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EXECUTIVE SUMMARY

This document is presented by the GRACE project and it aims to detect and promote best practices that cater to the needs of the LEAs first responders in CSEA cases.

In its first part, the document encompasses the legal framework related to tackling CSEA (international legal standards on child protection), with exhaustive emphasis on victims' rights in these cases. The latter includes also the great importance of the appropriate terminology in this crime area, which gives crucial instructions to first responders to provide dignified approach to victims.

The other part provides special attention to practical implications, when LEA first responders receive the information on CSA, especially in the presence of the victim. Since they could make great efforts to succeed in the case but they could also unknowingly compromise further investigation by special units and detectives, the two chapters were dedicated to biases, myths and stereotypes, and even the easy-to-use guidelines for them to avoid any problematic situation. Guidelines for first responders in CSEA cases are prepared to directly address their tasks and responsibilities, but they are easy to adapt in the national work processes and policies of competent national authorities.

The document also provides the overview of how the victims could react to their situation of abuse (the 5F's of Trauma) and a flowchart for them to make proper decisions, before the specialised investigators would take over.

The idea behind this document is to provide significantly important insights to first responders in law enforcement organizations to access in one place the information on what they could or should do and what to avoid. This document can be understood as a basis, while still providing the best approaches in the interest of every victim and also to responsible and specifically trained officers from the crimes against children units. Each of the LE authrotiy can adapt this deliverable according to their own policies.

1. Introduction

Here we present the overview of this deliverable, its relation to other deliverables in the GRACE project, and a brief explanation of the structure and content of it.

1.1. Overview

The description of action describes this deliverable as:

D10.8 - Best Practices on Victim support for law enforcement agencies' first responders [June 2021]

This task focuses on the identification of best practices based on established models such as the Barnhaus' framework for child-friendly, interdisciplinary and multi-agency approach to child victims of sexual abuse and extortion. The best practices will cater to the needs of the LEAs first responders, in particular. It focuses on identifying opportunities for victim-focused care and treatment, for LEA assessment of victims' emotional responses, particular needs, level of trauma experienced, interactions with the offender(s) and associated effects. Additionally, the best practices explore suggested response measures, such as CSEM takedown requests (incl. via Project Arachnid), victim empowerment, and family of the victim's support measures. Furthermore, the best practices look into suggested improvements to reporting mechanisms based on the victims' and LEAs first responders' feedback and opportunities to contribute to future preventive programmes.

The main objective of this document is to identify practices that are efficient and covering a wide range of legal, ethical and other aspects. It aims to provide necessary guidance on how to best protect victims when LEA first responders come into direct contact with them.

1.2. Relation to other deliverables

This deliverable is related to the following other GRACE deliverables:

- Receives inputs from:

Deliv. #	Deliverable title	How the two deliverables are related
D10.6	Stakeholders and policy recommendations for addressing online CSEM v1	With content that is of great importance in this deliverable as well (terminology, legislation and partially some policy's overview)

Table 1 – Relation to other deliverables – receives inputs from

- Provides outputs to:

Deliv. #	Deliverable title	How the two deliverables are related
D2.2	Use Cases, Process and Data Flows Refinement v2	Understanding the concepts on victim support and assistance to better enhance processing to provide improved information in order to protect victims.
D9.2	Ethical Report V2	With understanding the concepts and philosophy behind the human rights of the children, the victims of sexual abuse and exploitation.
D9.4	Legal Report V2	With legal aspects of human rights of the children, the victims of sexual abuse and exploitation.
D9.6	Overall legal and ethical framework v2	To provide the information from legal and ethical

		aspects that cover human rights of children as victims of sexual abuse and exploitation.
D10.2	GRACE website, social media presence and dissemination materials	By providing itself for public dissemination after review, procedures and approval.
D10.7	Stakeholder and policy recommendations for addressing online CSEM v2	By providing the input about “child-centred, victim-centric approach and trauma-informed” concepts.
D10.9	Best Practices on Victim support for LEA first responders v2	To provide basis for further updates.

Table 2 – Relation to other deliverables – provides outputs to

1.3. Structure of the deliverable

This document includes the following sections:

- Section 1: This introduction provides an explanation of the deliverable content, its structure and its relations to other deliverables within the same project.
- Section 2: Methodology is explained in order to present the approach taken to achieve the results in this deliverable.
- Section 3: Provides a brief overview of relevant terminology in the CSE crime area.
- Section 4: Provides the basic legal background, from relevant International and European law that focuses on various aspects that can benefit the children and in relation to their rights as victims.
- Section 5: This is one of the core parts of the deliverable, which highlight practical challenges of LE authorities (partners in Grace Project).
- Section 6: Provides additional core part of the deliverable – understanding myths, biases and stereotypes in CSA cases, relevant for LEA first responders.
- Section 7: Provides the final core part of the deliverable, i.e. guidelines for LEA first responders in CSEA cases with a transparent and easy to understand decision making flowchart.
- Section 8: This concludes the deliverable with a view to the near future and challenges ahead.
- Section 9: Providing an overview of sources and literature used in this document.

2. Methodology

The deliverable was prepared through different research methods. One was literature review, including the online search for relevant information, attendance at different public discourse events (e.g. webinars, online conferences, consultations) and by gathering contributions from partner organizations in the GRACE project.

2.1. Information and literature search

In searching for relevant literature and available information online, the search engine google was used between September 1 to December 15, 2020. The online search was performed through various search terms, such as:

- The name of organization or institution (Council of Europe, Europol, European Commission, UNICEF, CISCO, etc.);
- The names of events (conferences, webinars, etc.);
- The public press releases, and the news,
- The keywords (child, protection, sexual, abuse, exploitation, cybercrime, victims, crime, internet, online, digital, report, penetration, population, privacy, human rights, law, legislation, convention etc.);
- The period of published or released sources (in the last year, i.e. 2019/2020, the last decade);
- The sources published by reliable organizations, institutions, and private sector (that was determined according to the role they play in the societies, their ethical approach and positive contribution to children's safety and respect their rights).

The results from the publicly available events are indicated in the chapters that follow. These findings were gathered from the events that were organized by Council of Europe, United Nations, European Parliament and others during the year 2020 mainly.

An additional search for written material was initiated between February 15 and May 10, 2021 on victim related topics (legislation, rights etc.) and to highlight the importance of first responders, especially as law enforcement officers.

2.2. Concept and partners' contributions

In addition, the concept of this deliverable is to encompass three main insights that can lead also the non-experienced reader into the depths of complex and sensitive topics such as the sexual exploitation and sexual abuse of children. The insights are:

- a) Overview and importance of related terminology,
- b) Legal framework on CSEA and victim's rights , and
- c) Practical approach for LEA first responders.

The very first document¹ was communicated with the GRACE partners (those, who are actually involved in the activities in WP10) for their comments, remarks and additional contributions. Also, a workshop was organized in order to highlight the idea behind the deliverable. The partners were asked to contribute their suggestions and potential solutions in a holistic view. The request for partners' contributions were addressing different topics in order to improve first responder's approach in sexual crimes against children, such as:

- Challenges or even problems confronted or observed that needs consideration;
- Foreseeing any future challenges that have to be highlighted;

¹ Document is about deliverable D10.6, related to Stakeholder and policy recommendations for addressing online CSEM v1

- Activities that European countries should incorporate into their work processes;
- Any specific topics that have to be addressed at the EU/European level;
- Any current legal updates (improvements) made in national legislation that could be of importance for other countries, including relevant national case-laws;
- Improvements of national work procedures (good practices) recently that can be shared as know-how to others.

The next consultation was made in two ways.

The first one was to align the content of this deliverable (D10.8) with main actors Europol and CENTRIC and how to incorporate the content in an appropriate, pragmatic way. The content in this regard consists of the foundations for working with victims including avoidance of victim-blaming, prejudice, stereotypes, biases, accounting for socio-cultural backgrounds. Other challenges are also addressed such as how to respond to information about the sexual abuse of a child, providing victim's rights, resilience and emotional responses to sensitive and non-everyday situations for law enforcement first responders.

The second one was meant to get more pragmatic views from GRACE project law enforcement partners to two seemingly simple questions that require a complex answer. The research questions are as follows:

"When a police officer is informed about sexual abuse of a child or came across with it, what should this officer do? What are the differences in responding by the same officer, when CSA took place online or offline, if any?

These two questions were sent to GRACE project partners (law enforcement: AGS (IE), CYP (CY), PJ (PT), L3CE (LT), BFP (BE), DCJP (FR) and KGP (PL)) and to CENTRIC for their awareness. Questions were followed by explanation that partners should take into consideration that the officer is the first responder. This means that the police officer in this question is an officer of the law enforcement organization within their country and is **NOT²** trained to perform CSE investigations, but is trained for other police tasks (e.g. emergency response, maintain public peace and order, regulate traffic, community policing etc.). This officer can be informed about child sexual abuse in different ways, e.g. from child directly, from parent, from organization (school, social service, NGO ...), online service provider, through anonymous letter, an email, from citizen, via rumours etc. It was understood that not all circumstances could be foreseen, but there should be at least some general guidelines or principles for the LEA first responders (e.g. what works, efficiency, victim support). Later, additional explanation was provided to some of the law enforcement partners, which was concretely focused on the practical situation [not just notifying/reporting the crime to relevant units or institutions]. Therefore, we were looking for answers when the same officer came across with the victim in person and how to best assist the victim in his/her physical presence (can officer talk to victim, the content of his verbal report or also observations, evidence protection, helping an injured victim, taking victim to hospital etc.). Responses were received between 4 May 2021 and 11 May 2021.

All of the contributions from all discussions were included in this deliverable under Chapter 5. Understanding what are relevant, crucial and significant indicators in addressing online CSEM and the understanding of what are the expectations by victims from officers, who were first informed about their sexual abuse (first responders) are closely related to each other. Therefore, both main topics are introduced together, with adaptations of the content focused on victims.

With relevant focus on the victims' rights and the support they (might) need from the law enforcement first responders in CSE cases, this document provides crucial information at least for the LE first responders. It is

² It was indicated in the same way as shown here.

worth to highlight that guidelines for first responders, presented in chapter 7 were written for first responders themselves, and the text is addressing them directly by using 2nd person pronouns.

2.3. Limitations

The coronavirus pandemic has reached almost every country in the world, which means that its impact is great. It affects society as a whole, the economy, culture, ecology, politics and other areas, including working on this project. To limit the spread of the coronavirus, many governments around the world have imposed various restrictions and bans, including those that have severely restricted the physical movement of people. This affected travelling, imposing social distances, isolations, quarantines and other measures.

In relation to the GRACE project the above situation and measures caused problems in organizing relevant meetings in person, which could otherwise provide fruitful discussions, exchange of views and greater inputs to the deliverables. This might make this document slightly less concrete or perhaps without a wider breadth of vision.

This shortcoming can be remedied by two currently perceived solutions. The first is when the restrictions from COVID-19 measures will be deescalated (organizing the workshop with all involved). The other is to emphasize that this deliverable is a 'live' document that will be supplemented according to new trends that occur during the lifecycle of the project.

3. Terminology

Presenting and understanding the terminology related to child sexual exploitation is of significant importance (Fragež, Klančnik, Žagar Karer, Ludvigsen, Kończyk, Ruiz Perez, Veijalainen, and Lewin, 2015). Same authors, who looked into terminology highlighted that many different expressions can be found in the area of child sexual exploitation and much consideration must be devoted to this topic to avoid any misunderstandings. The terminology used in this document should serve as a basis for properly understanding the sexual exploitation and abuse of children in order to avoid misinterpretation and that the common 'standards' such as the Luxembourg Guidelines should be respected.

3.1. Who is a child?

A child is a human being under the age of 18 years; a definition derived from many international treaties.³

This definition can incorporate terms such as baby, infant, toddler, minor, underage person, (pre)pubescent girl or boy, adolescent and teenagers under 18 years of age. Youth, young people, youngsters, young adults in most cases do not reflect children according to definition. Children may also be defined, in cases involving sexual exploitation, as individuals who have not yet attained the age of consent in a specific jurisdiction.

3.2. Child sexual exploitation and abuse (CSEA)

It is any act of a person who, takes advantage of the situation or circumstances in which the child found himself or herself with that person (exploitation), or through abuse of their privileged position, status, relationship, power and/or influence over a child, forces, coerces, induces, or persuades a child into sexual

³ See legal chapter 4.

activity or into acts with a sexual connotation, in order to satisfy their own needs for control and power, or their sexual needs.

Sexual abuse or sexual exploitation of a child can take several forms, e.g. rape, sexual assaults, sexual grooming online, sexual coercion and extortion, live distant child abuse, recording or depiction of sexual activity with children (i.e. child sexual abuse material, CSAM) and distribution of the CSAM online.

3.2.1 Sexual grooming online

This is the behaviour of the perpetrator, the purpose of which is to approach a child online and gain his trust (also making a contact for sexual purposes using technology) (Mihelič, 2017). European legislation⁴ defines this act as a solicitation of children for sexual purposes. It is defined as follows:

"The proposal, by means of information and communication technology, by an adult to meet a child who has not reached the age of sexual consent, for the purpose of committing any of the offences referred to in Article 3(4) (i.e. engaging in sexual activities with a child who has not reached the age of sexual consent) and Article 5(6) (i.e. Production of CSAM/CSEM), where that proposal was followed by material acts leading to such a meeting (Article 6 of said Directive)."

The perpetrator tries, on the one hand, to reduce the child's resistance to sexual activity through the process of getting to know each other, and on the other hand, to increase their curiosity about sexuality (Mihelič, 2017). The most common goal of online grooming is to meet a child live, followed by sexual activity, or the goal may also be to make sexual images that involve the child (ibid.). Sexual grooming can also take place offline.

3.2.2 Sexual coercion and extortion

Sexual extortion is a phenomenon of sexual exploitation that usually takes place online and uses mainly non-physical forms of extortion (Mihelič, 2017). She presented that extortion with intimate images can happen to either adults or minors. It is possible to discuss about sexual extortion of minors with intimate imagery when someone threatens a child to disseminate his or her intimate images, if he or she is not provided with images that are more intimate, money, or sexual favours (ibid.).

Europol (2017) highlighted the key elements of online sexual coercion and extortion of children that are indicated as:

- Material — any material (information, photo or video) the victim seeks to keep private,
- Threat — what a victim would like to prevent from happening, in most cases the release of material that victim seeks to keep private,
- Value — what the perpetrator demands from a victim (Europol, 2017).

The perpetrator may also threaten to use information obtained from the child or to hack into a child's e-devices, harm their friends or relatives if a child is failing to comply with perpetrators demands. Extortion with intimate footage can also be a continuation or result of sexting.⁵

⁴ See indicated provisions in 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, OJ L 335, 17.12.2011. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0093> (accessed: 03/12/2020).

⁵ Sexting is explained by NSPCC, when someone shares sexual, naked or semi-naked images or videos of themselves or others, or sends sexual messages. Available at: <https://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/online-abuse/> (accessed: 04/12/2020).

The term is often referred to as ‘sextortion’, but experts warned that unqualified use of this expression — an amalgam of ‘sexual’ and ‘extortion’ — in public discourse can be problematic. It can promote reductionist thinking around the problem of online sexual coercion and extortion of children, suggesting an overly simplistic image of what is in effect a damaging and complex phenomenon (Europol, 2017; IWG, 2016).

3.2.3 Live distant child abuse

With the term, Live Distant Child Abuse (LDCA) Europol encompasses all kinds of live-streamed sexual abuse of children. These include the commercial sexual exploitation of children via live-stream technologies by remote buyers, rebroadcasting of offenders’ collections of previously recorded sexual activities upon requests or demands, and also the situations, when a child is using a streaming application and unaware of the danger of his or her own behaviour, shows intimate body parts to viewers for status purposes or for payments.

European legislation⁶ defines this act as a pornographic performance. It is defined as follows:

“Pornographic performance” means a live exhibition aimed at an audience, including by means of information and communication technology, of: (i) a child engaged in real or simulated sexually explicit conduct; or (ii) the sexual organs of a child for primarily sexual purposes (Article 2(a) of said Directive).“

LDCA has the most obvious links with commercial distribution of CSEM. As new and/or unseen CSEM is valuable currency within the offending community, live distant abuse is therefore a way not only to acquire more CSEM, but to simultaneously generate material with a high ‘value’.

This activity takes place in real-time, and occurs when a child is forced to appear in front of a webcam, mobile phone or camera to engage in sexual behaviour or to be subjected to sexual abuse. The sexual abuse of a child is broadcast to a buyer, who requests or demands the particular kind of abuse to be performed in front of e-devices, which provide real time transmission of visual depictions (sexual abuse).

3.3. Child sexual exploitation material (CSEM), child sexual abuse material (CSAM)

The term child sexual exploitation material [CSEM] should be used instead of child pornography (Franež et al., 2015; IWG 2016). They explained that there is also another relevant term that can be used as a subtype of child sexual exploitation material [CSEM]; i.e. child sexual abuse material [CSAM]. Both terms indicate that a criminal offence against a child was committed. The child sexual exploitation material encompasses pictures, films, videos, movies, photographs, sketches, images, self-generated images of naked persons (“naked selfies”), texts, voice and audio recordings with sexually explicit content that include children. The term child sexual abuse image is used to describe the format on which the evidence of actual child sexual abuse is shown (e.g. photographs, pictures, video recordings) (ibid.). The CSAM is also referred to as child abuse material [CAM].

⁶ See indicated provision in same directive under footnote 2. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0093> (accessed: 03/12/2020).

In United Kingdom, the official legal term indecent images of children⁷ is used instead of CSAM or CSEM. It appears to be broader than the other two; however, UK's law enforcement agencies, judiciary, policy makers and legislators are using it to define the CSAM or CSEM.

The visual presentation in the figure 1 provides a clearer view.

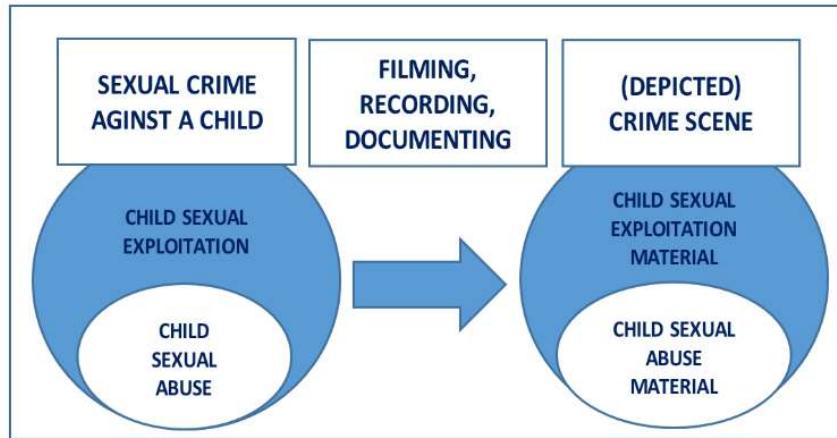


Figure 1: Connections between different concepts regarding child sexual exploitation (Frangež et al., 2015)

In short, CSEM and CSAM are the criminal consequences (results) of filmed, recorded, depicted or documented sexual exploitation and abuse of children. CSEM and CSAM have to be understood as evidence of sexual crime against a child, and therefore represent the crime scenes.

3.4. What is wrong with the term “child pornography”?

Experts in this field encourage you to use the term ‘child (sexual) abuse material’ and not ‘child pornography’ in every discussion or report. The term child pornography is therefore slowly being abandoned in professional circles, as it minimises the seriousness of the criminal offence and contributes to the stigmatisation and re-victimisation of victims (Frangež et al, 2015).

