disability-friendly) spaces and in the implementation of the technical measures (e.g., number of cameras, visible or hidden).</p>	<p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Arts. 18; 19; 22. 1; 23.2 b; 23.3.a.</li> <li>• <b>Lanzarote Convention:</b> Art. 35.1 b.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 5. Organisation of the proceedings, child-friendly environment and child-friendly language, 54, 55, 62; 6. Evidence/statements by children, 74; V. Promoting other child-friendly actions, j.</li> </ul>
<p>➤ <b>Avoid contact between victim and offender</b></p> <p>23. Establish and enable the necessary conditions that guarantees avoiding confrontation with the accused person, <i>at all stages of investigations and criminal proceedings, within court and law enforcement agency premises</i>, unless the minor states something different or the competent authorities establish otherwise.</p>	<p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Recital 58; Art. 19.1-2</li> <li>• <b>Lanzarote Convention:</b> Art. 31.1.g</li> </ul>
<p>► <b>Access to justice: rights and interest's safeguards</b></p>	<p><b>Macrosystem</b></p>
<p>➤ <b>Child Victim's complaint</b></p> <p>24. To give children remedies to fight violations of their rights, facilitate children's access to effective and independent complaint mechanisms suitable to different age groups and levels of understanding.</p> <p>➤ <b>Legal counsel and representation</b></p> <p>25. Establish a system of duty lawyers specialised in childhood victimisation that allows access and assistance of a specialist child legal aid lawyer independent of the holder of parental responsibility (e.g., free of charge).</p> <p>➤ <b>Specialised figure</b></p>	<p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Art. 13; 25.3, 25.5.</li> <li>• <b>Lanzarote Convention:</b> Arts. 31.1-6</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> III. Fundamental principles. E. Rule of law.3; D. Child friendly justice during judicial proceedings, 90, 97; 2. Legal counsel and representation, 39, 101 and 103.</li> </ul>

<p>26. Recognition and regulation of a single contact professional for the protection of children's rights and interests throughout the investigative and judicial process<sup>214</sup>.</p> <p>27. Ensure the appointment of accredited and well trained professionals that acts as single contact person, as well as his/her availability at all stages of the proceeding. Whose competences comprise: providing emotional support throughout the proceeding; preparing the child for different stages of the proceeding; providing information in a child-friendly manner and checking the child's understanding of his/her rights and procedures; guaranteeing the availability of special measures (e.g., foreign unaccompanied children, children with disabilities, sexual violence victims)<sup>215</sup>.</p>	
<p>➤ <b>Provision of information</b></p> <p>28. Ensure that the child and the non-offending family are provided with <i>regular information throughout the whole investigative and judicial process</i>, via a trained professional, that monitors the multidisciplinary response and follows up during and after the judicial process<sup>216</sup>.</p> <p>29. <u>Information</u> should be directly provided to both the child and parents or legal representatives, which involves checking children's understanding of their rights and procedures.</p> <p>30. Consider making mandatorily available <u>support material</u> on children's rights as well as information on the judicial process and available services, <i>in a manner which can be understood by the child victim</i> (e.g., <i>simple and accessible, gender and culture sensitive language, considering age, maturity, intellectual and emotional capacity, literacy and any mental or physical impairment</i> and need for translation) available in different formats as well as in court facilities, police stations and other relevant entities.</p> <p>31. Ensure the availability of <u>interpretation and translation</u> for victims who do not speak the language of the criminal proceedings, so they can be able to exercise their rights.</p>	<p>▶ <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Recital 21, 26, 30, 31, 34, 36. Arts. 1.1; 3; 4; 5.2-3; 6; 7.1-8.</li> <li>• <b>Lanzarote Convention:</b> Arts. 31.a-b; 31.2; 31.6.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 1. Information and advice, 1-4.</li> </ul>
<p>➤ <b>Assessment of protection measures</b></p> <p>32. Ensure the right of the child victim <u>to be accompanied</u> by a person of their choice during the investigative and judicial process.</p> <p>33. Guarantee an individual assessment to identify <u>specific protection measures</u>, considering the personal characteristics of the victim, nature and circumstances of the crime.</p>	<p>▶ <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Recital 58, Arts. 3.3; 19; 20.c; 22; 23; 24.</li> <li>• <b>Lanzarote Convention:</b> 31.1.</li> </ul>

<sup>214</sup> Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence*, 66.

<sup>215</sup> European Union Fundamental Rights Agency (FRA). Single support contact person to support children during proceedings. In *Child-friendly justice. Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties* in nine EU member states, p.15. Luxembourg: Publications Office (2017). [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2017-child-friendly-justice-children-s-perspective\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-child-friendly-justice-children-s-perspective_en.pdf)

<sup>216</sup> Haldorsson, *Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence*, 66.