The use of the term ‘child pornography’ helps child sex abusers as it indicates legitimacy and compliance on the part of the victim, and therefore legality on the part of the sex abuser. By using the phrase ‘child pornography’, it conjures up images of children posing in ‘provocative’ positions, rather than suffering horrific abuse. Every photograph or video captures an actual situation where a child has been abused. This is not pornography.

3.5. Is this combination of words “child sex tourism” also wrong?

European law does not provide direct definition of “child sex tourism”, while the term can be found several times in the mentioned directive against sexual abuse of children. Through the lens of Article 21 of the said directive, it can be understood as (1) advertisements of the opportunities to commit any of the sexual offences against a child and as (2) organizing travel arrangements with purpose of committing any of the mentioned offenses.

⁷ UK Crown Prosecution Service, Indecent and Prohibited Images of Children, <https://www.cps.gov.uk/legal-guidance/indecent-and-prohibited-images-children> (accessed: 02/12/2020).

ECPAT International⁸ promotes the use of the term ‘sexual exploitation of children in travel and tourism’, instead of ‘child sex tourism’. The NGO also explained that the connection between travel and tourism and the sexual exploitation of children might not be obvious. However, as the travel and tourism industry expands with cheaper tickets and better connections, the opportunities for child sex offenders to exploit children also increases. No country or child is immune. They also highlighted that the travel and tourism industry is in a key position to protect children from this crime by making sure their services and venues are not misused by child sex offenders. ‘Voluntourism’, orphanage tourism and mega-events are examples where offenders easily can access and exploit children (*ibid.*).

3.6. Child sex offenders – resident and transnational

Plenty of expressions and terms describing a person, committing a sexual crime against a child have at first glance similar meaning. In the context of sexual exploitation and abuse of children, the following are the words (e.g. abuser, accused, child molester, child pornographer, child trafficker, convict, defendant, offender [transnational offender], paedophile, person of interest, predator, rapist, suspect etc.), but each has its own shortcoming and peculiarities. None of the mentioned are precise enough, others have too broad meaning and would encompass other crimes (abuser, accused, child molester, child pornographer, child trafficker, convict, defendant, offender [transnational offender], person of interest, rapist, suspect), in addition some are offensive or at least not ethical (child molester, child pornographer, predator) and one is taken from the psychiatric area (paedophile).

In order to prevent any misconceptions, it is important to clarify that not all child sexual offenders are paedophiles, although these two terms (Nellis, 2009) are often used interchangeably. Richards (2011) highlighted the importance to understand, however, that the two terms have different meanings; not all child sex offenders are paedophiles and conversely, not all paedophiles are child sex offenders.

Kelly Richards in her article *Misperceptions about child sex offenders* (2011) addresses five different misconceptions, about the perpetrators of sexual offences against children. Specifically, the issues addressed include whether all child sex offenders are ‘paedophiles’, who sexually abuse children ... rates of recidivism among child sex offenders and the number of children that sex offenders typically abuse before they are detected by police (*ibid.*).

For this occasion, we are using (and kept) her relevant and precise explanation as is (quote):

“The Diagnostic and Statistical Manual IV (APA 1994: 572) uses the following criteria to diagnose paedophilia:

- *Over a period of at least 6 months, [the person has had] recurrent, intense sexually arousing fantasies, sexual urges, or behaviours involving sexual activity with a prepubescent child or children (generally aged 13 years or younger);*
- *The person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty; and*
- *The person is at least 16 years and at least 5 years older than the child or children in Criterion A.*

Revisions to the Diagnostic and Statistical Manual IV now recognise that experiencing distress about sexual urges, fantasies or behaviours should no longer be a required element of the diagnosis of a paedophile (Moulden et al. 2009). As Moulden et al. (2009: 681) argue, ‘given the egosyntonic nature of Pedophilia, [this criterion] is simply nonsensical’. That is, it is somewhat tautological to suggest that

⁸ More info: <https://www.ecpat.org/what-we-do/sexual-exploitation-of-children-travel-tourism/> (accessed: 04/12/2020).

paedophilia can only be diagnosed if sexual interest in children causes the individual to become distressed, as a lack of distress about being sexually interested in children can characterise paedophilia.

Although the Diagnostic and Statistical Manual IV has been criticised on a number of grounds (Moulden et al. 2009), the diagnostic criteria for paedophilia provide a helpful framework for understanding that not all child sex offenders are paedophiles and not all paedophiles are child sex offenders. As this suggests, paedophiles are those individuals who are sexually attracted to young children; these individuals may or may not act on this attraction. Conversely, while some child sex offenders are attracted to children, others may have sexual interest in and/or offend against both children and adults, and/or may act out of opportunity rather than an exclusive sexual interest in children.

*It should also be noted that the term ‘paedophile’ refers specifically to those attracted to prepubescent children. Those attracted to pubescent children are described in the literature as ‘hebephiles’ (see e.g. Blanchard & Barbaree 2005). As Bahroo (2003: 498) argues, however, it may be more accurate to consider these classifications ‘in terms of body type and build rather than in terms of age’. That is, child sex offenders who have a preference for a particular ‘age group’ are likely to be attracted to the typical body type of that age group rather than the age of the children per se (*ibid.*).’*

In the context of the GRACE project and of the expert work against sexual exploitation and abuse of children, the terms that are generally used as appropriate and commonly accepted by many experts in the CSEA arena are:

- a) Child sex offender (CSO) – any person, regardless of age, gender, race, sexual orientation, sexual preferences or other personal circumstances that commits any kind of sexual abuse or sexual exploitation of a child.
- b) Transnational child sex offender (TCSO) – any child sex offender that travels or resides away from his home country or place of origin to other location, often to other less developed or underdeveloped country to abuse his position or power in order to commit sexual abuse or sexual exploitation of a (real) child. Occasionally a reader may find the term “travelling child sex offender” or “child sex tourist” that are practically abandoned by experts.

3.7. Internet and CSEA

The advent of the Internet has amplified the crime of child sexual exploitation and abuse, as the nature and extent of available connections among offenders and victims have rapidly developed. Through the Internet, offenders are increasingly able to reach children all over the world, subject them to sexual grooming, coercion, sexual extortion and LDCA (see above). With the use of technology, offenders can live steam or record and distribute the sexual abuse of children via the Internet to other like-minded offenders. Live streaming, also known as live distant child abuse (LDCA) is most often strongly motivated by financial gain.

Europol has identified⁹ those technological components playing a significant role in the perpetration of this type of crime, namely Peer2Peer networks, social media, messaging applications and the darknet. All these have an aggravating effect on victims, as they allow a wider distribution of CSAM¹⁰ among millions of offenders. In an international survey of survivors of child sexual exploitation 70 % of victims referred to their

⁹ See Europol threat assessments, e.g. IOCTA 2018, IOCTA 2019.

¹⁰ Phoenix 11 Advocacy Statement, at https://protectchildren.ca/static/images/download-buttons/C3P_Phoenix11_AdvocacyStatement_en.34cc8ca70611.jpg (accessed: 17/12/2020).

persistent concern¹¹ that they will be recognised in public because of their involuntary participation in the CSAM in circulation.

On the other hand, by using the Internet, suspects can victimise more children and take advantage of their vulnerability. Online grooming is particularly concerning; as a lot of information on potentially vulnerable children is accessible on the Internet allowing offenders to socially engineer their approaches. Offenders use technology to communicate with each other. Communities of child offenders have been found on the cleernet as well as on the darknet. These criminals take advantage of encrypted environments, where they feel anonymous and unaccountable for what they do.

3.8. Crossovers between CSEA and trafficking in human beings?

It was already clarified that proper understanding of the terminology related to sexual exploitation of children is of significant importance (Frangež et al., 2015), and this is increasingly evident when it comes to borderline examples, such as trafficking in human beings. Perhaps, to be more precise: child trafficking.

The crime of child sexual abuse (CSA) refers to the sexual abuse or exploitation¹² of a child, a person below the age of 18, including the production and online sharing of images of such abuse. Offenders taking advantage of their power and/or influence over the child abuse their privileged position, status, and/or relationship, in order to coerce and exploit them to fulfil the offender's own sexual and less frequently financial needs. This crime has severe consequences for the victims and their ability to overcome the traumatic experience/s, and often have adverse effects throughout their life as adults¹³. Sexual abuse or sexual exploitation of a child can take several forms; some were explained above.

Crossovers between CSEA and trafficking in human beings (THB) for sexual exploitation are seen mostly in the abusive acts committed against victims. Perpetrators or traffickers lure, trick, force or induce victims into sexual activity against their consent (e.g. prostitution, escorting, and adverts). In many occasions victims are not even aware that they are being trafficked when they respond to a job offer abroad with promising income, or when they believe they are in an honestly established romantic relationship with 'lover boys'. While THB usually entails the transport or relocation of victims from one location to another for financial gain from their exploitation, the main goal of offenders in CSEA is usually to satisfy their sexual desires, and to a lesser extent for financial gain.

The difficulty in separating both concepts is most often attributed to the regional use of a certain term – 'child trafficking' is often used in the US and Asia in relation to CSEA, while in Europe CSEA is more firmly used in connection with the technological aspects of the crime. In recent times this has been even more emphasised in connection with the live streaming of child sexual abuse and exploitation. It has been called "digital or virtual trafficking" since the victim is being abused by those who are paying for it and are at a distance from the victim. However, the GRACE project asserts that this interpretation of what is essentially a sexual crime against a child that is enabled through the internet, without that child being moved anywhere, stretches the definition of human trafficking as it is understood in Europe. It fails to acknowledge the considerable body of law that has been created to define and counter CSEA and the efforts of law enforcement, private industry, NGOs, policymakers and Governments to do so. Consequently it also

¹¹ Canadian Centre for Child Protection, International Survivor's Survey, at <https://protectchildren.ca/en/resources-research/survivors-survey-results/> (accessed: 17/12/2020).

¹² Production of child sexual abuse material involves the actual sexual abuse of a child (CSAM) while distribution of CSAM is usually considered as child sexual exploitation (taken from Terminology guidelines for the protection of children from sexual exploitation and sexual abuse).

¹³ Canadian Centre for Child Protection, ibid. no. 9.

potentially diverts attention and resources that would otherwise be deployed in harnessing the existing knowledge and expertise to counter CSEA.

However, it is very clear that both online CSEA and technology enabled child trafficking represent a significant violation of ethical, moral, social norms and legal provisions, and the human rights of every victim.

3.9. Victims and survivors

a) Victims

According to Merriam-Webster Dictionary, a victim is a person who has been attacked, injured, robbed, or killed by someone else, or a person who is cheated or fooled by someone else, or someone or something that is harmed by an unpleasant event (such as an illness or accident).¹⁴ The Cambridge Dictionary defines a victim as someone or something that has been hurt, damaged, or killed or has suffered, either because of the actions of someone or something else, or because of illness or chance,¹⁵ while the Oxford Dictionary of English defines the term as a person harmed, injured, or killed as a result of a crime, accident, or other event or action.¹⁶

The term victim is also defined in EU legislation as (1) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; and as (2) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death. Legal definition is provided in the Article 2 of the Directive 2012/29/EU of the European Parliament and of the Council of 25/10/2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA also known as Victim's Rights Directive.¹⁷

The Grace project uses two definitions of the term "victim". One is presented above as part of the EU legislation, while the other reads as follows: "Someone or something that has been hurt, damaged, or killed or has suffered, either because of the actions of someone or something else, or because of illness or chance."¹⁸

b) Survivors

According to the Merriam-Webster Dictionary, a survivor is a person that remains alive or in existence (live on) or continues to function or prosper.¹⁹ The Cambridge Dictionary defines a survivor as a person who continues to live, despite nearly dying or a person who is able to continue living their life successfully despite

¹⁴ Merriam-Webster. (n.d.). Victim. In Merriam-Webster.com dictionary. Available at: <https://www.merriam-webster.com/dictionary/victim> (accessed: 08/05/2021).

¹⁵ Cambridge Dictionary. (n.d.). Victim. In Dictionary.Cambridge.org dictionary. Available at: <https://dictionary.cambridge.org/dictionary/english/victim> (accessed: 08/05/2021).

¹⁶ Oxford University Press (2010). Victim. In Stevenson, A. (Ed.), Oxford Dictionary of English, 3rd Edition, p. 1978.

¹⁷ OJ L 315, 14.11.2012, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029&qid=1620375506691> (accessed: 08/05/2021).

¹⁸ See document under the Grace project, deliverable D2.1 - Use Cases, Process and Data Flows Refinement.

¹⁹ Merriam-Webster. (n.d.). Survivor. In Merriam-Webster.com dictionary. Available at: <https://www.merriam-webster.com/dictionary/survivor> (accessed: 08/05/2021).

experiencing difficulties (i.e. a survivor of child abuse),²⁰ while the Oxford Dictionary of English defines the term as a person who survives, especially a person remaining alive after an event in which others have died.²¹

Only the Cambridge Dictionary definition covers the term “survivor” with the concrete example in relation to sexual abuse of children. Still, the term “survivor” is not used as a legal terminology in relation to the context of the Grace project.

But, the term “survivor” is meant for self-identification or for self-determination by persons who have undergone a great suffering and pain because of the crime(s) with elements of violence, abuse, exploitation, maltreatment and betrayal that were committed against them. All these types of victimization had various, but huge impact on their own decisions, health and way of life after the day of event (crimes). Ben-David (2020) emphasized that in essence, the self-definition as a *Victim* or as a *Survivor* is related to factual victimization event, and the fact that the person survived that event, with or without physical or financial damages. She also pointed out that the term *Overcomer* has not been enthroned and has not been accepted (*ibid.*).

So, the question is how to address a person that suffered or has been affected by sexual violence. Should it be the term “victim” or should it be the term “survivor”? It is believed that both terms are correct, the distinction is how or when they are used. Usually the term survivor is related to the recovery process of the victims, while the term “victim” is used in legal proceedings in their cases and are usually referred to criminal justice systems (legal status of a person). Some people would prefer one, some the other. The decision is within their remit only, others must respect their choice.²²

3.10. First responders (law enforcement)

According to the Merriam-Webster Dictionary, first responder is a person (such as a police officer or an EMT) who is among those responsible for going immediately to the scene of an accident or emergency to provide assistance.²³ The Cambridge Dictionary defines first responder as someone who is one of the first people to arrive to deal with an emergency, especially a paramedic, police officer, or firefighter,²⁴ while the Oxford Dictionary of English defines the term as a person whose job entails being the first on the scene of an emergency, such as a firefighter or police officer.²⁵

In practical terms, the first responder is a person with a specialized training who is among the first to arrive and provide assistance at the scene of any kind of emergency (accident, crime, natural disaster, terrorism, other). First responders, who are often a first line resource for people around them typically include law enforcement officers, paramedics, emergency medical technicians and firefighters.

The law enforcement first responders are persons, who have the skills and knowledge to protect people's lives, personal safety and property. They are part of the competent body and are authorised to do so, according to the national law on their tasks, powers and responsibilities. In regard of the criminal offences, they usually have some skills and knowledge to prevent, detect and investigate criminal offences, to collect

²⁰ Cambridge Dictionary. (n.d.). Survivor. In Dictionary.Cambridge.org dictionary. Available at: <https://dictionary.cambridge.org/dictionary/english/survivor> (accessed: 08/05/2021).

²¹ Oxford University Press (2003). Survivor. In Soanes, C., & Stevenson, A. (Ed.), Oxford Dictionary of English, 2nd Edition, p. 1178.

²² See also guidelines in chapter 7.

²³ Merriam-Webster. (n.d.). First responder. In Merriam-Webster.com dictionary. Available at: <https://www.merriam-webster.com/dictionary/first%20responder> (accessed: 08/05/2021).

²⁴ Cambridge Dictionary. (n.d.). First responder. In Dictionary.Cambridge.org dictionary. Available at: <https://dictionary.cambridge.org/dictionary/english/first-responder> (accessed: 08/05/2021).

²⁵ Oxford University Press (2010). First responder. In Stevenson, A. (Ed.), Oxford Dictionary of English, 3rd Edition, p. 659.

evidence and arrest offenders. When it comes to cases that are related to sexual exploitation and abuse of children, it is expected to have at least a basic knowledge about the CSEA offences and to respond according to their tasks, powers and responsibilities in order to support victims of this type of crime and assure that their rights as victims are guaranteed. It is not expected that due to specifics and complex nature of CSEA crimes they will have the skills and knowledge to investigate them but it is expected to follow the basics, presented in this deliverable and other relevant procedures, adopted and provided according to the policies of their organization and country. Further investigations of CSEA crimes will usually be dealt with by specialised units and institutions with their personnel.

The term “law enforcement” is meant for the officials or agents of police organizations, usually uniformed police officers that in the context of the above explanation are the first persons at the scene of an incident or a crime, where they would protect victims, secure the evidence and establish public peace and order. They have legal powers to do so.

3.11. Other terminology

Additional help in understanding the relevant terminology and semiotics in this crime area is the “Terminology guidelines for the protection of children from sexual exploitation and sexual abuse” (also known as Luxembourg Guidelines), released in 2016.

These guidelines can be used as a tool to enhance the protection of children against sexual violence.

4. From facts to legal grounds

The Internet seems to have no boundaries, which also necessitates its efficient, appropriate and ethical governance for the benefit of all users, ICT and related industries, and critical infrastructure. Internet penetration and usage will still increase in all of the world’s regions, which will have the huge impact to the ICT development in general and on humankind. Unfortunately, this will also enable a great impact on society through the internet by criminals and organized criminal networks or groups, and their criminal activities.²⁶

Very simply one child victim is one too many. Although the figures²⁷ already presented are compelling, they also make clear that there are many more unknown or hidden children, the victims of sexual exploitation and abuse that have been and remain most vulnerable. Furthermore, the COVID-19 crisis has resulted in a surge in online distribution of child sexual abuse material, which was already at high levels prior to the pandemic (Europol, 2020). Europol emphasized the harm resulting from being a victim of this crime is severe, and every time a picture or video is shared, this results in repeat victimisation. The impact of this crime area can hardly be overstated and an effective response is of utmost importance (*ibid.*). On the other hand, National Police Chief Council highlighted a significant drop in the number of child sexual abuse cases reported to police during lockdown masks the true extent of what's happened to vulnerable children (Razzall, 2020).

Therefore, this chapter presents the main legal basis in relation to protection of children from sexual abuse and exploitation and provides the insights in their mechanisms. This is intended to be a resource explaining the various legal international treaties, agreements and instruments intended to protect children. It also details provisions regarding judicial treatment of children.

²⁶ See deliverable D10.5 v1 of the Project Grace.

²⁷ *Ibid.*



The chapter also include explanations and overview of these instruments in relation to the rights of the victims in-depth. It is of great significance that the first responders really have the access to what they should and how they should perform their tasks to protect children-victims of sexual abuse and exploitation.