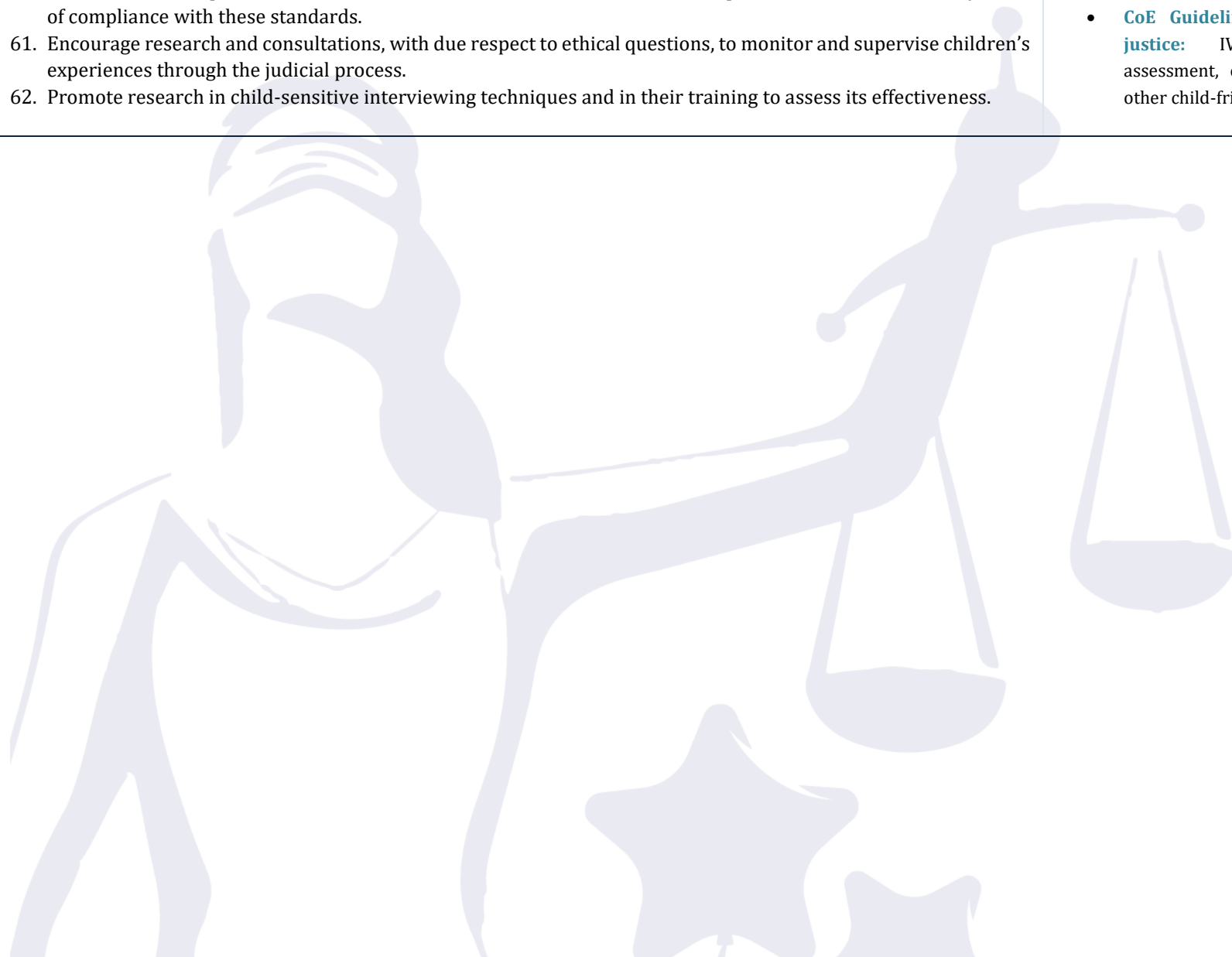
34. Ensure the <u>implementation of protective measures</u> , taking into account the child's views, wishes and concerns, to avoid contact with the defendant, during the investigative and judicial process, such as: live video links, screens to shield children from offenders, excluding offenders from courtrooms during childhearings. Without prejudice of the rightsof the defence.	
► <b>Support services</b>	<b>Micro and Macrosystem</b>
35. Ensure access to victim support services and to <u>specialist support services</u> provided by professionals with specialised training and expertise.	► <b>Reflected in:</b> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Art. 9.3.b.</li> </ul>
36. Ensure access to therapeutic assistance and/or emergency psychological care to child victims/witnesses and non-offending family members or care-givers.	
37. Set up pre-court familiarisation visits as pre-trial preparation measure.	
► <b>Training</b>	<b>Meso, Exo and Macrosystem</b>
➤ <b>As a preventive recommendation</b> 38. Theoretical and practical training and awareness raising of persons working in contact with children <i><b>in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities, on the rights of children and their protection, sexual abuse of children</b></i> and on recognizing cases of sexual abuse. 39. <b>Ensure that these persons have not been convicted of acts of sexual exploitation or sexual abuse of children.</b>	► <b>Reflected in:</b> <ul style="list-style-type: none"> <li>• <b>Victims' Rights Directive:</b> Recital 61, 63, Article 23.2.b, and 25.</li> <li>• <b>Lanzarote Convention:</b> Article 5. 1-3, Explanatory report 56; <b>5.2, 35.1 (c), 36.1.</b></li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 4. Training of professionals, 14 – 15 and 67; 6. Evidence/statements by children, 64.</li> </ul>
➤ <b>Professional interviewers</b> 40. Establish clear regulation that states that the interviews with child victims, during investigations and trial proceedings, must be carried out by professionals (police or judicial authority) who are specifically trained for this purpose, use evidence-based practices and protocols to achieve the best evidence possible and child-friendly language and receive continuous training and performance supervision in conducting interviews with children.	
➤ <b>Judges, prosecutors and lawyers</b> 41. Ensure that, in particular, judges, prosecutors and lawyers but also other professionals involved in the proceeding (e.g., law enforcement, forensic psychologists, social workers) are trained on sexual abuse against children, children's rights and needs and on communicating with children from all stages of development, including with children with disabilities.	
► <b>Multi-agency cooperation</b>	<b>Macrosystem</b>
➤ <b>Universities and higher education institutions</b>	► <b>Reflected in:</b>

<p>42. Foster interdisciplinary training on child sexual abuse in universities and other institutions of higher education by developing new programmes or through other actions, e.g., team-taught classes, visiting facilities, class visits by outside professionals.</p> <p>➤ <b>Professionals</b></p> <p>43. Ensure that professionals that work with and for children receive interdisciplinary training on the rights and needs of children of different levels of maturity, children with disabilities and from different cultural backgrounds and on proceedings adapted to them.</p> <p>➤ <b>Institutions</b></p> <p>44. Foster cooperation between different institutions and professionals aimed at obtaining <i>a comprehensive understanding of the child, and an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation</i>, realise consultation in individual cases and exchange best practices.</p> <p>45. Clarification of the role of each professional and services provided by each institution to enhance synergies between the professionals involved.</p> <p>46. Encourage the creation of focal points at which the various agencies could regularly interact<sup>217</sup>.</p> <p>47. Consider developing ‘one-stop-shops’ that <i>address victims’ multiple needs when involved in criminal proceedings</i> (e.g., information, assistance, support, protection). <b>(R18)</b></p>	<ul style="list-style-type: none"> <li>• <b>Victims’ Rights Directive:</b> Recital 62, Art. 26.1</li> <li>• <b>Lanzarote Convention:</b> Art. 10.1</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 4. Training of professionals, 14 and 15.</li> </ul>
► Forensic interview	Macrosystem and Cronosystem
<p>➤ <b>Regulation and criteria for its use</b></p> <p>48. Encourage the realisation of audiovisual recordings of the forensic interview with the child victim to be used as pre-trial evidence in criminal proceedings as an standard practice to minimise the risk of secondary victimisation, by reducing the number of interrogations to the minimum necessary, preserve the testimony of the child from deterioration and avoid contact between victim and offender.</p> <p>49. Establish clear regulation and criteria for the use of the video recorded forensic interview as pre-trial evidence, with a child victim or where appropriate a child witness; including the specific interviewers’ professional profile, competences and training programme; conditions of the specialised environment; specialised training of the different actors and professionals groups involved and the multiagency coordination.</p> <p>50. Age discrimination measures should be avoided (e.g., forensic interview only for minors under 14 years).</p>	<p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victims’ Rights Directive:</b> Recital 9, Art. 22.3; 24.1.a;</li> <li>• <b>Lanzarote Convention:</b> Art. 2; 35.2.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 6. Evidence/statements by children, 128.</li> </ul>