4.1. UN Convention on the Rights of the Child and its Fundamental Principles

All stakeholders, decision-makers, policy-makers and anyone, who can make big or small changes for the well-being of children should follow the fundamental principles,²⁸ defined in the UN Convention on the Rights of the Child (UN CRC). It should be noted that a child is a person below the 18 years of age, according to Article 1 of the said convention.²⁹

The rights described in UN CRC are defined and focused on children as follows:

- Non-discrimination (Article 2): All children have all the Convention rights, no matter their personal circumstances or situation, and should be treated with respect and dignity.³⁰
- Best interest of the child (Article 3): How will the decisions by others affect children and their childhood, and best approach must be taken into consideration.³¹
- Life, survival and development (Article 6): Every child has the right to live, making possibilities for their survival and development of their growth.³²
- Respect for opinions (Article 12): Children have the right to give their opinions freely on issues that affect them, receive the feedback, and should be taken seriously.³³

In practical terms, in relation to tackling sexual exploitation and abuse of children, these fundamental principles can be understood, that everyone:

- acknowledge “no child should be left behind,” which corresponds to Article 2, by meaning that all solutions, decisions or approaches we take, must affect all children without any discrimination;

²⁸ The subchapter 4.1 is based on contribution from The Magic of UN CRC Fundamental Principles in Decision-Making Processes (draft article TBP soon) on the meaning of these principles and of the necessity of applying all of them simultaneously.

²⁹ Official text Article 1 of UN CRC: *“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*

³⁰ Official text Article 2 of UN CRC: *“(1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. (2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.”*

³¹ Official text Article 3 of UN CRC: *“(1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. (2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. (3) States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.”*

³² Official text Article 6 of UN CRC: *“(1) States Parties recognize that every child has the inherent right to life. (2) States Parties shall ensure to the maximum extent possible the survival and development of the child.”*

³³ Official text Article 12 of UN CRC: *“(1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”*



- focus its activities “the right way, efficient, professional, ethical, and without causing any harm,” which correspond to Article 3, by meaning that all solutions, decisions or approaches we take must affect children with the best and most positive intention;
- should “safeguard children at every developmental stage during its growing up, including nurture their childhood, play, learning, wisdom, and skills,” which correspond to Article 6, by meaning that we must protect them from any negative distractions, harms, abuse or other violent behaviour;
- has a mandate to “hear the voices of children,” which correspond to Article 12, by meaning that we have to provide them with the access to correct information, reply to them and engage in active participation in matters concerning them (child participation) without any undue delay.

Fundamental principles should be applied all at once, and in no case should any be omitted.

Additional obligations for every State party to the UN CRC in regard of the aim of GRACE project are concretely defined in the following provisions:

- Article 19 (protection measures against any violence and harm, including sexual abuse),³⁴
- Article 34 (protection measures against all forms of sexual exploitation and abuse),³⁵
- Article 39 (recovery and reintegration of child victim),³⁶
- And in Article 16 (protection of child’s privacy).³⁷

In brief, these four provisions have to be fundamentally understood to make the best efforts possible to protect children against any violence, especially to pay special attention to protection against sexual exploitation and abuse so that no child is victimized. In cases that a child is (was) victimised in any form of sexual attack on his or her sexual integrity, then all necessary measures (identifying, safeguarding, put in place mechanisms, support, information, health care, therapy and social reintegration) must take place efficiently, effectively and appropriately for each child, with respect for the individual child’s personal situation in order to discover and foster the child’s psychological balance.

In addition, it is important that the child’s privacy is highlighted on both sides of the coin: one is related to the right to protecting privacy against anything that could endanger the proper protection of child’s personal data and information and the other is to safeguard the child’s privacy against further dissemination, sharing or distribution of CSAM. These are closely intertwined and linked interdependently, one to the other.

³⁴ Official text Article 19 of UN CRC: “(1) States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. (2) Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”

³⁵ Official text Article 34 of UN CRC: “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.”

³⁶ Official text Article 39 of UN CRC: “States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”

³⁷ Official text Article 16 of UN CRC: “(1) No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. (2) The child has the right to the protection of the law against such interference or attacks.”

4.1.1 Business and Children's Rights

At this point, since the technology issues are discussed, the solutions are searched and policy recommendations presented, it is important to highlight the role of the private sector – Internet industry and related branches. Does the business sector have anything to do with children's rights, or it is just a domain of the governmental bodies (public sector)?

The answer to this question has been provided by the UN Committee on the Rights of the Child in its General comment No. 16 (2013)³⁸ on State obligations regarding the impact of the business sector on children's rights. Among other explanations, the paragraph no. 8 clarifies once for all, and it says:

"The present general comment principally addresses States' obligations under the Convention and the Optional Protocols thereto. At this juncture, there is no international legally binding instrument on the business sector's responsibilities vis-à-vis human rights. However, the Committee recognizes that duties and responsibilities to respect the rights of children extend in practice beyond the State and State-controlled services and institutions and apply to private actors and business enterprises. Therefore, all businesses must meet their responsibilities regarding children's rights and States must ensure they do so. In addition, business enterprises should not undermine the States' ability to meet their obligations towards children under the Convention and the Optional Protocols thereto."

The above general comment can be understood as a strong reminder to the business sector. The answer to the main question is positive. The business sector has responsibilities and obligations towards children and their rights. Since the children's rights are part of human rights, businesses are an important element in their protection against the sexual abuse and exploitation.

It can be emphasized without any problems that in order to guarantee the rights of children, the business sector, companies in Internet industry and related branches are also obliged to contribute responsibly in the safety and well-being of the children.

4.2. Europe: International treaties focused on the fight against CSEA

In the pool of numerous international treaties, legal acts, strategic documents and the like, which are or may be legally binding, we limit ourselves to only the five central documents. These are:

1. **The Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography** (United Nations),³⁹ which extends the measures that States Parties should undertake in order to guarantee the protection of children from any form of sexual abuse and exploitation. It provides minimum legal standards, investigative assistance and international cooperation, adopt measures to protect the rights and interests of child victims, adopting relevant policies and programmes, and establishes monitoring mechanisms (providing comprehensive information on implementation).

³⁸ UN Committee on the Rights of the Child, General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, adopted by the Committee at its 62nd session, on 14 January – 1 February 2013. Document no. CRC/C/GC/16, dated on 17 April 2013, Available at: https://www2.ohchr.org/english/bodies/crc/docs/GC/CRC-C-GC-16_en.doc (accessed: 08/10/2020).

³⁹ Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002. Available at: <https://www.ohchr.org/en/professionalinterest/pages/opsccrc.aspx> (accessed: 12/10/2020).

2. **The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No. 182⁴⁰** (UN Specialized agency, International Labour Organization): which recognizes the worst forms of child labour include⁴¹ the use, procuring or offering of a child for forced prostitution, for the production of sexual explicit material (pornography) or for sexual (pornographic) performances. It provides possibilities to eliminate these forms of child labour and mechanisms for monitoring.
3. **Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, No. 201 (Council of Europe):**⁴² as the first instrument to establish the various forms of sexual abuse of children as criminal offences, outlines preventive measures, monitoring measures for offenders, establishes programmes to support victims and encourages reporting mechanisms, international cooperation etc. It highlights also the importance of education about information and communication technologies, encouraging participating private sector to establish policies to prevent CSA/CSE, criminalizes certain acts when ICT is used to commit CSA/CSE, encourages state authorities to take relevant measures to efficiently use ICT for investigation purposes to identify offenders and safeguard children, and establishes monitoring mechanisms.
4. **Convention on Cybercrime, No. 185 (Council of Europe):**⁴³ as the first international treaty on crimes committed via the Internet and other computer networks, dealing besides with infringements of copyright, computer-related fraud, and violations of network security, also with online CSAM/CSEM. Its main objective is to pursue a common criminal policy aimed at the protection of society against cybercrime, especially by adopting appropriate legislation and fostering international co-operation.
5. **Directive 2011/93/EU⁴⁴ 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 (European Union).** It aims at improving the protection of children from sexual abuse and exploitation, while EU MS have to adopt prevention measures, protect child victims, and investigate and prosecute offenders. Among others, it introduces extraterritorial jurisdiction for offenders who are nationals, so that they can also be prosecuted in their country for sexual crimes against children they commit abroad; ensures that effective investigative tools must be available to the police, such as those used against organised and serious crime, and special units must be set up to identify victims on CSEM/CSAM. It also provides the legal basis to ensure the prompt removal of web pages containing or disseminating CSAM/CSEM, or to make decisions to block access to users in their territory to such web pages.
6. **[Proposal for a] Regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual**

⁴⁰ Adopted by General Conference of the International Labour Organization, on its 87th session on 17 June 1999, entered into force on 19 November 2000. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed: 12/10/2020).

⁴¹ We limited to the scope that is related to the GRACE project only.

⁴² Known as Lanzarote Convention, Treaty was opened for signature on 25 October 2007, entered into force on 1 July 2010. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680084822> (accessed: 12/10/2020).

⁴³ Known as Budapest Convention. Treaty was open for signature on 23 November 2001, entered into force on 1 July 2004. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680081561> (accessed: 12/10/2020).

⁴⁴ EU MS had to implement this directive into national legislation by 18 December 2013. Published in Official Journal of the EU, no. L 335, dated 17 December 2011. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093> (accessed: 12/10/2020).

abuse online (COM/2020/568 final) (European Union).⁴⁵ The provisional agreement on a temporary measure was accepted by European Parliament and the Council on 29/04/2021, while currently it is a subject to approval by the Council. It provides for a derogation to articles 5(1) and 6(1) of the ePrivacy directive,⁴⁶ to allow providers to continue to detect, remove and report CSAM and apply anti-grooming technologies, until permanent legislation announced by the EC is in place. The Charter of Fundamental Rights and the GDPR will continue to apply in any case, and a number of extra safeguards will guarantee that privacy online is respected.⁴⁷ It also means that ESP will continue their efforts in detecting and reporting CSAM to authorised bodies as they did until 20/12/2020, as the proposed regulation shall apply from 21 December 2020 until 31 December 2025.

All of the above documents provide a legal basis for the fight against sexual abuse and exploitation of children, on condition that the countries (State Parties, Member States) have either ratified them implemented them into national legislation and then enforce those laws. On the other hand, there is also a need to highlight possible gaps. In general it is worth to mention that neither Lanzarote Convention nor Budapest Convention have been updated to address some of the more recent technical developments and close existing gaps.

On one hand the technological development, improvements and innovations go in a positive direction, on the other are the individuals or organised criminal networks or groups that exploit the humankind's progress not just negatively, but also in the worst possible manner against the vulnerable communities such as children and children with disabilities. The technology is exploited to cause severe violation of children's rights, when their privacy, intimacy and well-being is attacked through sexual crimes against them. In addition to this, the technological progress also continues with the emergence of new technologies, techniques and solutions (e.g. Artificial Intelligence).

The intentions of technology developers, for example of TOR, PhotoDNA and encryption are far from what the current reality of their use is in the CSE arena. Current discussions about dark net brings many thoughts about criminal underground activities, use of PhotoDNA in some circles is understood as a breach of the rights to privacy and applying end-to-end encryption to user communications across social networking platforms by default is heralded as an achievement for privacy protection while potentially providing a new "safe haven" for sexual offenders and other criminal groups. In regard to artificial intelligence, strong ethical and legal questions also arise. Whether AI will become a new solution in the fight against sexual abuse and exploitation of children and how effective can it be, are challenging questions.

The examples presented above are strong indicators that efficient policy recommendations must be addressed to properly tackle CSE online.

4.3. Europe and the main strategies to protect children from sexual abuse and sexual exploitation

The central documents that have a significant value in European continent and that comprehensively address

⁴⁵ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020PC0568> (accessed: 03/05/2021).

⁴⁶ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, Article 5 is about confidentiality of the communications and Article 6 about traffic data. E-Privacy Directive is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32002L0058> (accessed: 03/05/2021).

⁴⁷ Council of the EU, PR released on 29/04/2021 under title Combating child abuse online – informal deal with European Parliament on temporary rules. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2021/04/29/combating-child-abuse-online-informal-deal-with-european-parliament-on-temporary-rules/> (accessed: 03/05/2021)

the protection of children from all forms of sexual exploitation and sexual abuse are introduced in the subchapters below.

4.3.1 United Nations

The UN Department of Economic and Social Affairs has introduced the core point for sustainable development across the world (quote):

"The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests."⁴⁸

The SDGs that the GRACE project focuses on fulfilling by aiming at improving responses against sexual exploitation and abuse of children, are:

a) SDG no. 5: Achieve gender equality and empower all women and girls, with at least these targets:

- 5.1 End all forms of discrimination against all women and girls everywhere;
- 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation;
- 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation;
- 5.B Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women;
- 5.C Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

The targets under SDG no. 5 in its connectivity to the GRACE project has to be understood in wider context. Gender inequality, discrimination and any kind of violence against women and girls are leading into other forms of degrading and harmful behaviour including the objectivization. The devolving of that behaviour into grave sexual exploitation and abuse, is part of a cycle of violence. The dynamic of that cycle is towards an increasing intensity if it is not interrupted. In some cases, it can lead to life-threatening humiliations, attacks on human life, including suicides, so-called honour killings and other murders.

For an example – forced child marriages might have nothing to do with sexual violence at first glance. But many organizations, such as CIOS Safeguarding Children Partnership (CIOS-SCP) are warning they show that children forced into these marriages are likely to suffer significant harm through physical, sexual or emotional abuse, have a negative impact on a child's health and development, can result in sexual violence including rape. The CIOS-SCP also stated, if a child is forced to marry, the child may be taken abroad for an extended period of time, which could amount to child abduction, and would be absent from school. The later would result in the loss of educational and possibly future employment opportunities. Even if the child is not taken abroad, they are likely to be taken out of school to ensure that they do not talk about their situation with their peers (*ibid.*).⁴⁹ Similar interrelated forms of violence can also be detected in cases of FGM, domestic violence,

⁴⁸ The text of this paragraph was taken from <https://sdgs.un.org/goals> (accessed: 16/12/2020).

⁴⁹ Forced Marriage, Cornwall & Isle of Scilly Safeguarding Children Partnership Procedures, at https://www.proceduresonline.com/swcpp/cornwall_scilly/p_force_marriage.html (accessed: 16/12/2020). See some of other Grant Agreement: 883341 Dissemination level: PU Page 27 of 85

cyber-violence and many others.

b) SDG no. 16: Promote just, peaceful and inclusive societies, with at least these targets:

- 16.1 Significantly reduce all forms of violence and related death rates everywhere;
- 16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children;
- 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all.

The targets under SDG no. 16 in regard to the GRACE project have to be understood in the proper context. Target 16.1 is specifically meant to address violence including sexual violence, target 16.2 is fully focused on this aspect while target 16.3 is more focused on the effectiveness of reporting mechanisms.

It is well understood that all other SDGs relating to eliminating poverty and hunger, improving health and well-being, delivering clean water are also of great importance and indirectly apply to the aim of the GRACE project in the broader humanitarian context.

4.3.2 Council of Europe

The Council of Europe Strategy for the Rights of the Child (2016-2021), identifies five priority areas for all its 47 member states⁵⁰ to guarantee the rights of the child. These priorities are:

- a) Equal opportunities for all children to have the right to an adequate standard of living and to appropriate social and economic protection;
- b) Participation of all children, as they have the right to be heard and participate in decisions affecting them (views should be given due respect in the development, implementation and evaluation of child-related laws, policies and actions);
- c) A life free from violence for all children, which means that member states must guarantee that children are protected against all forms of violence, including sexual abuse and exploitation;
- d) Child-friendly justice for all children, since many children come into contact with the justice system in different ways, and justice systems in Europe have to adapt their work to the specific needs of children and primarily their best interest;
- e) Rights of the child in the digital environment are crucial since the Internet has become an integral part to children's lives. They have the right to learn, play and communicate safely online and be provided with practical knowledge of how stay safe online.

The Council of Europe has started the preparation for its next Strategy for the Rights of the Child (2022-2027).

4.3.3 European Union

One thing is certain, one child sexually abused, exploited or exposed to online harm is one too many. Figures⁵¹ encompasses many different angles of gathered statistical indicators on sexual abuse and exploitation of

sources: What is the impact of child marriage?, A global partnership: Girls Not Brides, at <https://www.girlsnottbrides.org/what-is-the-impact/> (accessed 16/12/2020); Child, early and forced marriage, including in humanitarian settings, UN Human Rights, Office of the High Commissioner, at: <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/ChildMarriage.aspx> (accessed: 16/12/2020).

⁵⁰ All 47 Council of Europe member states are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, and United Kingdom.

⁵¹ See footnote 26.

children, including overall usage of contemporary electronic devices and internet related applications. Children are vulnerable because they are children and child sexual abuse is a serious crime with long-lasting consequences for a victim. Fighting against this crime is a priority for the European Union⁵² and other partners, therefore further efforts are needed to ensure that all children are free from abuse and exploitation.

In two separate documents, the Justice and Home Affairs Council and the European Parliament called for more concrete action:

- Council of the EU, GSC conclusions, doc. 12862/19 of 8 October 2019 on combating the sexual abuse of children,⁵³
- European Parliament resolution, TA(2019)0066 of 26 November 2019 on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child (2019/2876(RSP)).⁵⁴

To complement and improve existing EU activities in protecting children from sexual abuse, and to address new challenges such as unforeseen risks of end-to-end encryption, the European Commission put forward a new strategy:

- EU strategy for a more effective fight against child sexual abuse, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, doc. COM(2020) 607 final of 24 July 2020.⁵⁵

The strategy set out eight initiatives for 2020-2025 that focus on implementing and developing the right legal framework, strengthening law enforcement's response and galvanising a coordinated multi-stakeholder response on prevention, investigation and assistance to victims. The key initiatives are:

1. Ensure complete implementation of current legislation, i.e. Directive 2011/93/EU against sexual abuse of children,⁵⁶
2. Ensure that EU legislation enables an effective response,
3. Identify legislative gaps, best practices and priority action,
4. Strengthen law enforcement efforts at national and EU level,
5. Enable EU MS to better protect children through prevention,
6. Establish a European Centre to prevent and counter child sexual abuse,
7. Galvanise industry efforts to ensure protection of children in their services,
8. Improve protection of children globally through multi-stakeholder cooperation.

An additional strategic document that covers all other aspects of children's rights in European Union is titled EU strategy on the rights of the child (2021-2024)⁵⁷ and provides the framework for EU action to better promote and protect children's rights. It contains a set of measures for the EU to implement, addressing among others:

- The rights of the most vulnerable children,

⁵² It means the EU member states (EU27): Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. From 31 January 2020, the United Kingdom of Great Britain and Northern Ireland is no longer an EU/EEA member state.

⁵³ Full text available at: <https://data.consilium.europa.eu/doc/document/ST-12326-2019-COR-1/en/pdf> (accessed: 16/12/2020).

⁵⁴ Full text available at: https://www.europarl.europa.eu/doceo/document/TA-9-2019-0066_EN.html (accessed: 16/12/2020).

⁵⁵ Full text available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_com-2020-607-commission-communication_en.pdf (accessed: 16/12/2020).

⁵⁶ For more details see subchapter 4.2 International legal documents, relevant in Europe focused to the fight sexual exploitation of children.

⁵⁷ Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142> (accessed: 10/05/2021).

- Children's rights in the digital age,
- The prevention of and fight against violence,
- The promotion of child-friendly justice.

It also includes recommendations for action by other EU institutions, EU countries and stakeholders. The adoption of the strategy by EC took place on 24/03/2021.

4.4. Victims' Rights and legal instruments

There are plenty of legal instruments at different levels that govern the victims' rights in relation to sexual abuse and exploitation of children. With legal instruments are meant treaties, strategies and policies, therefore the main documents are introduced in this subchapter. This overview is limited to the scope of the GRACE project.

4.4.1 United Nations

Below are introduced the main legal instruments at the EU level. These documents provide different rights to victims of crime, which we briefly highlight in the context of each legal act.