<sup>217</sup> O’Malley, Tom; Fernee, Ursula; Hudson, Susan; Lynch, Michael and Ward, Tom. Interagency awareness and cooperation, Recommendation 2.42; p. 30. In “Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (2020)”. [https://www.justice.ie/en/IELR/Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences.pdf/Files/Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences.pdf](https://www.justice.ie/en/IELR/Review%20of%20the%20Investigation%20and%20Prosecution%20of%20Sexual%20Offences.pdf/Files/Review%20of%20Protections%20for%20Vulnerable%20Witnesses%20in%20the%20Investigation%20and%20Prosecution%20of%20Sexual%20Offences.pdf)

<p>51. Establish its use as a protective measure, never as a restriction of rights, in case the victim wishes to testify again in court and if it is not contrary to his or her best interests.</p> <p>52. Define or review the roles and competences through the legal framework of the professionals and other figures who actively participate in the judicial process.</p>	
<p>➤ <b>Specific measures</b></p> <p>53. Consider that in some cases, e.g., sexual exploitation, the audiovisual recording may be traumatic and victimise the victim, which calls for a child victim's needs and interests assessment as well as for the use of a different method, such as an audiorecording of their testimony or a written statement.</p> <p>54. Preferably, interviewers are of the same sex as the victim, or a previous assessment is done, considering the personal characteristics of the victim, nature and circumstances of the crime, and therefore of the impact of the gender of the interviewer on the child.</p> <p>55. To ensure coherence in approach, if possible and appropriate, all interviews shall be conducted by the same person (specialised professional) in the best interest of the child (which in some cases can entail changing the professional).</p> <p>56. Limit the number of interviews to the strictly necessary for the investigation and judicial proceedings and conduct them respecting the child's natural rhythm and circumstances.</p> <p>57. Foster and enhance preventive measures to avoid unjustified delay between the police complaint and the interview to reduce the victims' and non-offending family members' (or care givers') stress and prevent testimony deterioration.</p>	<p>▶ <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victims' Rights Directive:</b> Art. 20.a-b; 23.2.c-d.</li> <li>• <b>Lanzarote Convention:</b> Art.30.3; 35.1.d-e.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 6. Evidence/statements by children, 66, 67, 128.</li> </ul>
<p>➤ <b>Environment</b></p> <p>58. Ensure that interviews, including in rural areas, take place in premises designed or adapted for this purpose, in a space in which child victims and witnesses feel comfortable and safe, meaning child-friendly (including disability-friendly) facilities and the closest to the victim's home. (<b>R18-R22</b>)</p> <p>59. Habilitate appropriate communication technologies to allow children to give evidence without being present in the courtroom (e.g., videoconference, telehearing facilities, video or TV link).</p>	<p>▶ <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Recital 58, Arts. 18; 19; 22. 1; 23.2 b; 23.3.a-b.</li> <li>• <b>Lanzarote Convention:</b> Art. 35.1 b; 36.2.b.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> 5. Organisation of the proceedings, child-friendly environment and child-friendly language, 54, 55, 62; 6. Evidence/statements by children, 74; V. Promoting other child-friendly actions, j.</li> </ul>

► Monitoring mechanisms	Macrosystem
<p>60. Establish minimum standards relating to the specialised environment to be met within court, law enforcement and other entities premises where forensic interviews are conducted, and supervision and assessment systems of compliance with these standards.</p> <p>61. Encourage research and consultations, with due respect to ethical questions, to monitor and supervise children's experiences through the judicial process.</p> <p>62. Promote research in child-sensitive interviewing techniques and in their training to assess its effectiveness.</p>	<p>► <b>Reflected in:</b></p> <ul style="list-style-type: none"> <li>• <b>Victim's Rights Directive:</b> Recital 62.</li> <li>• <b>CoE Guidelines on child-friendly justice:</b> IV. Monitoring and assessment, c and e; V. Promoting other child-friendly actions, a.</li> </ul>



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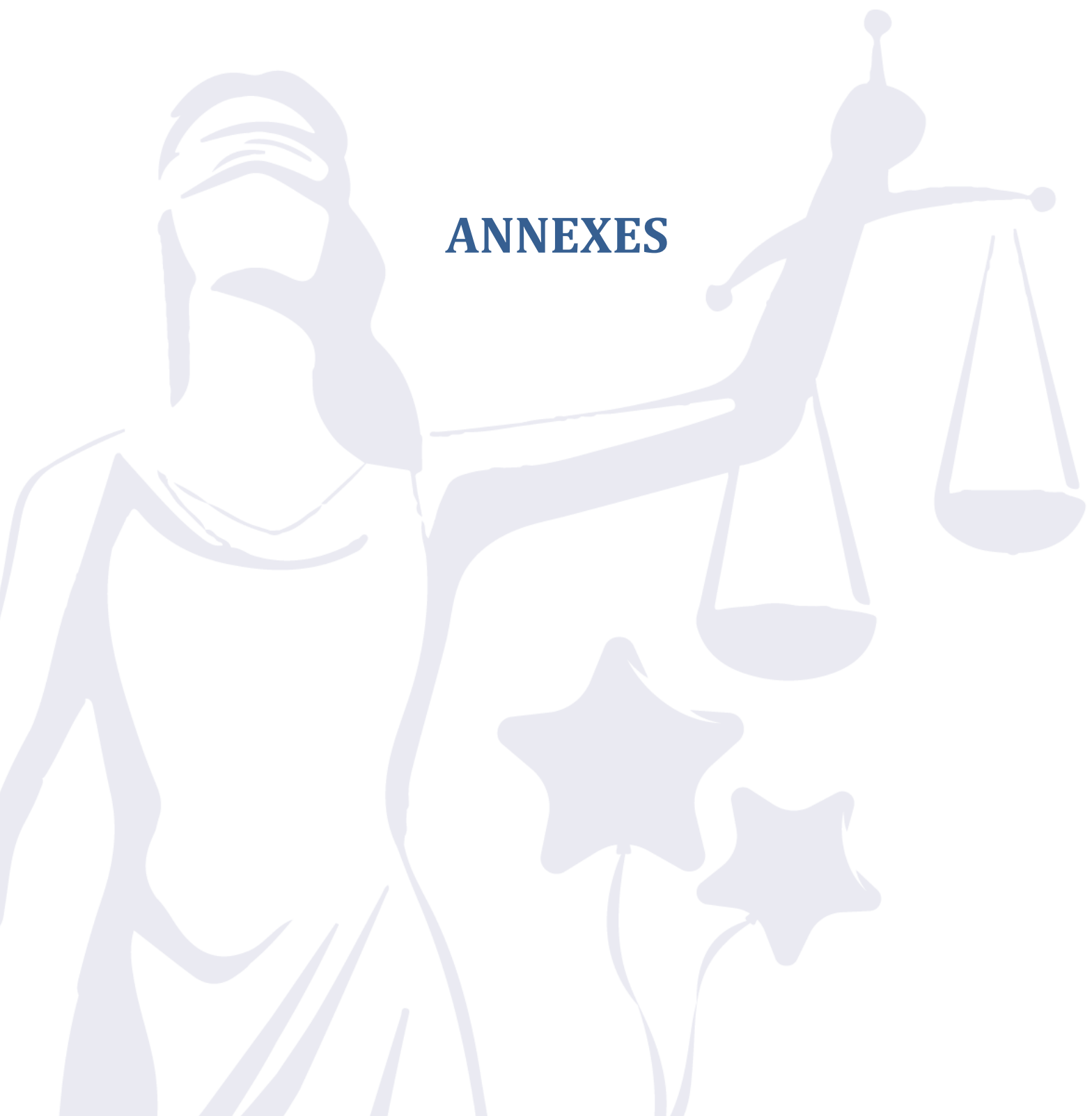
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# ANNEXES