4.4.1.1 Convention on the Rights of the Child

The articles below need to be read in conjunction with the definition of the child⁵⁸ and the fundamental principles⁵⁹ of the said Convention as they would bring better understanding of the children's rights. The relevant provisions under this Convention are:

- **Child's right to protection from all forms of violence (Article 19):** with different protective measures and approaches by the competent authorities, which should include social programmes to provide necessary support to children and their caregivers, other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of various forms of violence and for judicial involvement.

Article 19 goes beyond children's rights to protection from what is arbitrarily defined as "abuse" in different societies, and beyond their right to protection, guaranteed under article 37, from torture and cruel, inhuman or degrading treatment or punishment; article 19 requires children's protection from "all forms of physical or mental violence" while in the care of parents or others. Thus, article 19 asserts children's equal human right to full respect for their dignity and physical and personal integrity. As a principle, it is linked to the right to life and to maximum survival and development guaranteed under article 6.

Article 19 requires States to take a variety of measures – legislative, administrative, social and educational – to protect children from all forms of violence. Paragraph 2 sets out possible protective measures, acknowledging that social and educational measures, and in particular the provision of appropriate support to children and families, are relevant to the protection of the child from violence, abuse and exploitation.

Growing awareness exists in all countries of the extent of violence against children in their homes, in institutions and in the community. Only in the last few decades has the prevalence of deliberate violence to children by parents and other caregivers been widely acknowledged. More recently "discovered" is the widespread sexual abuse of children in the family and in institutions, and also organized sexual abuse, including "sex tourism" and other forms of sexual exploitation (the obligation to protect children from sexual exploitation is further expanded in article 34 and in the Optional Protocol on the sale of children, child prostitution and child pornography. Along with growing knowledge of the prevalence of violence to children has come growing

⁵⁸ See subchapter 3.1.

⁵⁹ See subchapter 4.1.

awareness, through research, of its dangers and of the links between childhood experience of violence and violent and other anti-social behaviour in childhood and later life.⁶⁰

- **Children deprived of their family environment (Article 20, para.1):** should have to be entitled to special protection and assistance by the competent authorities, especially in cases when children's own best interests cannot be allowed to remain in that environment (e.g. sexual abuse and exploitation, violence).

Article 20 concerns children who are temporarily or permanently unable to live with their families, either because of circumstances such as death, abandonment or displacement, or because the State has determined that they must be removed for their best interests.

Such children are entitled to "special protection and assistance". The method of care for them will depend in part on national traditions [...], but must secure the child's rights under the Convention and, in particular, give due regard to the desirability of continuity of upbringing, including ethnicity, religion, culture and language (see articles 21, 8 and 30).

The article principally applies to the social work or welfare departments of government and to social workers, foster caregivers and adoptive parents.

It should be noted that this provision refers to family, not parents, an important distinction. While it may be in the child's best interests to be removed from his or her parents (see article 9), the State should first seek placement in the child's wider family, as upheld in article 5, before looking for alternatives.

This approach is reflected in the provisions of article 20 and the rest of the Convention, as well as in comments by the Committee, which has consistently encouraged States to use institutions only as a last resort.

The use of the word "entitled" stresses the obligation the State has towards children who cannot be cared for by their parents. It goes to the heart of the duty all societies owe children – that if parents cannot meet their children's needs then the children have a moral claim on the rest of us.

Children who have been deprived of their families often have greater needs than simply the provision of an alternative placement. The loss of family attachments and identity together with the instabilities and disruptions of a new placement can impede their physical, intellectual and emotional development; children in such circumstances are also vulnerable to abuse and exploitation.

In the context of children separated from their parents, the Committee⁶¹ wishes to emphasize the principle of individualization. Every child is unique and the separation from parents and the placement into out-of-home care should always be looked at case by case. There is no one solution which fits all situations. The individualization of solutions means more tailored solutions based on the actual situation of the child, including her/his personal, family and social situation. This provides better opportunities for the assessment of the child's long-term development and it respects the principle of the best interests of the child, e.g., what are the actual needs of the child, how to keep a close relationship with the biological family.⁶²

- **Sexual exploitation of children (Article 34, sentence 1):** protecting children from all forms of it (prevention) as a significant obligation by competent authorities.

Article 34 obliges States to protect children from "all forms of sexual exploitation and sexual abuse" and to take measures against the three particular (and often linked) forms of exploitation – sexual abuse, prostitution and use in pornography. Article 19 more generally covers protection from "all forms of physical or mental violence" and specifically mentions sexual abuse.⁶³ The exploitative use of children in prostitution and pornography is linked to the sale of and traffic in children (see article 35).

⁶⁰ Taken from: UNICEF (2007). *Child's right to protection from all forms of violence, Article 19. Implementation Handbook for the Convention on the Rights of the Child*, Fully revised 3rd edition, p. 249-276. Available at: https://www.globaldisabilityrightsnow.org/sites/default/files/related-files/346/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf (accessed: 12/05/2021).

⁶¹ This took during the Committee's Day of General Discussion in 2005 on children without parental care.

⁶² Taken from UNICEF's Implementation Handbook for the UN CRC, *Children deprived of their family environment, Article 20*, p. 277-292.

⁶³ See explanation to Article 19 of UN CRC.

Certain groups of children are particularly vulnerable to sexual exploitation: certain groups of children are at a particularly higher risk of being sold and trafficked, including girls, internally displaced children, street children, children with disabilities, orphans, children from rural areas, in armed conflicts, refugee children and children belonging to more vulnerable castes, while certain risk factors, including persisting poverty, the high rate of unemployment, difficult family circumstances that lead to runaways from home and a growth in tourism, may contribute to increased sexual exploitation and trafficking in children.⁶⁴

- **Rehabilitation of child victims (Article 39):** with different appropriate measures and approaches by the competent authorities in order to promote physical and psychological recovery and social reintegration of a child victim of any form violence and humiliations, which should be available in an environment which fosters the health, self-respect and dignity of the child.

Article 39 requires measures to help child victims of:

- *any form of violence, neglect, exploitation or abuse (for example, as detailed in articles 19, 32, 33, 34, 35, 36);*
- *torture or any other form of cruel, inhuman or degrading treatment or punishment (article 37);*
- *armed conflict (article 38).*

The article provides that recovery and reintegration must take place in an environment that fosters the health, self-respect and dignity of the child. The general principles of the Convention on the Rights of the Child require that such measures must be available without discrimination to all child victims; the best interests of the child must be a primary consideration; the maximum survival and development of the child must be ensured; and the views of the child should be respected – for example in planning and implementing programmes, as well as in individual cases. Other rights in the Convention, to health and health care services (article 24), to education (article 28) and to an adequate standard of living (article 27) are relevant to this article's implementation, as is the obligation under article 20 to provide special care and assistance to children temporarily or permanently deprived of their family environment.

The Committee has indicated that the wording of article 39 requires consideration of a wide range of potential child victims. In addition to the situations specifically mentioned in article 39, the Committee has referred to issues such as victims of violence, refugee children (article 22), child labour and forced labour (article 32), abuse and trafficking of drugs (article 33), family conflict (article 9) and the sale and trafficking of children (article 35), as well as children involved in the system of juvenile justice (articles 37 and 40).⁶⁵

All the exposed provisions of the UN CRC are intertwined and should be taken into account as a whole, while not ignoring any other rights enjoyed by children under this and all other international treaties and regional documents.

4.4.1.2 UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)

Various articles of the Convention provide protective rights, requiring States to take a range of actions to prevent violence, neglect and exploitation of children, which is further emphasized in the UN OPSC, adopted in 2000. According to the presented Article 8 of OPSC, child victims are recognised to be particularly vulnerable and in need of procedures that are adapted to their special needs (ECPAT International, 2019). They should be informed of their rights, their role, and the scope, timing and progress of the proceedings and of the disposition of their cases (*ibid.*).

The said provision addresses the need to protect the child victims or survivors concerned (UNICEF, 2007). It states that their best interests must be “a primary consideration” of the criminal justice system and that

⁶⁴ Taken from UNICEF’s Implementation Handbook for the UN CRC, *Sexual exploitation of children, Article 34*, p. 513-521.

⁶⁵ Taken from UNICEF’s Implementation Handbook for the UN CRC, *Rehabilitation of child victims, Article 39*, p. 589-599.

specialist training must be provided for those who work with child victims. Without prejudicing defendants' right to a fair hearing, the criminal justice system must also help child victims by:

- Adapting procedures which recognize their vulnerability and special needs (for example, by the use of video evidence) and providing appropriate support services;
- Keeping them fully informed about the case and of their rights;
- Allowing their views, needs and concerns to be considered in any proceedings which affect their personal interests (for example, by deciding not to prosecute);
- Protecting their identity and privacy;
- Providing any necessary protection to them and to their relatives;
- Avoiding unnecessary delay in the execution of cases and remedies (*ibid.*).

The State must also provide necessary safeguards for people and organizations that work with child victims. Article 8 also requires that any uncertainty over the age of the child should not prevent the initiation of criminal investigations (*ibid.*).

4.4.1.3 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Protocol)

The mentioned Protocol,⁶⁶ also adopted in 2000, like UN OPSC, includes a section on the protection of victims of trafficking (section II) and provides the following rights to the victims:

- **Assistance to and protection of victims of trafficking in persons (Article 6)** by: (1) protecting their privacy and identity, including confidentiality of judicial proceedings; (2) providing them (a) information on relevant court and administrative proceedings and (b) assistance to enable present their views and concerns at appropriate stages of criminal proceedings against offenders; (3) providing them physical, psychological and social recovery, in appropriate cases, including cooperation with NGOs, other relevant organizations and other elements of civil society in particular through (a) appropriate housing; (b) counselling and information, regarding their legal rights and in the language that they can understand; (c) medical, psychological and material assistance; and (d) employment, educational and training opportunities; (4) in applying these rights taking into account their age, gender and special needs, especially those of children, to ensure appropriate housing, education and care; (5) providing the physical safety of these victims and (6) offering them the possibility of obtaining compensation for damage suffered.
- **Status of victims of trafficking in persons in receiving States (Article 7)** by: (1) Providing the permit to victims to temporarily or permanently remain in its territory; (2) in implementing previous provision on permits, appropriate consideration should be given to humanitarian and compassionate factors.
- **Repatriation of victims of trafficking in persons (Article 8)** by: (1) facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay; (2) ensuring safety in the return of victims, including legal certainty before any procedures and that return is voluntary; (3) verify whether a victim is a national of the requested state party or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party; and (4) issue travel documents, enable the person to travel to and re-enter its territory.

⁶⁶ Available at: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx> (accessed: 17/05/2021).

The purposes of the Protocol are “to prevent and combat trafficking in persons, paying particular attention to women and children” (children are defined as in the UN CRC) and to “protect and assist the victims of such trafficking, with full respect for their human rights”, promoting cooperation among States Parties to meet these objectives (UNICEF, 2007). Among other measures, it requires from States Parties to “establish comprehensive policies, programmes and other measures” to prevent and combat trafficking in persons and to protect victims (*ibid.*).

4.4.1.4 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime

In 2005, a resolution 2005/20 of the UN Economic and Social Council adopted the said Guidelines,⁶⁷ which detail what measures are needed to secure the following rights for child victims and witnesses:

- a. To be treated with dignity and compassion (section V.)
- b. To be protected from discrimination (section VI.)
- c. To be informed (section VII.)
- d. To be heard and to express views and concerns (section VIII.)
- e. To effective assistance (section IX.)
- f. To privacy (section X.)
- g. To be protected from hardship during the justice process (section XI.)
- h. To safety (section XII.)
- i. To reparation (section XIII.), and
- j. To special preventive measures (section XIV.).

Under the guidelines focused definitions are provided. “*Child victims and witnesses*” denotes children and adolescents, under the age of 18, who are victims of crime or witnesses to crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders. “*Professionals*” refers to persons who, within the context of their work, are in contact with child victims and witnesses of crime or are responsible for addressing the needs of children in the justice system and for whom these Guidelines are applicable. This includes, but is not limited to, the following: child and victim advocates and support persons; child protection service practitioners; child welfare agency staff; prosecutors and, where appropriate, defence lawyers; diplomatic and consular staff; domestic violence programme staff; judges; court staff; law enforcement officials; medical and mental health professionals; and social workers. “*Justice process*” encompasses detection of the crime, making of the complaint, investigation, prosecution and trial and posttrial procedures, regardless of whether the case is handled in a national, international or regional criminal justice system for adults or juveniles, or in a customary or informal system of justice. “*Child-sensitive*” denotes an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views (*ibid.*).

In order to ensure justice for child victims and witnesses of crime, professionals and others responsible for the well-being of those children must respect the cross-cutting principles such as *Dignity*, *Non-discrimination*, *Best interests of the child*, which encompasses the right to protection and to a chance for harmonious development, and the *Right to participation*. In anyway, the Guidelines should be implemented in accordance with relevant national legislation and judicial procedures as well as take into consideration legal, social, economic, cultural and geographical conditions, while the main objective is foreseen as to assist in the review of national and domestic laws, procedures and practices so that these ensure full respect for the rights of child victims and witnesses of crime and contribute to the implementation of the Convention on the Rights of the Child, by parties to that Convention. It has to be understood that the presented Guidelines cover a field in which knowledge and practice are growing and improving. They are neither intended to be exhaustive

⁶⁷ UN ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, available at: <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/documents/2005/resolution-2005-20.pdf> (accessed: 12/05/2021).



nor to preclude further development, provided it is in harmony with their underlying objectives and principles (*ibid.*).

4.4.1.5 UN General Comments to certain provisions of Convention to the Rights of the Child

General comment is a treaty body's interpretation of human rights treaty provisions, thematic issues or its methods of work and often seek to clarify the reporting duties of State parties with respect to certain provisions and suggest approaches to implementing treaty provisions.⁶⁸ Some general comments,⁶⁹ released by the Committee⁷⁰ on the rights of the child have relevant interpretations that are of great relevance in regard of children as victims, therefore are introduced⁷¹ here:

4.4.1.5.1 General comment No. 25 (2021) on children's rights in relation to the digital environment⁷²

Under the chapter V on general measures of implementation by States parties the two paragraphs provide relevant explanation to the context of this deliverable (quotes):

- Children's online protection should be integrated within national child protection policies. States parties should implement measures that protect children from risks, including cyberaggression and digital technology-facilitated and online child sexual exploitation and abuse, ensure the investigation of such crimes and provide remedy and support for children who are victims. They should also address the needs of children in disadvantaged or vulnerable situations, including by providing child-friendly information that is, when necessary, translated into relevant minority languages (para. 25, sub-chapter B on comprehensive policy and strategy).
- States parties should establish, coordinate and regularly monitor and evaluate frameworks for the referral of such cases and the provision of effective support to children who are victims. Frameworks should include measures for the identification of, therapy and follow-up care for, and the social reintegration of, children who are victims. Training on the identification of children who are victims should be included in referral mechanisms, including for digital service providers. Measures within such a framework should be multiagency and child-friendly, to prevent a child's revictimization and secondary victimization in the context of investigative and judicial processes. That may require specialized protections for confidentiality and to redress harms associated with the digital environment (para. 45, sub-chapter K on access to justice and remedies).

Under the chapter XII on special protection measures one paragraph provides relevant explanation (quote):

- Children should be protected from all forms of exploitation prejudicial to any aspects of their welfare in relation to the digital environment. Exploitation may occur in many forms, such as economic exploitation, including child labour, sexual exploitation and abuse, the sale, trafficking and abduction of children and the recruitment of children to participate in criminal activities, including forms of cybercrime. By creating and sharing content, children may be economic actors in the digital environment, which may result in their exploitation (para. 112,

⁶⁸ UN Dag Hammarskjöld Library, What is the purpose of the Human Rights Treaty Bodies general comments?, available at: <https://ask.un.org/faq/135547> (accessed: 17/05/2021).

⁶⁹ UN Human Rights, Treaty Bodies, UN Treaty Body Database, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11 (accessed: 14/05/2021)

⁷⁰ The Committee on the rights of the child released first general comment (GC) on 17/04/2001 on the aims of education and the 25th GC on 24/03/2021 on the children's rights in relation to digital environment. All together 26 GCs were released, one was released jointly with the Committee on elimination of discrimination against women (CEDAW), two GCs were revised.

⁷¹ Introduced are only the extracts. The reader is encouraged to read each of the GCs as a whole to avoid misinterpretations and misunderstandings.

⁷² CRC/C/GC/25, released: 02/03/2021.



sub-chapter A on protection from economic, sexual and other forms of exploitation).

4.4.1.5.2 General comment No. 20 (2016) on the implementation of the rights of the child during adolescence⁷³

As part of the introduction under chapter I, there is an overall explanation of what the adolescence is:

- Adolescence is a life stage characterized by growing opportunities, capacities, aspirations, energy and creativity, but also significant vulnerability. Adolescents are agents of change and a key asset and resource with the potential to contribute positively to their families, communities and countries. Globally, adolescents engage positively in many spheres, including health and education campaigns, family support, peer education, community development initiatives, participatory budgeting and creative arts, and make contributions towards peace, human rights, environmental sustainability and climate justice. Many adolescents are at the cutting edge of the digital and social media environments, which form an increasingly central role in their education, culture and social networks, and hold potential in terms of political engagement and monitoring accountability (para. 2).

Under the chapter III on the case for a focus on adolescents and their development several paragraphs provide relevant explanation to the context of this deliverable (quotes):

- The Committee draws States parties' attention to the powerful case for a focus on adolescents to promote the realization of their rights, strengthen their potential contribution to positive and progressive social transformation and overcome the challenges they face in the transition from childhood to adulthood in an increasingly globalized and complex world (para. 8).
- Adolescents are on a rapid curve of development. The significance of the developmental changes during adolescence has not yet been as widely understood as that which occurs in early years. Adolescence is a unique defining stage of human development characterized by rapid brain development and physical growth, enhanced cognitive ability, the onset of puberty and sexual awareness and newly emerging abilities, strengths and skills. Adolescents experience greater expectations surrounding their role in society and more significant peer relationships as they transition from a situation of dependency to one of greater autonomy (para. 9).
- As they move through their second decade, children begin to explore and forge their own individual and community identities on the basis of a complex interaction with their own family and cultural history, and experience the creation of an emergent sense of self, often expressed through language, arts and culture, both as individuals and through association with their peers. For many, that process takes place around and is significantly informed and influenced by their engagement with the digital environment. The process of construction and expression of identity is particularly complex for adolescents as they create a pathway between minority and mainstream cultures (para. 10).
- In relation to recognizing adolescence as part of the life course:
 - In order to ensure the optimum development of every child throughout childhood, it is necessary to recognize the impact that each period of life has on subsequent stages. Adolescence is a valuable period of childhood in its own right but is also a critical period of transition and opportunity for improving life chances. Positive early childhood interventions and experiences facilitate optimal development as young children become adolescents.² However, any investment in young people risks being wasted if their rights throughout adolescence do not also receive adequate attention. Furthermore, positive and supportive opportunities during adolescence can be used to offset some of the consequences caused by harm suffered during early childhood, and build resilience to mitigate future damage. The Committee therefore underlines the importance of a life-course perspective (para. 11).

⁷³ CRC/C/GC/20, released 06/12/2016.