## ANNEX 1. CONNECTING INTERESTS, RIGHTS AND SPECIFICS MEASURES IN FORENSIC INTERVIEW

RIGHTS (Convention on the Rights of the Child)	INTERESTS (Directive 29/2012/UE)	MEASURES
<b>Right to participation and to the promotion of progressive autonomy</b> (art. 12)	<ul style="list-style-type: none"> <li>• <b>Adequate and respectful information on children's rights</b> (art. 6 &amp; 7): <ul style="list-style-type: none"> <li>- To understand and to be understood (art.3)</li> </ul> </li> <li>• <b>Participation</b> (art. 10): <ul style="list-style-type: none"> <li>- To be heard and decision-making (art. 10)</li> <li>- To ask, to demand, to agree, to get answers (art. 11, when no prosecution, art. 12 restorative justice, art. 13 legal aid- Participation in Daly model)</li> <li>- Free legal aid and Legal advice (art. 13 &amp; 24.1.c)</li> <li>- Special representative for child victims (conflict of interests) (art. 24.1)</li> <li>- Specialist training (police officers, court staff, judges and prosecutors, lawyers (art. 25)</li> </ul> </li> <li>• <b>Support:</b> <ul style="list-style-type: none"> <li>- Victim support services (art. 8)</li> <li>- Special representative for the child victim in cases of conflict of interest (art. 24.1)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ Assessment of the victim/witness capabilities so as to take appropriate measures (pre-interview meeting) .</li> <li>✓ Adapt the information according to the maturity, cognitive development and emotional state of the victim/witness .</li> <li>✓ Consultation of the victim/witness for participation .</li> <li>✓ Right to file a complaint on their own.</li> <li>✓ Right to specialized and free legal assistance .</li> <li>✓ Specialized training of all professionals involved in child victimization cases.</li> <li>✓ Accessibility (including for children with disabilities and/or special needs).</li> <li>✓ Support/information to the victim/witness and family on protective measures and support services.</li> <li>✓ Requirement of a figure that specifically defends their interests (different from the lawyer)</li> </ul>
<b>Right to protection against abuse and neglect</b> (art. 19)	<ul style="list-style-type: none"> <li>• <b>Security and protection</b> (art. 18)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Requirement of unified action protocols.</li> <li>✓ Coordination of professionals (judicial, health and social sectors).</li> <li>✓ Malpractice control requirements.</li> </ul>
<b>Right to rehabilitation and reintegration, from the perspective of the right to physical and psychological health</b> (art. 39)	<ul style="list-style-type: none"> <li>• <b>Minimization of stress-mental health:</b> <ul style="list-style-type: none"> <li>- Avoid contact between victim and offender (art. 19)</li> <li>- Avoid visual contact with accused (art. 23.3.a)</li> <li>- Testimony without being present (art. 23.3.b)</li> <li>- Number of interviews and medical examinations of victims is kept to a minimum (art. 20.b &amp; d)</li> <li>- Interview conducted without unjustified delay after the complaint (art. 20.a)</li> <li>- Recorded interview (art. 24.1.a)</li> <li>- To be accompanied (arts. 3.3 &amp; 20.c)</li> <li>- Minimum contact with different professionals (art. 23.2.c)</li> </ul> </li> <li>• <b>Support from victim support services</b> : Support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including support and counselling (art. 9.3.b)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Immediate protection measures mechanisms.</li> <li>✓ Coordination of professionals (judicial, health and social sectors).</li> <li>✓ Measures to avoid visual contact with accused (in halls, rooms, entrances, etc.).</li> <li>✓ Preconstituted evidence in the investigation phase and protection mechanisms at trial.</li> <li>✓ The right to be accompanied by a trusted person of their choice (to be substituted in case they do not have it).</li> <li>✓ Time reduction (assessment and interview deadlines) .</li> <li>✓ Fixed reference person</li> </ul>
<b>Right to dignity and privacy</b> (art.16)	<ul style="list-style-type: none"> <li>• <b>Privacy</b> (art.21): <ul style="list-style-type: none"> <li>- Shame and informative self-determination</li> <li>- Throughout the process (environment)</li> <li>- Anonymity (art.23): in relation to the protection of personal data</li> <li>- (During court proceeding) a hearing to take place without the presence of the public (art. 23.3.d)</li> </ul> </li> <li>• <b>Dignity</b> (art.18): <ul style="list-style-type: none"> <li>- Avoid unnecessary questioning concerning the victim's private life not related to the criminal offence (art. 23.3.c)</li> <li>- Interviews with the victim carried out in premises designed or adapted for that purpose (art. 23.2.a)</li> <li>- Carried out by professionals trained for that purpose (art. 23.2.b)</li> <li>- Carried out by the same person (art. 23.2.c)</li> <li>- Same sex interviewer (art.23.2.d)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>✓ Measures to protect the victim's privacy in relation to the environment (rooms, adequate access).</li> <li>✓ Specific measures for the protection of personal data (reports and recordings).</li> <li>✓ Information for the victim/witness about the assistance/presence of different professionals and the recording of the interview, in an appropriate way to her/his maturity, cognitive development, emotional state and situation.</li> <li>✓ Informing the victim/witness of the recording of his or her interview.</li> <li>✓ Review of the data included in the forensic report (protection of the victim's personal life).</li> <li>✓ Adequacy of the environment in a broad sense: room, halls, furniture, clothing, etc.</li> <li>✓ Specialized and continuous training: childhood, victimization, sexual violence, domestic violence, gender .</li> <li>✓ Professionals' coordination (judicial, health and social sectors)</li> <li>✓ Unification in a single expert request of all the necessary reports.</li> <li>✓ Same sex interviewer.</li> </ul>