- In relation to challenging environment:
 - Reaching adolescence can mean exposure to a range of risks, reinforced or exacerbated by the digital environment, including substance use and addiction, violence and abuse, sexual or economic exploitation, trafficking, migration, radicalization or recruitment into gangs or militias. As they approach adulthood, adolescents need suitable education and support to tackle local and global challenges, including poverty and inequality, discrimination, climate change and environmental degradation, urbanization and migration, ageing societies, pressure to perform in school and escalating humanitarian and security crises. Growing up in more heterogeneous and multi-ethnic societies, as a consequence of increased global migration, also requires greater capacities for understanding, tolerance and coexistence. Investment is needed in measures to strengthen the capacities of adolescents to overcome or mitigate those challenges, address the societal drivers serving to exclude and marginalize them and equip them to face challenging and changing social, economic and digital environments (para. 12).
- In relation to period of health risks:
 - Although adolescence is generally characterized by relatively low mortality compared to other age groups, the risk of death and disease during the adolescent years is real, including from preventable causes such as childbirth, unsafe abortions, road traffic accidents, sexually transmitted infections, including HIV, interpersonal injuries, mental ill health and suicide, all of which are associated with certain behaviours and require cross-sectoral collaboration (para. 13).

When children, i.e. adolescents would become victims, the chapter IX on violence against children provides instructions to protect them from all forms of violence (quote):

- The Committee refers States parties to the recommendations in general comments No. 13 (2011) on the right of the child to freedom from all forms of violence and No. 18 (2014) on harmful practices for comprehensive legislative, administrative, social and educational measures to bring an end to all forms of violence, including a legal prohibition on corporal punishment in all settings, and to transform and bring an end to all harmful practices. States parties need to create more opportunities for scaling up institutional programmes on prevention and rehabilitation, and the social reintegration of adolescent victims. The Committee highlights the need to involve adolescents in the development of prevention strategies and protective responses to victims of violence (para. 49).

Adolescents also need at least basic health and welfare, which is enshrined in the chapter XI, especially when the questions on HIV/AIDS and other sexual transmitted diseases (STD). The GC instructs as follows:

- Adolescents are the only age group in which death due to AIDS is increasing.⁷⁴ Adolescents may face challenges in gaining access to antiretroviral treatment and remaining in treatment; the need to gain the consent of guardians in order to access HIV-related services, disclosure and stigma are some barriers. Adolescent girls are disproportionately affected, representing two thirds of new infections. Lesbian, gay, bisexual and transgender adolescents, adolescents who exchange sex for money, goods or favours and adolescents who inject drugs are also at a higher risk of HIV infection (para. 62).⁷⁴

The special protection measures in the chapter XIII cover a range of situations (migration, conflicts and crisis, recruitment as forced soldiers, child labour), but trafficking in context of this project is closer to various forms of sexual exploitation of children.⁷⁵ The GC provides the following instructions:

- Many adolescents are at risk of being trafficked for economic reasons or for sexual exploitation. States are urged to establish a comprehensive and systematic mechanism for collecting data on the sale of, trafficking in

⁷⁴ In this regard, the GC no. 3 (2003) on HIV/AIDS and the rights of the child, CRC/GC/2003/3, released on 17/03/2003 is additional reading, especially on the role of education (para. 18), on victims of sexual and economic exploitation (para. 36) and victims of violence and abuse (para. 37).

⁷⁵ Limited to this modus only.

and abduction of children, ensuring that the data is disaggregated and paying particular attention to children living in the most vulnerable situations. States should also invest in rehabilitation and reintegration services and psychosocial support for child victims. Attention should be paid to the gender-based dimensions of vulnerability and exploitation. Awareness-raising activities, including through social media, need to be conducted in order to make parents and children aware of the dangers of both domestic and international trafficking. States are urged to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and to harmonize legislation accordingly (para. 78).

At this point the adolescent health and development are also relevant topic with emphasis to effective measures to ensure that adolescents are protected from all forms of violence, mistreatment, abuse, neglect and exploitation (prevention). In cases of adolescents who are sexually exploited, including in prostitution and pornography (victimization), are exposed to significant health risks, including STDs, HIV/AIDS, unwanted pregnancies, unsafe abortions, violence and psychological distress, therefore their rights are focused to physical and psychological recovery and social reintegration in an environment that fosters health, self-respect and dignity (art. 39).⁷⁶

4.4.1.5.3 Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices⁷⁷

In regard of child-friendly justice, it is worth to mention one of the recommendations provided by both Committees to the State parties of both treaties,⁷⁸ which is read as follows:

- Ensure that children participating in legal processes have access to appropriate child-sensitive services to safeguard their rights and safety and to limit the possible negative impacts of the proceedings. Protective action may include limiting the number of times that a victim is required to give a statement and not requiring that individual to face the perpetrator or perpetrators. Other steps may include appointing a guardian ad litem (especially where the perpetrator is a parent or legal guardian) and ensuring that child victims have access to adequate child-sensitive information about the process and fully understand what to expect (para. 87, point (d)).

4.4.1.5.4 General Comment no. 12 (2009) on the right of the child to be heard⁷⁹

This GC provide the legal and literal analysis of the Article 12 of the UN CRC, which is one of the four integral fundamental principles in this convention.⁸⁰ In the literal analysis of this provision, the Committee have provided several explanations, but here only those of the main importance are presented.

In regard of being “capable of forming his or her own views”, the textual part of the para. 1 of Article 12, it wrote amongst other the following:

- The Committee emphasizes that article 12 imposes no age limit on the right of the child to express her or his views, and discourages States parties from introducing age limits either in law or in practice which would restrict the child’s right to be heard in all matters affecting her or him. In this respect, the Committee underlines the following:
 - [...]

⁷⁶ Taken from General comment no. 4 (2003), Adolescent health and development in the context of the Convention on the Rights of the Child, CRC/GC/2003/4, released on 01/07/2003.

⁷⁷ CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, released 08/05/2019.

⁷⁸ UN Convention on the Elimination of Discrimination against Women and UN Convention on the Rights of the Child.

⁷⁹ CRC/C/GC/12, released 20/07/2009.

⁸⁰ See subchapter 4.1.

- Lastly, States parties must be aware of the potential negative consequences of an inconsiderate practice of this right, particularly in cases involving very young children, or in instances where the child has been a victim of a criminal offence, sexual abuse, violence, or other forms of mistreatment. States parties must undertake all necessary measures to ensure that the right to be heard is exercised ensuring full protection of the child (para. 21, point 4).

In regard of “the right ‘to be heard in any judicial and administrative proceedings affecting the child’”, the textual part of the para. 2 of Article 12, it wrote amongst other the following:

- Article 12, paragraph 2, specifies that opportunities to be heard have to be provided in particular “in any judicial and administrative proceedings affecting the child”. The Committee emphasizes that this provision applies to all relevant judicial proceedings affecting the child, without limitation, including, for example, separation of parents, custody, care and adoption, children in conflict with the law, child victims of physical or psychological violence, sexual abuse or other crimes, health care, social security, unaccompanied children, asylum-seeking and refugee children, and victims of armed conflict and other emergencies. Typical administrative proceedings include, for example, decisions about children’s education, health, environment, living conditions, or protection. Both kinds of proceedings may involve alternative dispute mechanisms such as mediation and arbitration (para. 32).

When it comes to the situations, when a child becomes a victim and/or a witness, the GC also provide important instructions. This part is part of the sub-chapter on state obligations in order the child’s right to be heard in penal judicial proceedings. Child’s views must be expressed freely in all matters affecting them and have to be respected and implemented throughout every stage of the judicial procedures. The GC provides the following explanation:

- The child victim and child witness of a crime must be given an opportunity to fully exercise her or his right to freely express her or his view in accordance with United Nations Economic and Social Council resolution 2005/20, “Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime”⁸¹ (para. 62).
- In particular, this means that every effort has to be made to ensure that a child victim or/and witness is consulted on the relevant matters with regard to involvement in the case under scrutiny, and enabled to express freely, and in her or his own manner, views and concerns regarding her or his involvement in the judicial process (para. 63).
- The right of the child victim and witness is also linked to the right to be informed about issues such as availability of health, psychological and social services, the role of a child victim and/or witness, the ways in which “questioning” is conducted, existing support mechanisms in place for the child when submitting a complaint and participating in investigations and court proceedings, the specific places and times of hearings, the availability of protective measures, the possibilities of receiving reparation, and the provisions for appeal (para. 64).

4.4.1.5 General Comment no. 9 (2006) on the rights of children with disabilities⁸²

Disabilities of children can be of many natures and it happens that an individual child can also have multiple disabilities at the same time, which makes him or her particularly vulnerable. This is enshrined in the chapter VI on family environment and alternative care, in the subchapter B in relation to violence, abuse and neglect:

- Children with disabilities are more vulnerable to all forms of abuse be it mental, physical or sexual in all settings, including the family, schools, private and public institutions, inter alia alternative care, work environment and community at large. It is often quoted that children with disabilities are five times more likely to be victims of

⁸¹ See sub-chapter 4.4.1.4.

⁸² CRC/C/GC/9, released: 27/02/2007.

abuse. In the home and in institutions, children with disabilities are often subjected to mental and physical violence and sexual abuse, and they are also particularly vulnerable to neglect and negligent treatment since they often present an extra physical and financial burden on the family. In addition, the lack of access to a functional complaint receiving and monitoring mechanism is conducive to systematic and continuing abuse. School bullying is a particular form of violence that children are exposed to and more often than not, this form of abuse targets children with disabilities. Their particular vulnerability may be explained *inter alia* by the following main reasons:

- Their inability to hear, move, and dress, toilet, and bathe independently increases their vulnerability to intrusive personal care or abuse;
- Living in isolation from parents, siblings, extended family and friends increases the likelihood of abuse;
- Should they have communication or intellectual impairments, they may be ignored, disbelieved or misunderstood should they complain about abuse;
- Parents or others taking care of the child may be under considerable pressure or stress because of physical, financial and emotional issues in caring for their child. Studies indicate that those under stress may be more likely to commit abuse;
- Children with disabilities are often wrongly perceived as being non-sexual and not having an understanding of their own bodies and, therefore, they can be targets of abusive people, particularly those who base abuse on sexuality (para. 42, points (a) to (e)).

The concerns about sexual exploitation of children with disabilities is provided under the special protection measures (Chapter IX), where the GC is read as follows:

- The Committee has often expressed grave concern at the growing number of child victims of child prostitution and child pornography. Children with disabilities are more likely than others to become victims of these serious crimes. Governments are urged to ratify and implement the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC)⁸³ and, in fulfilling their obligations to the Optional Protocol, States parties should pay particular attention to the protection of children with disabilities recognizing their particular vulnerability (para. 77).

4.4.1.5.6 General comment no. 7 (2005) on the implementing child rights in early childhood⁸⁴

Above, the GC on adolescents was presented, while here as a contrast the implementation of children's rights in early years of children are presented. The Committee wished to encourage the recognition that young children are also holders of all rights enshrined in the UN CRC and that the early childhood, defined for working purposes in para. 4 is a critical period for the realization of these rights.⁸⁵

- In regard of the understanding that young children are the rights holders:
 - The Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (art. 1). Consequently, young children are holders of all the rights enshrined in the Convention. They are entitled to special protection measures and, in accordance with their evolving capacities, the progressive exercise of their rights. The Committee is concerned that in implementing their obligations under the Convention, States parties have not given sufficient attention to young children as rights holders and to the laws, policies and programmes required to realize their rights during this distinct phase of their childhood. *The Committee reaffirms that the Convention on the Rights of the Child is to be applied holistically in early childhood, taking account of the principle of the universality, indivisibility and interdependence of all human rights*⁸⁶ (para. 3).

⁸³ See sub-chapter 4.4.1.2.

⁸⁴ CRC/C/GC/7/Rev.1, released 20/09/2006.

⁸⁵ Taken from para. 1 of this GC.

⁸⁶ The italic text was provided by authors of this deliverable in order to emphasize the importance of a way of application of the UN CRC.

- In regard of definition of early childhood the GC provides:

- Definitions of early childhood vary in different countries and regions, according to local traditions and the organization of primary school systems. In some countries, the transition from preschool to school occurs soon after 4 years old. In other countries, this transition takes place at around 7 years old. In its consideration of rights in early childhood, the Committee wishes to include all young children: at birth and throughout infancy; during the preschool years; as well as during the transition to school. Accordingly, the Committee proposes as an appropriate working definition of early childhood the period below the age of 8 years;⁸⁷ States parties should review their obligations towards young children in the context of this definition (para. 4).

The concerns about abuse, neglect and sexual exploitation of young children in their early years also need special protection measures (Chapter VI). This chapter also provides other forms of vulnerability to risks of these children such as harmful work, substance abuse, refugees and others, but we limited presentation to the scope of the GRACE project. The GC in this regard reads as follows:

- Throughout this general comment the Committee notes that large numbers of young children grow up in difficult circumstances that are frequently in violation of their rights. Young children are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, or growing up in extreme poverty and deprivation, or being surrounded by conflict and violence or displaced from their homes as refugees, or any number of other adversities prejudicial to their well-being. Young children are less able to comprehend these adversities or resist harmful effects on their health, or physical, mental, spiritual, moral or social development. They are especially at risk where parents or other caregivers are unable to offer adequate protection, whether due to illness, or death, or due to disruption to families or communities. Whatever the difficult circumstances, young children require particular consideration because of the rapid developmental changes they are experiencing; they are more vulnerable to disease, trauma, and distorted or disturbed development, and they are relatively powerless to avoid or resist difficulties and are dependent on others to offer protection and promote their best interests. In the following paragraphs, the Committee draws States parties' attention to major difficult circumstances referred to in the Convention that have clear implications for rights in early childhood. This list is not exhaustive, and children may in any case be subject to multiple risks. In general, the goal of States parties should be to ensure that every child, in every circumstance, receives adequate protection in fulfilment of their rights:

 - Abuse and neglect (art. 19): Young children are frequent victims of neglect, maltreatment and abuse, including physical and mental violence. Abuse very often happens within families, which can be especially destructive. Young children are least able to avoid or resist, least able to comprehend what is happening and least able to seek the protection of others. There is compelling evidence that trauma as a result of neglect and abuse has negative impacts on development, including, for the very youngest children, measurable effects on processes of brain maturation. Bearing in mind the prevalence of abuse and neglect in early childhood and the evidence that it has long-term repercussions, States parties should take all necessary measures to safeguard young children at risk and offer protection to victims of abuse, taking positive steps to support their recovery from trauma while avoiding stigmatization for the violations they have suffered (para. 32, point (a)).
 - Sexual abuse and exploitation (art. 34): Young children, especially girls, are vulnerable to early sexual abuse and exploitation within and outside families. Young children in difficult circumstances are at particular risk, for example girl children employed as domestic workers. Young children may also be victims of producers

⁸⁷ The main author of this deliverable is not in favour of the introduced period. If we need to consider the most vulnerable period of children in general, it would be better to consider the period from birth onwards, over the whole infancy period and inclusion of the entire prepubescent psychological developmental stage, regardless the gender differences and other circumstances, when they provide a positive discrimination for them. Overall, this would mean approx. 11-12 years of age in respect of gender differences, instead of "just" eight years of age.

of pornography; this is covered by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2002 (para 32, point (g)).

In addition, the Committee urges state parties to incorporate the particular situation of young children into all legislation, policies and interventions to promote physical and psychological recovery and social reintegration within an environment that promotes dignity and self-respect (art. 39). This should include also the above forms of exploitation and any other form as well (art. 36).⁸⁸

4.4.1.6 General comments recap

General comments presented here, taking into account the aims and objectives of GRACE project provide some specific reflection on various aspects of children's life from their early years, including moment at birth through their adolescence before reaching the age of maturity (18 years of age). The aspects are presented as different situations, in which children could find themselves and how important is the holistic approach and obligations of their parents/guardians and the competent authorities, which have the responsibility to protect all children without discrimination, in cases of infringements to their rights, e.g. to dignity, privacy, sexual exploitation, abuse, violence and other harms. If children do not have protection of their families or if their closest people fail to protect them, or even abuse them, the authorities have the mandate to protect them, while fully respecting children's rights. Even more, competent authorities are obliged to prevent any violence and harmful situations, in which children (could) find themselves.

Children are born and they grow up in numerous settings, socio-cultural environments, economically underdeveloped or prospered, with unprecedented differences, challenges, problems, obstacles and even benefits. In these situations they could become victims of sexual abuse and exploitation, in some even quicker and in other lesser, or they could become victims in different forms of sexual abuse and exploitation. It is crucial that the GCs are read in conjunction with all other provisions of international and regional treaties that provide children rights as humans. Because children are human beings. And because they are children, this fact is already enough to say they are vulnerable more than adults. Children as victims are vulnerable even more.

Therefore, the response to general and specific protection needs of any children in any situation is crucial activity of every state party to the UN CRC. We must by no means overlook the prevention of sexual abuse, sexual exploitation, violence, neglect, human trafficking, other forms of exploitation, violation of children's privacy, assault on their dignity and any humiliation, as it may be somewhat more important than investigating them.

4.4.2 Council of Europe

Below are introduced the main legal instruments at the European level, under auspices of the Council of Europe.

4.4.2.1 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Treaty no. 201 (Lanzarote convention)

The Lanzarote convention consists also of the provisions that are mainly focused on the victims. Namely, these can be found in the Chapter IV – Protective measures and assistance to victims:

⁸⁸ The texts is the extract from para. 37 of the said GC. See also sub-chapter 4.4.1.1.

- Principles (Article 11): providing effective social programmes and set up multidisciplinary structures to provide the necessary support for victims and in relation to the age uncertainty of the victim, but it is possible that is a child, victim should be treated as a child, until his or her age is verified other than a child.

In paragraph 1, the negotiators wished to highlight the necessity for a multidisciplinary approach to assisting and protecting children victims of sexual offences as well as their close relatives, families or anyone in whose care they are placed. These protection and assistance measures are not meant to benefit all parents and family members in the broad sense but those who, because of their close relationship with the minor, may be directly affected.

The point of paragraph 2 is that, while children need special protection measures, it is sometimes difficult to determine whether someone is over or under 18. Paragraph 2 consequently requires Parties to presume that a victim is a child if there are reasons for believing that to be so and if there is uncertainty about their age. Until their age is verified, they must be given the special protection measures for children.⁸⁹

- Reporting suspicion of sexual exploitation or sexual abuse (Article 12): ensuring the confidentiality rules imposed by national law on certain professionals will not constitute an obstacle to report possible sexual abuse of a child and encouraging anyone to report such an offence in a good faith.

Under paragraph 1 Parties must ensure that professionals normally bound by rules of professional secrecy, (such as, for example, doctors and psychiatrists) have the possibility to report to child protection services any situation where they have reasonable grounds to believe that a child is the victim of sexual exploitation or abuse. Although in many member States systems of mandatory reporting are already in place, and are considered to be crucial in detecting abuse and preventing further harm to children, the Convention does not impose an obligation for such professionals to report sexual exploitation or abuse of a child. It only grants these persons the possibility of doing so without risk of breach of confidence. It is important to note that the aim of this provision is to ensure the protection of children rather than the initiation of a criminal investigation. Therefore, paragraph 1 provides for the reporting possibility to child protection services. This does not exclude the possibility provided in certain States to report to other competent services.

Each Party is responsible for determining the categories of professionals to which this provision applies. The phrase "professionals who are called upon to work in contact with children" is intended to cover professionals whose functions involve regular contacts with children, as well as those who may only occasionally come into contact with a child in their work.