## ANNEX 2. CHILD VICTIM'S JOURNEY (THE JUDICIAL PATH)

**BELGIUM**







## INITIATION OF CRIMINAL PROCEEDINGS

Criminal proceedings are initiated by the police or the prosecutor's office on the basis of a verbal or written report of a crime or other information indicating a crime.

### Duty to inform:

All persons who have knowledge of a child in need of assistance are required to notify of the child in need of assistance.

Sexual Assault Crisis Centres (4 in Estonia)



## POLICE COMPLAINT

A report is filed by a child victim/witness or an adult or other person who has witnessed or suspects abuse.

- REFERRALS:
- Children's House
- Sexual Assault Crisis Centre
- Child protection specialist in the local government
- Victim support service



## ASSESSMENT

If sexual abuse of a child is suspected, Children's House should be contacted, or crime report filed.

- When contacting the Children's House, the specialist there conducts the initial interview. If sexual abuse is suspected, the conversation will be stopped, and the police will be notified.
- The Children's House specialists assess the child's health and social situation, the further need for help and offer the necessary help and refer them to a psychologist.
- If necessary, a medical examination is performed.
- Police conducts the forensic interview.
- Police informs the prosecutor about the case.
- The police and/or the prosecutor's office decide to start the procedure.



## THE FORENSIC INTERVIEW OF THE CHILD

The interview is conducted by a police officer in the premises of the police or the Children's House. In Children's House reception, interview and observation rooms exists.

### INTERVIEW

- Stepwise structure
- Child-friendly, dignified and respectful treatment
- Constantly informing the child and providing support considering age and life experience
- Avoiding repeated questioning
- Audiovisual recording of the interview for children under 14 years of age
- Involvement of different specialists

### PROFESSIONALS

- Interviewer (police investigator)
- Adult of choice of child (rarely present)
- Psychologist (when required)
- Interpreter (when required)
- Lawyer (rarely present)



## JUDICIAL PROCEEDINGS

A victim/witness of sexual abuse under the age of 14 does not participate in the hearing, the audio-visual recording of the interview is used as evidence.

- Witnesses over the age of 13 attend the trial.
- If the minor's presence after questioning is not necessary, the court removes him or her from the courtroom.
- If necessary, the court can interrupt the questioning by the parties and question the witness itself.



## POST-TRIAL

Support when the trial is over

- Victim support services are organized by the Children's House, the case is managed by the local government.
- Need-based psychological support for the child and family.



**Women's Support and Information Center**

*There is a way out of violence!*





## INITIATING THE JUDICIAL PATH

All steps are defined according to the provisions of the Penal Procedural Code and the Penal Code.

Criminal offences against children shall be reported to the Public Prosecutor or to any LEA officers.

- The prosecution is initiated ex officio following any report, complaint, accusation or information on a committed crime.
- The LEA Officers are mandated to report without delay to the competent Public Prosecutor, any information they have at their disposal regarding committed crimes. The Civil Servants are bound to the same obligation.
- Private citizens are bound by the same obligations. They can report in written or oral form to the Public Prosecutor or to any Law Enforcement Authority.
- Besides the victim, anybody has the right to report an ex officio prosecuted criminal offence.

(Articles 37,38, 40 of the Penal Procedural Code)



## EXCEPTIONAL PROSECUTION PREREQUISITES

The child's right to report when exceptionally needed for the initiation of the prosecution

- Exceptionally, at strictly defined cases at the Penal Code, the prosecution can be initiated only if the victim has submitted a relative Report.
- If the victim is younger than 13 years old, then her/his legal guardian or representative has the right to submit the Report.
- If the victim is older than 13 years, then both she/he and her/his legal guardian or representative have the right to submit the Report.
- Each person's right to Report is independent and individual.
- After the completion of the 18 years of age, solely the victim has the above right.

(Articles 114 and 115 of the Penal Code, 51-53 of the Penal Procedural Code)



## ASSESSMENT AND PRELIMINARY HEARING

Preparation of the case file.

- Witnesses shall be called for further examination and the child victim shall be examined too, if permitted depending on her/his age, cognitive and intellectual ability.
- When the child is being interviewed as a victim of sexual abuse offences, a specialized child psychologist or child psychiatrist is being mandated to be present during the whole process and to have prepared the child for it. Then he/she, Delivers a report diagnosing the cognitive and intellectual ability of the child. This report will be included in the case file.
- The interview should take place without delay at "Independent Protection Units for Minor victims - Child Home" of the district region. Or if they do not operate yet, at the specialized Rooms formed and designed for this purpose.
- Currently, interviews are mainly held in police precincts, children are interviewed in the officer's office but sometimes there is no private office available. Privacy is not guaranteed.

## THE INTERVIEW PROCESS

Implementation of a Standardized Protocol for the Forensic Interview of the child victim and witness of violence

- The forensic interview should be conducted by judges, prosecutors and LEA officers serving as examiners with the simultaneous presence of the child psychologist or psychiatrist. The child could be accompanied by her/his legal guardian or representative, unless the examiner forbids it due to occurring conflict of interest or involvement of the adult with the case.
- The interview consists of 3 stages : i) acquaintance and familiarization of the child with the expert and with the rules of the procedure - developing mutual trust, ii) the main part of the interview, encouraging the child to narrate freely the offensive incident,
- iii) the conclusion of the interview, summarizing all the information as narrated by the child
- In practice, the interview is mainly conducted by police officers, not specially trained, chosen according to their previous experience.
- Rarely child psychologists or child psychiatrists, participate in the process and when that happens, their role is merely supplementary, without previously assisting the victim



## TRIAL PHASE

The child's legal representation and the child's right to receive all the necessary information about the proceedings

The child's forensic interview narration is held in written form as well and it is also submitted to digital audiovisual media. The digital screening of the child's narration serves as the replacement of her/his physical presence during the next steps of the judicial procedure.

If the digital screening is impossible, then the written report of the narration is heard at the court room during the trial.

- The child victim has the right to be represented during the trial by a lawyer and to be declared as a fully legitimate party of the trial proceedings. The child can be accompanied by her/his legal guardian.
- The perpetrator could object to the inclusion of the victim as a fully legitimate party of the trial and could present the objections to the Prosecutor. The Prosecutor will decide whether the objections are grounded.

(Articles 70,85,107, 227 of the Penal Procedural Law, Min. Decision No 7320/2019)

## POST -TRIAL

Conclusion of the Trial - Penalties and Statute of limitation

- The trial is concluded either by the conviction of the defendant, or by the defendant's acquittal
- If the child victim revokes her/his Report which was necessary for the initiation of the prosecution, then the charges against the defendant are dropped and the trial is concluded.
- The statute of the limitation for the prosecution of the criminal offences against a child begins either after one or three years by the time the victim has reached the age of majority.
- Depending on the imposed penalty, the crime offences are categorized to misdemeanours (10 days to 5 years and to crimes (5 years to 15 years)
- Indicatively, the trafficking and the sexual offences against children are categorized as crimes according to the Greek Penal Code.



ΠΑΝΕΠΙΣΤΗΜΙΟ ΚΡΗΤΗΣ  
UNIVERSITY OF CRETE



# ITALY



## REPORTING SERVICES

Really varied. The initial report can be made by the school, the welfare services, family (parents and relatives), local police, hospitals, shelters, NGOs, and other subjects.

Usually before contacting «officially» the police, (most of all) private subjects ask for advice and information to NGOs or other institutions providing support to minor victims or to victims of violence in general. However, the situation varies a lot case by case.



## ASSESSMENT

Even if it could be carried out informally e.g. by the welfare services before the official complaint, it has no juridical relevance.



## POLICE COMPLAINT

Can be made at all the LEAs' offices in Italy – i.e. Carabinieri, national or local police

The police office involved contacts the Public Prosecutor in charge to start the official procedures. The assessment, made by an appointed psychologists/psychiatrist is ordered by the Prosecutor in this first phase. Usually, the Prosecutor took part in the assessment.



## INVESTIGATION PHASE AND PROTECTED HEARING

The protected hearing is usually carried out to interview minors in a protected environment in the investigation and pre-trial phase. Carried out according to specific rules and procedures, it aims at avoiding repeated interviews, potentially putting in the same environment the defendant and the minor, and at providing a safe and adequate environment for the minor. It is ordered by the Judge in charge.

During the investigation phase, the forensic interview is carried out by the Prosecutor with the support of an expert (e.g. child psychologist); during the protected hearing, by the judge, also in this case with the support of an expert.



## TRIAL PHASE

Usually the minor provides his/her testimony only during the (separated) protected hearing, most of all if very young.



## POST-TRIAL

Varies a lot. Usually, the child is entrusted to the welfare system and the social services, providing support and shelter if needed.







## INITIATION OF CRIMINAL PROCEEDINGS

Really varied. Although some cases are directly reported, others are previously assessed by other professionals in a situation of suspicion.

### REPORTING CHANNELS:

- Law enforcement agencies (Police).
- Health system: Primary care, Mental health, Hospital, Emergency medical care.
- Social services: Victim support offices, CAVAS, CAF, CAI.
- Justice system: Prosecutor's office, Psychosocial teams, Duty court.

- Legal obligation for civilians and professionals to report cases of abuse [Ignorance of this duty and of the reporting channels.]

## ASSESSMENT

The notification of a suspected or detected child sexual victimization involves the evaluation of the case with the objective of assessing the initiation of the process and the necessary assistance for the victim.

- Social services, CIASI, CAI, CAF, CAVAS, Rape crisis centers, others.  
Private Psychologist, School counselor, school teacher, etc.

*Victim's Support Offices (VSO): not fully implemented. Variances across communities.*



## POLICE COMPLAINT

National Police  
Duty Court  
Juvenile Prosecutor's Office

### POLICE ASSESSMENT

- 1st police contact: non-specialised personnel.
- Specialised police assessment:
  - EMUME: Civil Guard Women-Child Teams
  - Criminal Behaviour Analysis Section (SACD). Civil Guard

The police must proceed according to the criteria established by law :  
- Immediate protection of the child  
- Minimal intervention and only by expert professionals  
- Assessment of the child  
- Proper treatment and adaptation of language, etc.

(Arts. 49 and 50 OL 8/2021)



## FORENSIC INTERVIEW OF THE CHILD

The forensic interview as pre-trial evidence is mandatory for victims under 14 years or for persons with disabilities in need of special protection in some crimes, among which are sexual crimes (art. 449 bis and ter LECrim).

Although there is no unified forensic interview protocol, the NICHD protocol and the Cognitive interview are known and used.

**PREVIOUS ASSESSMENT AND INFORMATION:**  
The psychosocial teams must provide the work previously done by other professionals on the personal, family and social circumstances of the child (art. 449 ter LECRIM), and the victim's capacity to testify.

### PROFESSIONALS

#### In the interviewing room

- Forensic interviewer (in some cases can be 2 interviewers)
- Child's adult of choice (rarely present)

#### In the adjacent room

- Prosecutor
- Investigative judge
- Victim's lawyer
- Defendant lawyer (mandatory)
- If applicable, person under investigation
- Judicial administration official

### OTHER RELATED EXPERT EVIDENCES

- Credibility report
- Psychological sequels report



## TRIAL PHASE

The audiovisual recording of the child's interview and other evidences are used in court.

When an error or a refusal of the pre-trial evidence occur, the victim can end testifying again more than 2 years later.

- Protective measures: Screen/video

Children repeat their testimony an average of 4 times\*



## POST-TRIAL

Support when the trial is over via different victim support organizations.