In paragraph 2, Parties are required to encourage any person who has knowledge or suspicion of sexual exploitation or abuse of a child to report to the competent services. It is the responsibility of each Party to determine the competent authorities to which such suspicions may be reported. These competent authorities are not limited to child protection services or relevant social services. The requirement of suspicion "in good faith" is aimed at preventing the provision being invoked to authorise the denunciation of purely imaginary or untruthful facts carried out with malicious intent.⁹⁰

- Helplines (Article 13): making possibilities to encourage and support the setting up of information services for confidential and anonymous advising.

This article is particularly intended to apply to persons who may be confronted with a situation of sexual exploitation or sexual abuse. It could happen that persons to whom the child is entrusted do not know how to react. Moreover, child victims may also seek to obtain support or advice without knowing who to turn to. This emphasises the importance of the development of means whereby persons can safely reveal that they know about or have been victims of sexual abuse or sexual exploitation, or simply talk to a person outside their usual environment. Therefore Parties must encourage and support the setting up of such information services as

⁸⁹ Explanatory report to Lanzarote Convention, para. 87 – 88. Available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayCTMContent?documentId=09000016800d3832> (accessed: 11/05/2021).

⁹⁰ Explanatory report to Lanzarote Convention, para. 89 – 91.

telephone or Internet helplines to provide advice to callers. The Convention leaves to Parties any follow up to be given to calls received. These assistance services should be as widely available as possible. In some States, for example, such services are available 24 hours a day, 7 days a week.⁹¹

- Assistance to victims (Article 14): it is about providing the in the short and long term assistance in victims' physical and psycho-social recovery in respect of their needs and personal circumstances and also in removing an offender or a victim from family environment.

Article 14 sets out the assistance measures which Parties must provide for victims of sexual exploitation and abuse. The aim of the assistance provided for in paragraph 1 is to "assist victims, in the short and long term, in their physical and psycho-social recovery". The authorities must therefore make arrangements for those assistance measures while bearing in mind the specific nature of that aim.

The paragraph states that victims should receive assistance "in the short and long term". Any harm caused by the sexual exploitation or abuse of a child is significant and must be addressed. The nature of the harm done by sexual exploitation or abuse means that this aid should continue for as long as is necessary for the child's complete physical and psychosocial recovery. Though this Convention relates primarily to children, the consequences of sexual exploitation or abuse of children may well last into adulthood. For this reason, it is important to establish measures which also provide those adults who were sexually exploited or sexually abused as children the opportunities to reveal these facts and to receive appropriate support and assistance if such assistance is still needed.

Assistance to victims in their "physical recovery" involves emergency or other medical treatment. The negotiators wished to draw particular attention to the fact that, given the nature of the offences established in this Convention, the obligation could include all forms of medical screening with special attention to sexually transmissible diseases and HIV infection and their subsequent treatment.

"Psycho-social" assistance is needed to help victims overcome the trauma they have been through and return to a normal life in society.

The provision stresses that the child's views, needs and concerns must be taken into account when taking the measures pursuant to this paragraph.

NGOs often have a crucial role to play in victim assistance. For that reason paragraph 2 specifies that each Party is to take measures, under the conditions provided for by national law, to cooperate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in victim assistance. In many states, NGOs work with the authorities on the basis of partnerships and agreements designed to regulate their cooperation.

Paragraph 3 provides for the possibility, where the parents or carers of the victim are involved in the case of sexual exploitation or abuse, of removing either the alleged perpetrator or the victim from the family environment. It is important to stress that this removal should be envisaged as a protection measure for the child and not as a sanction for the alleged perpetrator. The removal of a parent who is the alleged perpetrator of sexual abuse against his or her child could be a good solution when the other parent supports the child victim. The other option may be to remove the child from the family environment. In such case, the length of time of the removal should be determined in the best interests of the child.

The negotiators recognised that the application of paragraph 4 would be limited, but felt that in certain particularly serious cases it would be justified for those persons close to the victim, including for example family members, friends and classmates, to benefit from emergency psychological assistance. These assistance measures are not meant to benefit the alleged perpetrators of sexual exploitation and abuse, who can instead benefit from the intervention programmes and measures in Chapter V.⁹²

Additional measures focused on victims are also provided under the Chapter VII – Investigation, prosecution and procedural law:

- General measures of protection (Article 31): with various measures to protect the rights and interests of

⁹¹ Explanatory report to Lanzarote Convention, para. 92.

⁹² Explanatory report to Lanzarote Convention, para. 93 – 100.

victims, including their special needs as witnesses, at all stages of investigations and criminal proceedings, in particular by:

- Informing them of their rights and the services at their disposal;
 - Being informed, at least in cases where the victims and their families might be in danger, when the person prosecuted or convicted is released from detention;
 - Enabling them to be heard, to supply evidence and to choose the means of having their views, needs and concerns presented;
 - Providing them with appropriate support services;
 - Protecting their privacy, their identity and their image and to prevent the public dissemination of any information that could lead to their identification;
 - Providing for their and family safety from intimidation, retaliation and repeat victimisation;
 - Ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided;
 - Having access to information on relevant judicial and administrative proceedings;
 - Having access, provided free of charge to legal aid;
 - Providing the possibility to appoint a special representative for the victim when victim may have the status of a party to the criminal proceedings and where the holders of parental responsibility are precluded from representing the child in such proceedings as a result of a conflict of interest between them and the victim;
 - Providing the possibility for any stakeholder to assist and/or support the victims with their consent during criminal proceedings concerning the sexual offences; and
 - Ensuring the information given to victims is in conformity with the provisions of this article and provided in a manner adapted to their age and maturity and in a language that they can understand.
- Interviews with the child (Article 35): with various measures ensuring:
- Interviews to take place without unjustified delay;
 - In premises designed or adapted for this purpose;
 - Carried out by professionals trained for this purpose;
 - The same persons, if possible and where appropriate, conduct all interviews;
 - Limited number of interviews to strictly necessary for the purpose of criminal proceedings;
 - Child to be accompanied by legal representative or a trusted person on child's own choice, unless a reasoned decision has been made against it;
 - Making these interviews videotaped and accepted as evidence during the court proceedings;
 - In the age uncertainty of the victim, but could be a child, the measures are applied pending verification of his or her age.

Finally, provisions⁹³ under the General principles and measures for international co-operation in chapter IX are focused in providing to the widest extent possible the protection and assistance to victims, as well as in providing possibilities for them to make a criminal complaint before the competent authorities of victim's state of residence.

4.4.2.2 European Convention on the Exercise of Children's Rights

The Convention⁹⁴ aims to protect the best interests of children and provides a number of procedural measures to allow the children to exercise their rights. It provides for measures which aim to promote the rights of the

⁹³ See Article 38/1(b) and 38/2.

⁹⁴ Council of Europe, European Convention on the Exercise of Children's Rights, Strasbourg, ETS no. 160, 25/01/1996, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007cdaf> (accessed: 12/05/2021).

children, in particular in family proceedings before judicial authorities,⁹⁵ but also before other institutions. Relevant rights of the children in the context of sexual abuse and exploitation, especially within the circle of trust such as family and similar settings could be the following:

- Right to be informed and to express his or her views in proceedings (Article 3)

Under this article, children considered by internal law as having sufficient understanding are entitled to request relevant information, to be consulted and to express their views and to be informed of the possible consequences of compliance with their views or of any decision.⁹⁶ Article 3 provides for the exercise of a number of procedural rights and it does not exclude the exercise of the other rights for example even if a child does not request information it may still be necessary to inform the child and indicate the possible consequences of following his or her views or of any decision.⁹⁷ This text therefore represents a step forward in the recognition of children's rights in family proceedings concerning them. Children are no longer merely the subject of such proceedings, they may also participate, even if they are without the status of parties to the proceedings, they possess a number of rights which they may exercise.⁹⁸ A number of other international instruments have already considered the question of the right of children to receive information and to give their opinions in proceedings concerning them.⁹⁹ Article 3 of the Convention has not given the child the right to consent to or to veto a planned decision as it covers many different types of cases and it would not always be in the best interests of a child to be given such a right in the case of certain decisions. It is however open to States to provide more favourable rules under Article 1, paragraph 6, and to grant a right to children to consent to or to veto a planned decision in certain cases, such as adoption.¹⁰⁰ Article 1, para. 6 define that nothing in this Convention shall prevent Parties from applying rules more favourable to the promotion and the exercise of children's rights. It is left to States to define the criteria enabling them to evaluate whether or not children are capable of forming and expressing their own views and States are naturally free to make the age of children one of those criteria.¹⁰¹ Within the meaning of the Convention, internal law covers not only laws in the formal sense, texts of regulations and case-law, but also international instruments when they are incorporated into the domestic legal system.¹⁰²

- Right to apply for the appointment of a special representative (Article 4)

When there is a conflict of interest between a child and the holders of parental responsibilities these persons may be precluded by internal law from, representing the child. It is for internal law to determine the circumstances when a conflict of interest is deemed to arise.¹⁰³ In such a case the right to apply for the appointment of a special representative may be exercised by the child in person or through other persons or bodies.¹⁰⁴ This article applies to family proceedings taking place before the judicial authorities of a Party. Such proceedings will already have been specified as a category of family cases. This article will apply to proceedings where the child, according to internal law, must be represented. Such an appointment may be for a specific duration or for limited purposes.¹⁰⁵

- Other possible procedural rights (Article 5)

⁹⁵ Taken from summary to this convention. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/160> (accessed: 12/05/2021).

⁹⁶ Extract from Explanatory report, para. 30, p. 5. Available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800cb5ee> (accessed: 12/05/2021).

⁹⁷ Extract from Explanatory report, para. 31, p. 5.

⁹⁸ Extract from Explanatory report, para. 33, p. 6.

⁹⁹ Extract from Explanatory report, para. 34, p. 6.

¹⁰⁰ Extract from Explanatory report, para. 35, p. 6.

¹⁰¹ Extract from Explanatory report, para. 36, p. 6.

¹⁰² Extract from Explanatory report, para. 37, p. 6.

¹⁰³ Extract from Explanatory report, para. 38, p. 6.

¹⁰⁴ Extract from Explanatory report, para. 39, p. 7.

¹⁰⁵ Extract from Explanatory report, para. 40, p. 7.

Unlike Article 4, States are not required under this article to give children specific rights. However they are required to consider whether it is advisable to grant them additional procedural rights.¹⁰⁶ Additional procedural rights for children include the right to be assisted by a chosen person or to be represented by a separate representative who, acts only on behalf of the child. The right to appoint their own representative or the right to exercise some or all of the rights of parties to proceedings might be other possibilities. Even where a child has the right to choose a representative the judicial authority is not bound to accept an unsuitable person as the representative of the child.¹⁰⁷

The judicial authority, or person appointed to act before a judicial authority on behalf of a child, has a number of duties designed to facilitate the exercise of rights by children. Children should be allowed to exercise their rights (for example, the right to be informed and the right to express their views) either themselves or through other persons or bodies.¹⁰⁸

Among the types of family proceedings of special interest for children are those concerning custody, residence, access, questions of parentage, legitimacy, adoption, legal guardianship, administration of property of children, care procedures, removal or restriction of parental responsibilities, protection from cruel or degrading treatment and medical treatment (*ibid.*).

4.4.2.3 European Convention on the Compensation of Victims of Violent Crimes

Acts of sexual abuse and exploitation of children represent various forms of violence and great violation of children's human rights. These forms of violence can also be subject to regulation under the auspices of this Compensation Convention,¹⁰⁹ as stated in Article 2, that compensation is provided to those, who have either sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, or to the dependants of persons who have died as a result of such crime.

As a particularly important fact, it is considered that compensation shall be awarded even if the offender cannot be prosecuted or punished. Beneficiaries of compensation, according to Article 3 are nationals of the States party to this Convention and nationals of all member States of the Council of Europe who are permanent residents in the State on whose territory the crime was committed. The Convention also establishes an instrument of international cooperation to facilitate the exchange of information, expedite procedures and other mutual assistance in providing compensation (Articles 12 and 13).

In cases where a citizen of a European country commits an act of violence, e.g. sexual abuse of a child in an area outside the scope of this Convention, victims may not recover any compensation under this title in this way. This can be a significant constraint and barrier for victims from third countries. However, only 26 members of Council of Europe have ratified or acceded to this convention, while 21 have not.

4.4.2.4 Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice

In the first three provisions of the scope and purpose of these Guidelines¹¹⁰ are presented:

¹⁰⁶ Extract from Explanatory report, para. 41, p. 7.

¹⁰⁷ Extract from Explanatory report, para. 42, p. 7.

¹⁰⁸ Both sentences taken from summary to this convention.

¹⁰⁹ COE, "Compensation Convention", ETS no. 116, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680079751> (accessed: 26/05/2021).

¹¹⁰ These Guidelines were adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum, under the Council of Europe programme "Building a Europe for and with children". Available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045f5a9> (accessed: 11/05/2021).

The guidelines deal with the issue of the place and role, and the views, rights and needs of the child in judicial proceedings and in alternatives to such proceedings. They should apply to all ways in which children are likely to be, for whatever reason and in whatever capacity, brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law. The guidelines aim to ensure that, in any such proceedings, all rights of children, among which the right to information, to representation, to participation and to protection, are fully respected with due consideration to the child's level of maturity and understanding and to the circumstances of the case. Respecting children's rights should not jeopardise the rights of other parties involved (ibid.).

It is a document that enshrines and emphasizes the importance of a child as a human being and the child's needs whenever he or she comes into contact with state and similar institutions. Certainly, however, this is of paramount importance when a child is a victim of violent or sexual offence and needs special attention, assistance and support, which often involving law enforcement and judicial authorities. In this context some of the relevant provisions with explanations are as following:

4.4.2.4.1 Fundamental principles under Chapter III

The guidelines build on the existing principles enshrined in the instruments referred to in the preamble and the case law of the European Court of Human Rights (guideline no. 1). These principles are further developed in the following sections and should apply to all chapters of these guidelines (guideline no. 2).

The guidelines apply to criminal, civil or administrative law, and aim to ensure that all of the rights of children in such proceedings are fully respected, while striking the right balance with the rights of other parties involved.¹¹¹

The existing principles, which should be promptly followed by any official in any interaction with children are:

- Participation: *The principle of participation, that is, that children have the right to speak their mind and give their views in all matters that affect them is one of the guiding principles of the UN Convention on the Rights of the Child. [...]¹¹²*
- Best interest of the child: *The child's best interests should be a primary consideration in all cases involving children. The assessment of the situation needs to be done accurately. These guidelines promote the development of multidisciplinary methods for assessing the best interests of the child acknowledging that this is a complex exercise. [...]¹¹³*
- Dignity: *Respecting dignity is a basic human rights requirement, underlying many existing legal instruments. [...] Particular attention should be paid to its statement that "every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected".¹¹⁴*
- Protection from discrimination: *The prohibition of discrimination is also a well-established principle in international human rights law. Article 2 of the UN Convention on the Rights of the Child is viewed as one of its guiding principles. [...]¹¹⁵*

¹¹¹ Extract from Explanatory memorandum, para. 28, p. 49.

¹¹² See complete text in the Explanatory memorandum, para. 28, p. 49.

¹¹³ See complete text in the Explanatory memorandum, para. 36, p. 53.

¹¹⁴ See complete text in the Explanatory memorandum, para. 39, p. 55.

¹¹⁵ See complete text in the Explanatory memorandum, para. 41, p. 55.

- And rule of law: European Court of Human rights highlighted that the rule of law, one of the fundamental principles of a democratic society, is inherent in all the articles of the Convention.¹¹⁶ [...] The rule of law establishes, *inter alia*, the fundamental principle that everyone is accountable to clearly established and publicised laws and has enforceable rights. This principle applies irrespective of age so that member states are expected to respect and support fundamental rights for all, including children. [...]¹¹⁷

4.4.2.4.2 Child-friendly justice before, during and after judicial proceedings under Chapter IV

The rights of children, especially as victims are examined several times in many occasions, but it is possible to highlight these occasions in four groups: before judicial proceedings, during the contact with the police and similar law enforcement authorities, during judicial proceedings and after judicial proceedings. In order to follow the scope of the deliverable D10.8, the presentation is limited to general elements of child-friendly justice (sub-chapter A of the Guidelines) and to situations, when a child interact with the police (sub-chapter C of the Guidelines), with emphasis to child victims only.

a) General elements

The six general elements of a child-friendly justice are presented as:

- Information and advice: *In every individual case, from the very first contact with the justice system and on each and every step of the way, all relevant and necessary information should be given to the child. This right applies equally to children as victims, alleged perpetrators of offences or as any involved or affected party.* [...]¹¹⁸
- Protection of private and family life: *Anonymity and protection of personal data in relation to the mass media may be necessary for the child, as stipulated by several instruments. [...] As in the case of the ECHR, children enjoy all rights under this convention even though it does not explicitly refer to children's rights.* [...]¹¹⁹
- Safety (special preventive measures): *Concerning children as victims, these guidelines are inspired by the principles of the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,¹²⁰ and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,¹²¹ which calls for providing for the safety of children, their families and witnesses on their behalf from intimidation, retaliation and repeated victimisation.* [...]¹²²
- Training of professionals: *Training in communication skills, in using child-friendly language and developing knowledge on child psychology, is necessary for all professionals working with children (police, lawyers, judges, mediators, social workers and other experts) [...]. However, few of them have knowledge of children's rights and procedural matters in this context. Children's rights could and should be part of the curriculum, in schools and in specific fields of higher education (law, psychology,*

¹¹⁶ This opinion of the Court was enshrined in the case of Ukraine-Tyumen v. Ukraine, no. 22603/02, 22/11/2007 and was focused to provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights (ECHR).

¹¹⁷ See complete text in the Explanatory memorandum, para. 45/46, p. 56-57.

¹¹⁸ See the Explanatory memorandum, para. 73, p. 66.

¹¹⁹ See the Explanatory memorandum, para. 50, p. 58.

¹²⁰ See subchapter 4.4.1 United Nations.

¹²¹ Known as Lanzarote Convention, see other legal chapters of this document.

¹²² See the Explanatory memorandum, para. 63, p. 64.

social work, police training, etc.). [...]¹²³

- *Multidisciplinary approach: The text of the guidelines as a whole, and in particular Guidelines 16 to 18,¹²⁴ encourage member states to strengthen the interdisciplinary approach when working with children. In cases involving children, judges and other legal professionals should benefit from support and advice from other professionals of different disciplines when taking decisions which will impact directly or indirectly on the present or future well-being of the child, for example, assessment of the best interests of the child, possible harmful effects of the procedure on the child, etc.¹²⁵*
- *Deprivation of liberty: Particular attention should be paid to the way detained children are treated given their inherent vulnerability.¹²⁶*

All these elements of child-friendly justice are relevant for all possible actors in or outside court proceedings and apply irrespective of the child's status, and apply also to specific groups of particularly vulnerable children.¹²⁷

b) Children and the police

On the other hand, it is also important to highlight relevant guidelines, which are concentrated to police and their officers, when they come across with children.¹²⁸ The two guidelines that should be as addition used by police officers, therefore the law enforcement first responders:

Police should respect the personal rights and dignity of all children and have regard to their vulnerability, that is, take account of their age and maturity and any special needs of those who may be under a physical or mental disability or have communication difficulties (guideline no. 27). In member states where this falls under their mandate, prosecutors should ensure that child-friendly approaches are used throughout the investigation process (guideline no. 33).

The explanatory memorandum provides that the police should also apply the guidelines on child-friendly justice. This applies to all situations where children might come in contact with the police, and it is, as stipulated by Guideline 27, of particular importance when dealing with vulnerable children.¹²⁹

4.4.2.5 Other instruments

There are also other legal instruments that have great impact on overall reaching victims' rights.

Under the so-called Istanbul Convention¹³⁰ the victims' rights are focused on the family or partner relationships and on the violence against women. These rights are: information on the victims' rights, providing supporting services, shelters, safe custody and visitation rights for children, provide effective

¹²³ See the Explanatory memorandum, para. 67-68, p. 65.

¹²⁴ Concrete guidelines about multidisciplinary approach.

¹²⁵ See the Explanatory memorandum, para. 70-71, p. 66.

¹²⁶ See the Explanatory memorandum, para. 73, p. 66. Since it is out of scope from the context of this deliverable no in-depth presentation is provided.

¹²⁷ See the Explanatory memorandum, para. 49, p. 58.

¹²⁸ Guidelines from no. 28 to no. 32 are focused on child in custody, which is out of scope and therefore not presented here.

¹²⁹ See the Explanatory memorandum, para. 86, p. 72.

¹³⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS no. 210, Istanbul, 11/05/2011, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e> (accessed: 12/05/2021).

investigation, protection of child victims, respect their dignity and privacy to limit to those that are related to children and to the scope of the Grace project. Physical (hands-on) sexual abuse or sexual violence occur in majority of the cases in different family or partnership settings, therefore it is crucial to highlight these rights.

Then, Anti-Trafficking Convention¹³¹ covers many aspects of trafficking of human beings and one among them is also related to various forms of exploitation, including any form of sexual exploitation, which is in the context of the Grace project. This treaty provides mechanisms for protection of victims and safeguards of their rights. The recognized victims' rights are: various forms of assistance (access to emergency medical treatment, appropriate and secure accommodation, psychological and material assistance, translation and interpretation services, counselling and information etc.), legal assistance, residence permit, protection of private life and identity, financial compensation, victims' return to their country of origin, for children at least a legal guardian to act in their best interest, steps to establish their identity and nationality, entitlement to education and risk and security assessment to be carried out before any repatriation (if the repatriation is in their best interest). The human trafficking can happen nationally or transnationally, can be related to organised crime and can affect anyone becoming a victim women, men or children.

Finally, the sexual abuse and exploitation of children also occur in online/digital environment, the Budapest Convention¹³² would apply. It does not contain any victims' rights, but it does contain a provision, which says:

"Nothing in this Convention shall affect other rights, restrictions, obligations and responsibilities of a Party (para. 3, Article 39)."

This actually means that states must guarantee victims' rights as an integral part of their already accepted obligations and duties under other international instruments and treaties.

4.4.3 European Union

Below are introduced the main legal instruments at the EU level. These documents provide different rights to victims of crime, which we briefly highlight in the context of each legal act.

4.4.3.1 Charter of Fundamental Rights of the European Union

The promotion and protection of the rights of the child are two key objectives of the EU (European Commission, n.d.) and are emphasised in the Charter¹³³, under title III Equality:

"Article 24 - The rights of the child

1. *Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.*
2. *In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.*
3. *Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests."*

¹³¹ Council of Europe Convention on Action against Trafficking in Human Beings, CETS no. 197, Warsaw, 16/05/2005, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008371d> (accessed: 12/05/2021).

¹³² See sub-chapter 4.2.

¹³³ Official Journal of the European Union, no. C 326, published 26.10.2012. Charter is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT> (accessed: 12/05/2021).

By enshrining the rights of the child, the Charter (1) recognises that EU policies which directly or indirectly affect children must be designed, implemented and monitored taking into account the principle of the best interests of the child; (2) guarantees the right to such protection and care as is necessary for the well-being of children and (3) recognises the need to protect children from abuse, neglect and violations of their rights, and situations which endanger their well-being (*ibid.*). The Charter provides numerous rights, but we limited only to the main one – the rights of the child.

4.4.3.2 EU Strategy on victims' rights (2020-2025)

In its first three paragraphs of the introduction, strategy¹³⁴ highlights the following:

"Crime can affect us all. Every year millions of people in the European Union become victims of crime. A Union of equality must ensure access to justice for all victims of crime no matter where in the EU or in what circumstances the crime took place.

Victims of crime must have access to support and protection at all times. The lockdown of society during the COVID-19 pandemic saw a rise in domestic violence, child sexual abuse, cybercrime, and racist and xenophobic hate crime. It is therefore crucial to strengthen the framework for support and protection of victims and ensure it is resilient in crisis situations.

*This first EU Strategy on victims' rights frames the Commission's work for the period 2020-2025. It also invites other actors, including EU Member States and civil society, to take action. It pays particular attention to the specific needs of victims of gender-based violence. The EU will do all it can to prevent and combat gender-based violence and to support and protect victims of such crimes. The strength of the EU is in its diversity. Therefore, the EU will do all it can to prevent and combat hate crime, in all its forms, including racial, anti-Semitic, homophobic, or transphobic hate crime. (*ibid.*)"*

This strategy is based on a two-strand approach: empowering victims of crime and working together for victims' rights. It focuses also on strengthening cooperation and coordination.

The strategy presents five key priorities:

- Under empowering victims of crime (3x):
 - Effective communication with victims and a safe environment for victims to report crime;
 - Improving support and protection to the most vulnerable victims;
 - Facilitating victims' access to compensation.
- Under working together for victims' rights (2x):
 - Strengthening cooperation and coordination among all relevant actors; and
 - Strengthening the international dimension of victims' rights.

4.4.3.3 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

The victims' rights and options under this directive are enshrined in Articles from 14 to 20 and they provide the following:

- General provisions on assistance, support and protection measures for child victims (Article 18): Child

¹³⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM/2020/258 final), 24/06/2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0258> (accessed: 10/05/2021).

victims of the sexual offences must be provided as soon as authorities are aware/informed of this type of offence with assistance, support and protection, taking into account the best interests of the child, including to those whose age is uncertain and they have to be treated as such.

- Assistance and support to victims (Article 19): assistance and support are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings, which should be provided regardless the willingness of a child victim to cooperate in the criminal investigation, prosecution or trial; under an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns as child victims of sexual offence are considered as particularly vulnerable, including assistance to child victim's family.
- Protection of child victims in criminal investigations and proceedings (article 20): ensuring that in criminal investigations and proceedings, the competent authorities appoint a special representative for the child victim, especially when there a result of a conflict of interest between the parental responsibility holders and the child victim or when the child victim is unaccompanied/separated from family. In addition, also ensuring:
 - To child victims receives, without delay, access to legal counselling and legal representation, including for the purpose of claiming compensation,
 - Legal counselling and legal representation shall be free of charge, if victim has no sufficient resources,
 - that in criminal investigations:
 - Interviews with the child victim take place without unjustified delay;
 - In premises designed or adapted for this purpose;
 - Carried out by or through professionals trained for this purpose;
 - The same persons, if possible and where appropriate, conduct all interviews;
 - Limitation the number of interviews to strictly necessary;
 - Child victim is accompanied by legal representative or trusted person, unless a reasoned decision has been made against it;
 - All interviews with the child victim [...] may be AV recorded and used as evidence.
 - that in criminal court proceedings may be ordered:
 - The hearing take place without the presence of the public;
 - The child victim be heard in the courtroom without being present by use of appropriate ICT.
 - To take the necessary measures, where in the interest of child victims and taking into account other overriding interests,
 - 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.

The other victims' rights under the same directive are also the following, considering circumstances of the cases:

- Non-prosecution or non-application of penalties to the victim (Article 14): not to prosecute or impose penalties on child victims of sexual abuse and sexual exploitation for their involvement in criminal activities, which they have been compelled to commit as a direct consequence of being subjected to any the sexual offences.
- Investigation and prosecution (Article 15/1): authorities not to be dependent on a report or accusation being made by the victim or by his or her representative, and that criminal proceedings may continue even if that person has withdrawn his or her statements.
- Investigation and prosecution (Article 15/2): It is about the statute of limitations question by having a sufficient period of time after the victim has reached the age of majority and which is commensurate with the gravity of the offence concerned.
- Investigation and prosecution (Article 15/2 and 3): ensuring the effective investigative tools to investigate sexual offences against children and enabling investigative units or services to attempt to identify the victims of the sexual offences, e.g. perform victim identification processes.
- Reporting suspicion of sexual abuse or sexual exploitation (Article 16/1): ensuring that the confidentiality

rules imposed by national law on certain professionals whose main duty is to work with children do not constitute an obstacle to the possibility to report under the reasonable grounds that a child is the victim of sexual offences.

- Jurisdiction and coordination of prosecution (Article 17/5): ensuring that the EU MS jurisdiction is not subordinated to the condition that the prosecution can only be initiated following a report made by the victim in the place where the offence was committed, or a denunciation from the State of the place where the sexual offence was committed.

4.4.3.4 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, and replacing Council Framework Decision 2001/220/JHA

It is known as the Victims' Rights Directive,¹³⁵ which reinforces existing national measures with EU-wide minimum standards on the rights, support and protection of victims of crime in every EU country. Its main goals are to ensure that victims of crime receive appropriate information, support and protection and may participate in criminal proceedings wherever the damage occurred in the EU. Every EU country must ensure that victims of crime are recognised and treated in a respectful, sensitive and professional manner according to their individual needs and without any discrimination (for example based on nationality, resident status, race, religion, age, gender, etc.). The directive lays down minimum standards for all victims of all crimes regardless of victims' nationality or residence status. As soon as a crime is committed or criminal proceedings take place in the EU, the victim must be granted the rights established by the victims' directive. Under the directive, family members of deceased victims are considered victims themselves.¹³⁶

Given the above, it is by no means to be overlooked the following provision of the said Directive:

"Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child (para. 2, Article 1)."

Victims must have the:

- Right to understand and to be understood (Article 3) and right to receive information from the first contact with a competent authority (Article 4): understand and to be understood during the contact with an authority (for example plain and simple language);
- Right of victims when making a complaint (Article 5): receive written acknowledgement of their formal complaint and also advise how to make a complaint, especially when the language barrier exists, that the translations in the complaint procedure are free of charge;
- Right to receive information about their case (Article 6): to be notified without unnecessary delay of their right to receive the relevant information about the criminal proceedings;
- Right to interpretation and translation (article 7): ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge;
- Right to access victim support services (article 8): ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings; same for the family members according to the degree of harm suffered by the criminal offence affected by primary victim. Victim support is meant

¹³⁵ Directive is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029> (accessed: 10/05/2021).

¹³⁶ Taken from the act summary, see previous footnote.

providing the information, advice and support, at least, in accessing to:

- National compensation schemes;
- Relevant specialist support services in place and referring them to these services;
- Emotional and psychological support;
- Advice relating to financial and practical issues arising from the crime; and
- Advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

Regarding the victims' participation in the criminal proceedings, they have the:

- Right to be heard (Article 10): to speak in criminal proceedings and provide evidence;
- Rights in the event of a decision not to prosecute (Article 11), which means to review of a decision not to prosecute and prior this decision to receive sufficient information.
- Right to safeguards in the context of restorative justice services (Article 12), i.e. taking measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation.
- Right to legal aid (Article 13): have access to legal aid, where they have the status of parties to criminal proceedings.
- Right to reimbursement of expenses (Article 14): participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role.
- Right to the return of property (Article 15), meaning that recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings.
- Right to decision on compensation from the offender in the course of criminal proceedings (Article 16), which include also receiving decision within a reasonable time.
- Rights of victims resident in another Member State (Article 17), which is related to organize of the criminal proceedings in taking appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed.

In the area of the protection of the victims and in recognition of victims with specific protection needs, they have the rights to protection (Article 18), to avoid contact between victim and offender (Article 19), to protection of victims during criminal investigations (Article 20) and to protection of their privacy (Article 21). Victims have the right also to be protected with specific protection needs during criminal proceedings (Article 23) and that special attention in this protection measures must be taken into consideration when the victims are children (Article 24). The protection measures encompass also individual assessment of victims to identify specific protection needs (Article 22).

All the above rights of the victims encompasses the victims' possibilities to understand and to be understood during the contact with an authority, receiving relevant information from the first contact with an authority, making a formal complaint and receiving written acknowledgement of it, as well as interpretation and translation in the language that victim understands, same in receiving information about the progress of the victim's case. Finally, also victim's possibilities to access support services according to her needs and situation.

4.4.3.5 Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order

This directive¹³⁷ allows victims of violence, notably domestic violence and stalking, to continue to enjoy protection from offenders when they move to another EU country. Directive sets out rules allowing a judge or

¹³⁷ "European Protection order directive", Official Journal of the EU, no. L 338, 21/12/2011. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0099> (accessed: 26/05/2021).

equivalent authority in one EU country to issue a European protection order when the protected person moves to another EU country. European Protection order directive works in duet with Regulation (EU) No 606/2013¹³⁸ which introduces a simple process of certification so that an order issued in one EU country can be quickly and easily recognised in another.

To issue a European protection order, there must be an existing national protection measure in place in that EU country (country A) that imposes one or more of the following bans or restrictions on the person causing the protected person danger, such as:

- a ban on entering certain places or defined areas where the protected person lives or visits,
- a ban or a limit on contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means; or
- a ban or restriction on approaching the protected person closer than a set distance.

The executing country (country B) is responsible for taking and enforcing measures to carry out the order.

4.4.3.6 Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

The act is known as Compensation directive,¹³⁹ which aims in two ways: to set up a system of cooperation to help victims of crime getting compensation in situations regardless of where in the EU the crime was committed and this system to operate on the basis of EU countries' national compensation schemes for victims of violent intentional crime committed on their own territories.

Crime victims in the European Union (EU) can obtain compensation for the injuries and/or damages they have suffered, regardless of where in the territory of the EU the crime was committed. Victims of a crime have two channels of compensation: they can claim compensation from the offender during the criminal proceedings or can claim compensation from the EU MS (from the compensation authority or any other relevant body in the country).

Each EU MS has its own system¹⁴⁰ for compensating victims for the damage they have suffered because of being a victim of a crime.

The Compensation directive does not cover cases, when EU citizens committed sexual criminal offences against children outside the EU territory. These victims cannot get compensations under this act and faces many difficulties to get compensation, if any. Several challenges are presented in one of the studies, provided by ECPAT International in 2017 with still accurate information and findings.¹⁴¹

4.4.3.7 Other instruments

There are also other victims' rights that depend on the circumstances and the "content" of their cases. This is in particularly obvious in cases of trafficking in human beings, when children are also among the victims. Since the trafficking in human beings encompasses many different forms, the presentation is not provided in-depth.

¹³⁸ Regulation (EU) No. 606/2013 of the European Parliament and of the Council of 12/06/2013 on mutual recognition of protection measures in civil matters, Official Journal of the EU, no. L 181, 29/06/2013. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0606> (accessed: 26/05/2021).

¹³⁹ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0080> (accessed: 10/05/2021).

¹⁴⁰ More information per EU MS: https://e-justice.europa.eu/content_victims_of_crime-65-en.do (accessed: 10/05/2021).

¹⁴¹ See Barriers to Compensation for Child Victims of Sexual Exploitation - A discussion paper based on a comparative legal study of selected countries, ECPAT International, May 2017, ISBN: BN-60-146075 (e-book). Available at: https://www.ecpat.org/wp-content/uploads/2017/07/Barriers-to-Compensation-for-Child_ebook.pdf (accessed: 10/05/2021).

It is relevant to highlight that the rights of the victims under the Anti-trafficking Directive¹⁴² are similar to those that are recognized to children, victims of sexual abuse and exploitation (see above).

In short, victims receive support and assistance before, during and after criminal proceedings so that they can exercise the rights conferred on them under the status of victims in criminal proceedings. This assistance may consist of the reception in shelters, or the provision of medical and psychological assistance and information services and interpretation. Children enjoy additional measures such as physical and psychosocial support, access to education and, where applicable, the possibility to appoint a guardian or representative. They should be interviewed immediately in suitable premises and by skilled professionals. Victims have the right to police protection and legal assistance to enable them to claim compensation.

In this regard it is important to highlight additional right that victims of trafficking of human being have, that is to receive the residence permit of limited duration, which is linked to the length of the relevant national proceedings, to third-country nationals who cooperate in the fight against trafficking in human beings or against action to facilitate illegal immigration.¹⁴³

5 Main challenges for law enforcement first responders

Law enforcement partners in the Grace project were asked about main challenges and dilemmas that they primarily perceive when officers from their (different) national law enforcement authorities as first responders respond to information on sexual abuse and exploitation of children (online or offline).¹⁴⁴ The main research questions (RQ), related to officers as first responders were:

- When a police officer is informed about sexual abuse of a child or came across with it, what should this officer do?
- What are the differences in responding by the same officer, when CSA took place online or offline, if any?

Law enforcement partners provided short and condensed replies.

5.1 Belgium

The officer will safeguard whatever needs to be safeguarded. Considering the written procedures set by the legislation, he will immediately contact the duty child interviewer. In the meantime he will perform the necessary tasks to make the victim feel at ease.

In Belgium, they run a project, in which victims of sexual assault do not have to stay in the police station. In five regions, they set up specialised units in hospitals where medical and psychological care and investigations can take place in a way that the victim feels as much as possible comfortable. All these, when the victim presents him or herself physically in the police station.

In answering the main RQ:

- Draft a report, send it to the prosecutor; specialized detectives will take over, including specialized child

¹⁴² Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036> (accessed: 10/05/2021).

¹⁴³ The right is laid down in the Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004L0081> (accessed: 10/05/2021).

¹⁴⁴ See methodology in sub-chapter 2.2.

interviewers. In most of the cases of hands-on abuse the prosecutor will be contacted immediately; the same goes for contacting specialized investigators.

- The only difference between online and offline abuse is the intervention of technical (IT) team.

5.2 France

It is difficult to provide a synthesized response, because each situation is different. In France, it also depends, if the offence just happened or if the victim is reporting something from the past. The officer first responder will only deal with what is urgent. The other questions are: Is the victim a minor or an adult, when reporting the offence? Did the victim come to a police station or was an officer called out?

If it is an officer first responder that gets the information, then he or she will not perform the investigations. The officer first responder will deal with the emergencies, like organizing the transport of the victim to the hospital, if necessary. This officer will then write a report of everything that was said to him/her and what he/she did.

This officer can get the basic information from the victim to help preserve the evidence, but it is best that he/she does not question the victim. The victim should be questioned by a specialized unit. In France, the case will be quickly passed on to the specialized unit, if needed after the prosecutor is advised.

In answering the main RQ:

- He should directly contact the local prosecutor so he can give the case to a specialised unit. In both cases he should directly contact the local prosecutor so a specialised unit can take over or help.
- If online, a forensic investigator needs to be consulted immediately.

5.3 Ireland

If the victim presents themselves or if the officer attends at a call that officer is in a position to gather as much evidence as possible. The officer can talk to the victim to establish the circumstances (later a much more in depth interview can take place using Specialist Child Interviewers). If the child has been a victim of a contact offence and the Specialist Unit are not available then the first responding officer will accompany the victim to the Sexual Assault Treatment Unit.

In answering the main RQ:

- In Ireland a police officer in receipt of a notification of child abuse they are obliged to make a report on the Garda Crime Recording System, (PULSE) and create a notification to the Child and Family Agency (Tusla) informing them of the incident. They also complete a notification to the Specialist Unit known as Divisional Protective Units informing them of the incident, which they will then investigate.
- There are no differences in responding by the same officer, when CSA took place online or offline.