Information on victim support and referrals are supposed to initiate already upon the 1st report (and even before, independently of the filing of a complaint.). However, referral to victim support can happen at different stages of the judicial process. Collaboration between VSO and judicial institutions is not always optimal (neither the implementation of VSO) Availability, specialization and length of that support is often limited and can depend upon regions.



## ANNEX 3. TAM PROTOCOL: THE STEP-BY-STEP STRUCTURE OF THE FORENSIC INTERVIEW

The protocol for the audio-visually recorded forensic interviewing of minor victims and witnesses is based on the principles of respectfulness, non-suggestiveness and step-by-step structure. The child investigative interview is carried out through four phases and ten steps.

– **Salduz (pre-phase):** is foreseen under the provisions of the Salduz law and consists of identifying the child and briefly informing the reason of the citation.

– **Introduction (phase 1):** Before the interrogation starts, the minor is given a tour of the reception area, the director's room and the interrogation room together with the accompanying person. The professionals attending the interview are briefly introduced and their role explained. The technical equipment is presented (cameras, microphone, TV screen).

- Once back in the interviewing room, the interviewer introduces him/herself again to the minor, who is invited to do the same. Then the legal provisions are explained to the minor through a child friendly manner.

- The audio-visual recording has to be done with **the consent of the minor** (not of the parents) and that consent can be withdrawn at any time (art. 95 CCP). If the minor is younger than twelve years of age it is sufficient to inform him/her of this decision (art. 92 § 1 CCP).

- The minor is also informed about **the right to have a confidant** (art. 91 bis CCP) who can accompany them into the interrogation room.

- Before talking about the facts, a neutral topic<sup>218</sup> is discussed to promote **building a relationship of trust**. On the one hand, the neutral topic serves to get used to the conversation technique and to put the minor at ease. On the other hand, this part of the introduction serves to **assess the development level** of the minor and **activate episodic memory**.

- At this point, the **segmentation technique**<sup>219</sup> is tested with the minor:

- “After that I explain to them: ‘Oh you told me very well what you did last Saturday at the soccer game. Now am I going to let you tell your story again, but I'm going to take your story and break it into smaller pieces’. So, segment per segment. Then we try to let them tell the story in different segment and afterwards we take one piece, and we try to get as much information as possible out of it. That is the same technique we use when they tell us about the facts. That's how we try to test the technique in the first phase of the interview, so we can estimate if the minor is capable to do this or not.” – (TAM interviewer).

- One of the main staples of the TAM interview is the adaptation to the child's rhythm and needs (although, interviewers state that the technique presents more difficulties with small children or children with cognitive difficulties).

- **Free story (phase 2):** the minor is invited to tell a free story. The free story is a key part in the interview, since the aim is to reduce questions as much as possible. However, the personal characteristics of the minor will make for a variability in detail and length. When a criminal fact is brought up by the minor, the interviewer is instructed to interrupt the minor. Before, a minor should never be interrupted, but now it is allowed when a criminal offense is brought up. The aim is to identify if a crime has happened one or more times (if it has happened multiple times the intent is to differentiate between the last time, the first time and possible other times).

*“The first time is important because that was often very impressive for the minor and he or she may have remembered many details. The first time is also important for the sentencing, because there are often aggravating circumstances in certain age categories and also for the structure of the facts. That we can understand how it all started. Regarding the other times, we try to ask whether other things have happened that have not been discussed during the last and the first time. If other facts are discovered, we can continue like this.” – (TAM coordinator).*

<sup>218</sup> Neutral topics consist of three categories: hobbies/free time, school/friends and home/family.

<sup>219</sup> The segmentation means that an event is picked and divided into different pieces which will be then zoomed in. The minor is invited to freely talk about one of these segments. This provides structure to the child's story and allows their attention to fully focus on a part of an event.

- **Questioning (phase 3):** is first worked around completing the free story by going into detail on the information that the minor has already given. This is done through segmentation and invitations on leads (as practiced in the introduction phase). The interviewer tries to get answers to questions like 'who', 'what', 'where', 'how' and 'when'.
- When the interviewer believes all relevant information has been said, s/he often calls for a **pause** and goes to the director's room to have a **consultation** with the investigator and the director to ask if certain things from the investigation still need to be addressed with the minor. Before the questioning phase is over, the minor is asked if there is anything else s/he would like to add or ask.
- **Ending of the interview (phase 4):** The end of the interview also involves a number of legal provisions. The interviewer tries to make a brief conversation about something more pleasant. The minor is then also thanked for the interrogation, but not for the content.

### The ten steps of the TAM interview protocol:

FASE 0. "SALDUZ"	FASE 2 . FREE STORY
... <b>Step 0. Identify</b>	... <b>Step 5. Invite to a free story</b>
<input type="checkbox"/> Discuss ID card	<input type="checkbox"/> Repeat brief statement of facts (from Step 0)
<input type="checkbox"/> Brief statement of the facts	<input type="checkbox"/> Once or several times (last, first, other fact)?
– Via time (C1) & circumstances (C2) disclosure	
<b>FASE 1. INTRODUCTION</b>	Help scenario A: specify
... <b>Step 1. Presenting premises, persons and materials</b>	Help scenario B: reframing
<input type="checkbox"/> Reception area	Help scenario C: bridging
<input type="checkbox"/> Director's room	<input type="checkbox"/> C3: via time of alleged facts
<input type="checkbox"/> Interrogation room	<input type="checkbox"/> C4: via place of alleged facts
<input type="checkbox"/> Interrogator	<input type="checkbox"/> C5: via facts alleged through circumstances
<input type="checkbox"/> Other attendees (psychologist, etc.)	<input type="checkbox"/> C6: via the suspect
<input type="checkbox"/> Digital recording	<b>FASE 3: QUESTIONING</b>
<input type="checkbox"/> Take notes	... <b>Step 6. Complete</b> (info already added IN the free story)
... <b>Step 2. Present legal provisions</b>	<input type="checkbox"/> Who, what, where, how, when, ...?
<input type="checkbox"/> Person of trust	... <b>Step 7. Deepen</b> (info still OUTSIDE the free story)
<input type="checkbox"/> Pause	<input type="checkbox"/> Other facts, perpetrators, victims, witnesses, ...?
<input type="checkbox"/> Who views the recording + reason recording	... <b>Step 8. Verify other file elements</b>
<input type="checkbox"/> Evidence in law + destination recording	<b>FASE 4. ENDING OF THE INTERROGATION</b>
<input type="checkbox"/> Consent (+12 year) or information audiovisual recording (-12 year)	... <b>Step 9. Presenting legal provisions</b>
<input type="checkbox"/> Right to request copy text of the interrogation	<input type="checkbox"/> Supplement and improve
<input type="checkbox"/> No obligation to self-incriminate	<input type="checkbox"/> Handing over documents (diary, chats, SMS...)
... <b>Step 3. Make appointments</b>	<input type="checkbox"/> Right to request copy text of interrogation
<input type="checkbox"/> Not required to answer	... <b>Step 10. Thank</b>
<input type="checkbox"/> I don't understand, I don't know	<input type="checkbox"/> Thanking for coming
<input type="checkbox"/> Supplement and improve	<input type="checkbox"/> Neutral subject
<input type="checkbox"/> Contact control room	<input type="checkbox"/> Watching over referral to help
... <b>Step 4. Neutral subject, scan environment</b>	
<input type="checkbox"/> Discuss neutral topic	
– Stimulate episodic memory & create working relationship	
<input type="checkbox"/> Scanning (from intra- to extra-family)	

(Translation of the guide chart of the protocol used during TAM interviews with minors)



## ANNEX 4. CORRIGENDUM

### **Recent revision of the Greek Penal Code and the Greek Penal Procedural Code**

Due to the recent changes in the Penal and Penal Procedural Legislation, as ratified by the Greek Parliament, the following changes are indicated:

#### **I. Penal Code**

Article 115 – Right to file a Report

2. If the child victim is below 13 years old, (...) only her/his parents or legal guardians have the right to file a report for a criminal offence and submit a complaint, whereas if the child victim is above 13 years of age both the parents (or legal guardians) and herself/himself has the right to file a complaint. When the minor turns 18 she/he is the only one entitled to do so.

➤ The above legislative revision is relevant to the Chapter 2.1.2. *MECHANISMS TO GUARANTEE CHILDREN REAL ACCESS TO JUSTICE* of the *Benchmark Protocol*. Therefore, the extract referring to Greece is replaced as follows:

*“In EL, there are age restrictions to submit a complaint: if the child victim is below 13 years, her/his parents or legal guardians can file a report for a criminal offence and submit a complaint, whereas if the child victim is above 13 years of age both the parents (or legal guardians) and herself/himself has the right to file a complaint. When the minor turns 18 she/he is the only one entitled to do so.”*

#### **II. Penal Procedural Code**

Article 227 – Children Victims of Personal and Sexual abuse Offences

2. When the child is being interviewed as a victim of sexual abuse offences, a specialized trained child psychologist or child psychiatrist is being mandated to be present during the whole process. The interview takes place without delay at the “Independent Protection Units for Minor victims – Child Home” of the district region and in case they are not yet operational, at the specialized Rooms particularly formed and designed for this purpose. The number of interviews addressed to the child victim should be as limited as possible.

3. The specialized child psychologist or child psychiatrist has to prepare the child for the procedure of the forensic interview. The above expert has to deliver a written report with an evaluation regarding the cognitive and intellectual ability of the child and the child’s welfare. This report will be included in the case file.

The forensic interview is conducted by specialized judges, prosecutors and Legal Enforcement Agency officers serving as examiners. During the whole process the child psychologist or psychiatrist is present and is cooperating with the examiners. Also, the child could be accompanied by her/his legal guardian or representative unless, the examiner forbids it due to occurring conflict of interest or involvement of the adult with the case.

➤ The above legislative revision is relevant to the Chapter 2.2.1. *CRITERIA FOR THE USE OF THE FORENSIC INTERVIEW AS PRE-TRIAL EVIDENCE* of the *Benchmark Protocol*. Therefore the extract referring to Greece is replaced as follows:

*"In EL according to the Greek legislation, in criminal offences against children, psychologists or psychiatrists specially trained in this domain, they should be present during the whole procedure of the forensic interview of the child and they should have previously prepared the child for this process. Furthermore, they should also evaluate the child's intellectual and cognitive abilities and this evaluation report shall be included in the file of the case. The forensic interview should be conducted by a police or judiciary officer who should be trained and have full knowledge of the current legislative protocol of the forensic interview."*

➤ The above legislative revision is relevant to:

i) The Chapter 2.3.1. *Regulation - B) Professionals who conduct the forensic interview* of the *Comparative Report*. Therefore, the extract below is replaced as follows: *"Specialised police officers in the case of **Belgium** (TAM interrogators) and **Estonia**; Police or judiciary officers especially trained on the current legislative protocol of the forensic interview in the case of **Greece**; forensic psychologist, child psychologist or psychiatrist (sometimes just named experts in the regulation) in **Italy** and **Spain**."*

ii) The Chapter 2.3.2 *Training - A) Interviewers training* of the *Comparative Report*. Therefore the extract below is replaced as follows : *"As said in section 2.3.1 B, in Belgium and Estonia the police will be conducting these interviews and in Greece, Police or judiciary officers especially trained on the current legislative protocol of the forensic interview. However, in Greece Italy and Spain the participation of psychologists is required (suggested in EE). Although in practice, in Greece it will virtually always be conducted by police officers not especially trained and in Italy it will be conducted by the judiciary with the support of a forensic psychologist, child psychologist or psychiatrist (or even a qualified social worker)."*

iii) The Chapter 2.1.3. *The forensic interview as a protective measure* of the *Comparative Report*. The extract at the table referring to the Professionals who conduct the interview should be replaced as follows: *"in sexual offences against children, psychologists or psychiatrists specially trained in this domain, should be present during the whole procedure of the forensic interview of the child and they should have previously prepared the child for this process. Furthermore, they should also evaluate the child's intellectual and cognitive abilities and this evaluation report shall be included in the file of the case. The forensic interview should be conducted by a police or judiciary officer who should be trained and have full knowledge of the current legislative protocol of the forensic interview"*.

Furthermore, according to articles 51 and 42 no deposit of fee is required anymore for the submission of the report to the police or to the prosecutor.

➤ The above legislative revision is relevant to the Chapter 2.1.2. *MECHANISMS TO GUARANTEE CHILDREN REAL ACCESS TO JUSTICE* of the *Benchmark Protocol*. Therefore, at the extract referring to Greece the following part: *"Besides, they need to pay a fee of €100 unless they prove to come from a low-income family or are victims of crimes against sexual*

*freedom, crimes of economic sexual exploitation and of domestic violence”* should be considered as omitted.





ΠΑΝΕΠΙΣΤΗΜΙΟ ΚΡΗΤΗΣ  
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