5.4 Lithuania

Upon receipt of primary information about possible sexual abuse of a child, the officer shall, after assessing the situation, take the following actions without any delay:

- Segregates the child from the abuser. Ensure child protection.
- Organizes the necessary help for the child:
 - In the event of injuries, call a doctor. The police officer, who is in charge in the police force management, informs the specialists of the territorial division of the Child Rights Protection and Adoption Service, who take further steps to provide necessary assistance to the child.

- If the child is in an insecure environment and it is necessary to address the issue of taking the child out of the insecure environment, immediately call a specialist from the Child Rights Protection and Adoption Service (on-call teams 24/7) to the crime scene, who decides the child's removal from insecure environment and take further action to assist the child.

The responding officer through the officer in charge of the police force management shall immediately inform the specialized unit of the criminal police.

If the incident took place in the electronic environment, an officer of the specialized unit of the criminal police will be engaged in almost all cases starting from the moment of receipt of the report and takes over the investigation.

Performs other necessary actions depending on the circumstances of the event.

5.5 Portugal

Public security police is aware of sexual abuse (online or offline). At the premises of the local police he immediately register the situation filling out the Complaint form, with the help of the parents or someone who exercises parental responsibility (if possible accompanied by the minor himself). Statements must be made in the person of the parental guardian.

While recording the situation and trying to preserve physical or digital traces (clothes, computer / telecommunication objects / equipment), makes immediate contact with the LEA First Respond Service responsible for investigating the crime in question. For this purpose, he uses the contact numbers of the territorial competent LEA First Response Central Service.

This competent LEA Central First Response Service (which in Portugal and in cases of sexual abuse of minors online or offline is the Judiciary Police) receives the communication, provides the first useful evidence preservation advice and forwards the situation to the Sectoral First Response Services of the PJ defined according to the type of crime (in smaller cities, the needs for the first response on sexual crime are covered by the central firsts response services themselves).

The answer then goes to the competent LEA (PJ) Sectoral First Response Service.

In answering the main RQ:

- In cases of offline sexual abuse, they go to the premises where the victim is, proceed with their hearing and that of the parental guardians, referring the victim with their consent or that of their parental guardians to carry out expert medical examinations of preservation and collection of traces in a competent health or legal medicine establishment. At the same time, they preserve other traces such as clothes, objects and instruments of crime that are forwarded for examination at the competent Department of the Scientific Police Laboratory.

If there is a conflict of interest between the victim and the respective parental guardians, the competent LEA Sectoral First Response Service contacts the Victim Protection Institution in the context of a signed protocol, in order to find an immediate solution for the custody of the victims.

- In cases of online sexual abuse, equal movement and contact with the victim is carried out, proceeding to his hearing. Based on the consent provided by the victim / parental guardians, their equipment and computer accounts are analysed using forensic tools applied by the investigators themselves or by the forensic computer services.

In the case of multimedia materials, they are inserted in the national repository of online sexual abuse

images for their categorization and analysis; in the case of conversations and based on the consent provided by the victim / parental guardians, an immediate analysis and acquisition for the criminal case is carried out.

If there is a conflict of interest between the victim and the respective parental guardians, the competent LEA Prevention Service contacts the Victim Protection Institution in the context of a signed protocol, in order to find an immediate solution for the custody of the victims.

The response to these types of criminality presupposes specialization in the collection of both personal and material evidence. There are action protocols based on the Law that require the immediate contact of the competent LEA, who are provided with immediate response services.

5.6 Spain

If the first responder police officers receive an information about sexual abuse of a child or a victim turns in person to them for help regarding sexual abuse, have to immediately notify the corresponding UFAM¹⁴⁵ group, which investigates offline CSA cases (24/7 service). These police officers apply their evidence protection protocols and escort the victim to the hospital, if needed, write the necessary reports and start the investigation.

Activities of the specialized units in cases of CSA online are completely different (e.g. not perform escorts to hospitals, not making injury reports). They do not come in contact with minors, at least not at the beginning. As a general rule, their work consists of analysing CSAM in order to identify victims depicted in this materials and also offenders that committed sexual offences against child-victims.

Therefore, they work to quickly identify them and safeguard them together with relevant services, intuitions and organizations.

In answering the main RQ:

In Spain, when a police officer is informed about a sexual abuse situation, has to refer ASAP all the information to the research group that is always a judicial police.

- CSA offline: there is a specific group that deal with this cases called UFAM (family and minors team).
- CSA online: there is another specific group that works with all the child sexual exploitation online, called Technological Research.

In case the investigation becomes complicated or the victim or abuser is outside of Spain, the investigation is referred to the child protection team, specialized in this type of investigations. It is possible that the investigation will be initiated by the specialized group, child protection team, it all depends on the way the information or case facts arrive to National Police. There are currently 3 specialized child protection teams.

5.7 Brief recap of practical challenges

In general, all the law enforcement partners highlighted the great importance of informing or notifying the specialised units to take over the cases of alleged sexual abuse of children and the prosecution offices either to initiate official investigation or to coordinate the investigation. Next, it was emphasized that circumstances of each CSE case depends on many factors (urgencies, needs of victims, injuries, time of crime etc.) and it is impossible to briefly provide simplified guidance. Of course, what the law enforcement first responders can

¹⁴⁵ Family and Women's Care Unit (orig. es. Unidad de Atención a la Familia y Mujer).

do, besides providing information to specialized units or prosecutor is to take care of emergency situation, such as injuries and protect the life of each victim.

What else is of significant importance in relation to sexual abuse of a child (victim) is further elaborated in next chapter.

6 Pre-investigation phase

The aim of this chapter is to highlight important factors that should be known before working on any report of child sexual exploitation. The law enforcement response to child sexual abuse (and all child victims) must be sensitive, with the needs of the child held as the top priority (United Nations Office on Drugs and Crime, 2015). Both dignity and compassion should form the basis of any interaction with the child. Law enforcement (particularly first responders) act as gatekeepers of justice for victims. Negative interactions on their first contact with law enforcement has contributed to the high rate of attrition in sexual offence cases. Evidence suggests that the highest level of attrition can be prescribed to the police investigative stage (Rape Monitoring Group, 2015).¹⁴⁶ Consequently, it is vital for the first responder to ensure that the victim's first contact with law enforcement is positive, so that the victim is still cooperative when the case is taken over by a detective. However, several factors can impede the successful handling of child victims, leading to experiences of re-victimisation from their experiences with law enforcement and negatively impacting case outcomes. This chapter will explore a number of these factors, including cognitive biases that influence how an officer may perceive a victim, and misunderstandings of the victim experience which limits the compassion that can be shown.

6.1 Attribution Biases

Biases have their roots in Schema Theory. A schema is a mental framework that helps us to more efficiently interpret and store information (Brewer & Nakamura, 1984). These mental stores then act as shortcuts which allow us to quickly process incoming information. For example, an investigator may have developed a schema on their understanding of what a child exploitation case may look like. This might include typical offender characteristics, typical offence processes, and typical victim characteristics. While this can be beneficial for quickly identifying next investigative steps, issues can also arise. It is entirely possible that an investigator's schema may be incorrect, or the actual case characteristics may not align with their expectations. This can lead to poor decision making and negatively impact the course of the investigation (Sleath & Bull, 2017).

The aim of this section is to educate the first responder on some of the biases that might arise when dealing with child sexual exploitation cases. Many biases exist that may influence how a first responder interprets the credibility of a victim. Whilst being aware of a bias cannot completely remove it, it has been found to reduce its effect (Davis, 2015). Within this section, three will be explored; gender stereotypes, the emotional witness effect, and rape myth acceptance.

6.1.1 Gender Stereotypes

From an early age, boys and girls are socialised differently. People hold beliefs about how men and women should act and behave. For example, boys are expected to be strong, independent, hide emotion, and to be dominant, whereas girls are expected to be caring and submissive. These beliefs are then instilled in children, causing a cycle of specific gender role beliefs that have become prevalent across society and influence how

¹⁴⁶ It should be understood that the approach in the beginning of any CSEA case is crucial for any further investigative stages, including the judicial procedures.

we perceive people, including offenders and victims of crime. This has led to biases around the expected offender and victim gender amongst different forms of crime. For example, it is typically expected that in sexual offences the offender will be male, while the victim will be female.

While typically sex offences are male perpetrated against female victims, this is not always the case. Exact rates of male child sexual exploitation victims are difficult to pinpoint (males are less likely to disclose their victimisation), however some studies have found male victimisation to account for 24-39 % of cases (Cockbain, Ashby, & Brayley, 2017). Therefore, it is important for a first responder not to allow this bias to lead his/her questions, or to question the victim's account just because typical gender roles do not align.

6.1.2 Emotional Witness Effect

The emotional witness effect is a phenomenon where a victim's emotional expression affects perceptions of their credibility. This is founded on Expectancy Violation Theory (Burgoon & Hale, 1988), which states that we expect people to act in certain ways in certain circumstances. Experiencing child sexual abuse is traumatic. As such, we expect victims of this abuse to demonstrate strong negative emotions. Research has demonstrated that in mock trials, participants are more likely to believe a sad and tearful child abuse victim, compared to a calm and neutral victim (Cooper, Quas & Cleveland, 2014). This bias has clear implications for the criminal justice system, as whether or not a victim is believed can have a strong effect on case outcomes.

It is important to acknowledge that there is no 'correct' way to react when a traumatic event (e.g., child sexual exploitation) has occurred. While the typical expectation is for the victim to show distress when recalling the details of the offence, research has demonstrated that as many as four out of ten children do not demonstrate any distress while testifying (Goodman, Pyle-Taub, Jones, England, Port, Rudy & Prado, 1992). Furthermore, emotions can easily be faked. There have been cases of parents coaching their child to make emotional allegations of abuse (Death, Ferguson & Burgess, 2019), so expressions of emotion cannot be used to infer credibility. Consequently, it is important to resist this bias and to make a conscious effort to not allow the victim's emotional state influence the questions they are asked, or his/her perception of their credibility.

6.1.3 Rape Myth Acceptance

Rape myths are a set of beliefs about rape (including its causes, contexts, consequences, perpetrators, victims, and interactions) that tend to amplify the victim's role in the crime, whilst diminishing the offender's role (Hine & Murphy, 2019). Previous literature has identified three major rape myths (*ibid.*). First, true rape involves an offender who is a stranger to the victim, and the assault involves high levels of force. Second, women often lie about being raped when they regret having sex with someone, or for attention. Third, women's actions actively determine their likelihood of being raped (e.g., wearing revealing clothes, or drinking excess alcohol), leading to victim blaming (covered further in the following section). All three of these myths have been discredited within the research literature (McGee, O'Higgins, Garavan & Convoy, 2011). For example, typical rape offences often involve minimal force (Ruparel, 2004), and false allegation rates are estimated to be as low as 2 % (Kelly & Lovett, 2009). Rates of rape myth acceptance within law enforcement tend to be low (Sealih & Bull, 2017), however it is prevalent enough to warrant discussion. This is because rape myth acceptance has been found to predict perceived victim credibility, which in turn is associated with case outcomes (*ibid.*).

While rape myths are typically associated with adult sex offences, they are also of relevance to child sexual exploitation (Dworkin, Sessarego, Pittinger, Edwards & Banyard, 2017). Myths that relate to child sexual exploitation include beliefs such as high rates of false accusations in child abuse disclosures, the belief that women do not sexually abuse children, and that child abuse is typically committed by strangers (e.g., Stranger

Danger) (McGee et al., 2011). As such, it is important not to allow these myths to influence his/her decision making, or influence how credible the report is.

6.2 Victim Blaming

Victim blaming has been commonly found that victims of crime are frequently judged by society as being in some way responsible for their victimisation (Grubb & Turner, 2012). This occurs when individuals believe that the victim's actions contributed to them being offended against (Hayes, Lorenz & Bell, 2013). Typically, victims are blamed when they are seen to have put themselves into a vulnerable position. For example, when the victim chooses to spend time with the offender, or when the victim puts themselves in a position where they are without a guardian. This phenomenon has been consistently found, particularly in the context of sexual offences. For example, a victim of child grooming may be blamed more if they willingly met with the offender.

In essence, victim blaming is another form of bias, like those explained in the previous section. However, whereas those theories related to perceptions of victim credibility, these theories relate to perceptions of victim responsibility. It is important to acknowledge that victim blaming is an irrational response. The aim of providing this information is not to highlight when or where a victim may be to blame, but rather to make first responders aware of common biases that lead to victim blaming so that it can be avoided in practice. Research has shown that victim blaming is high within law enforcement (as it is with the general population), but that this can be reduced through education and training (Darwinkel, Powell & Tidmarsh, 2013). Therefore, the aim of this section is to reduce victim blaming attitudes in first responders, in order to reduce negative victim experiences and improve the likelihood of the case progressing to prosecution (*ibid.*).

Several theories exist which explain why individuals may engage in victim blaming behaviours. Two of these theories will be explored in this chapter: Just World Belief (Lerner, 1965) and Gender Role Beliefs (Grubb & Turner, 2012). It is important to acknowledge that these are not necessarily competing theories. Rather, different theories might be more (or less) relevant depending on the circumstances of the case.

6.2.1 Just World Belief

Having a belief in a just world in its simplest form refers to believing that people get what they deserve in life (Hayes et al., 2013). Bad things happen to bad people, while good things happen to good people. This means that when something bad happens to a person (such as being the victim of a crime), then they must be a bad person, or have done something bad to be deserving of their victimisation. Consequently, when someone is a victim of a crime, we may search for evidence that the victim has done something bad or made a bad decision in the past so that we can assign responsibility.

It is important to note that anyone can be the victim of crime, and victimisation does not reflect whether a person is 'good' or 'bad'. However, it is argued that having a just world belief acts as a psychological coping mechanism to give people a sense of control in an uncertain world. If a person believes that bad things only happen to bad people, then all they need to do is be good to avoid bad things (such as victimisation) happening to them. However, a by-product of this belief is high levels of victim blaming. For example, research has found that victim blaming attitudes are higher in police officers who have a stronger belief in a just world (Sleath & Bull, 2012). This can have potentially detrimental effects on an investigation. Victims who experience blame when reporting have been found to experience secondary victimisation, which can further worsen the outcomes from their initial victimisation (Greeson, Vampbell & Fehler-Cabral, 2016). Better outcomes can be achieved when the victim is treated with empathy and respect from their initial contact with law enforcement.

For a first responder, it is important not to try and search for evidence of bad decisions or character from the victim. For example, pointing out to a child who met up with their online groomer that they should not have done that, and that they would not have been victimised if they had just stayed at home, will not improve the outcome of the investigation. If anything, it may amplify feelings of shame that the victim is feeling and make them want to avoid law enforcement at a time when their cooperation is needed.

6.2.2 Gender Role Beliefs

Gender role beliefs (see above) are instilled in children, causing a cycle of specific gender role beliefs that have become prevalent across society and influence how we perceive people, including victims of crime. It has been found that victims who violate these gender role beliefs are often blamed more, particularly for sexual offences (Grubb & Turner, 2012).

An example of this in relation to child sexual exploitation is a 15-year-old adolescent schoolboy being exploited by a female teacher. By this age, many of the male gender role beliefs will be expected of the schoolboy. If he is perceived to be submissive to the female teacher, or not demonstrate his strength by fighting back, then he may experience victim blame. This can be seen in many cases of sexual offences involving a male victim, as the expectation is that a male should be able to protect themselves against a female sexual offender. Additionally, adolescent boys who are sexually abused by women are often told that they should be happy to have had sex, and are not taken seriously in terms of their distress and trauma, which then further impacts on their distress. It is important to acknowledge that both males and females can be the victim of child sexual offences, regardless of societal gender beliefs. Therefore, it is important for the first responder not to approach in his/her activities with preconceptions about offender and victim gender.

6.3 Victim Insights

The aim of this section is to provide the first responder with insights into the victim experience to facilitate a more empathetic and compassionate victim approach. Within this section, two elements of the victim experience will be explored: reactions and disclosure. These have been selected as misconceptions around how victims react to sexual abuse, and how they later disclose this abuse, can influence how their credibility is perceived.

6.3.1 Victim Reactions

As previously mentioned, rape myths tend to make us believe that a victim of rape will actively fight their attacker, which forces the attacker to use high levels of force to complete the assault. Research has demonstrated that relatively few sexual assaults involve high levels of physical force (Ruparel, 2004). However, despite these findings, victims of sexual abuse who do not fight their attacker are often met with increased blame and are less likely to be seen as credible (Sleath & Bull, 2017). Therefore, it is important to understand the full range of victim responses to trauma, such as sexual assault.

Rape Crisis (2020) outline five different automatic and instinctive responses to fear and trauma which can be seen in the context of sexual assault. These are fight, flight, freeze, flop, and friend (see figure 2).

- **Fight:** resisting the attacker either by physically fighting and struggling, or verbally (e.g., saying/shouting “no”).
- **Flight:** running or hiding to put physical distance between the victim and the attacker.
- **Freeze:** becoming rigid, tense, still and silent around the attacker. May be unable to vocalise “no”, but freezing is not giving consent.

- **Flop:** similar to freezing, but instead of tensing and becoming rigid, the body relaxes and goes limp.
- **Friend:** can involve calling for help and/or trying to ‘befriend’ the attacker in an attempt to stall, or to negotiate/plead with them. Again, this is not consent.



Figure 2: The 5F's of Trauma

All of the above are ‘normal’ victim responses to sexual assault. It is important not to assign credibility or blame based on these reactions. These responses are automatic and involve no real choice by the victim.

6.3.2 Victim Disclosure

Before law enforcement can get involved in a child sexual exploitation case, there tends to be some form of disclosure. This disclosure may come directly from the child victim, but it can also come from a concerned third party, such as a parent, teacher and/or friend. In an ideal world, disclosures would happen immediately, when forensic evidence is still available, however this is very rarely the case in child sexual exploitation offences. Research has shown that only 18-24% of children and adolescents disclosed their abuse to someone within 24 hours of the abuse taking place (Kogan, 2004; Smith, Letourneau, Saunders, Kilpatrick, Resnick & Best, 2000), and many will never disclose their experiences. For a first responder, it is important to understand the reasons behind this delayed disclosure so that a more empathetic approach can be adopted.

Victim age has been found to be one of the most significant predictors of disclosure, with younger children being less likely to disclose than adolescent children (McElvaney, 2015). One explanation for this is that younger children, due to their developmental stage, may be unable to fully understand and vocalise what has happened to them, with the realisation that they have been the victim of sexual abuse occurring many years later. However, it is also important to acknowledge that children who are aware of their victim status will not always come forward to disclose. One reason for this is fear around the consequences of disclosure. Consequences such as fear of not being believed, fear of being blamed, and fear of their parents being ashamed have all been linked to disclosure delays (Hershkowitz, Lanes & Lamb, 2007).

In some cases, the child may never willingly come forward to disclose. Many will only disclose following direct prompts from a third party. For example, a parent who has noticed emotional distress and a change in behaviour in their child may ask the child if something has happened to them. Research has demonstrated that a commonly reported reason for lack of disclosure is that they were never asked (McGee, Garavan, deBarra, Byrne & Conroy, 2002). However, it should also be acknowledged that some children are simply not ready to disclose their abuse (Mudaly & Goddard, 2006). Therefore, even if sexual abuse is denied when asked directly, this does not necessarily mean nothing has happened, just that the child is not yet ready to disclose.

6.4 Conclusion

This chapter aimed to provide first responders with relevant knowledge around biases and misconceptions about child sexual exploitation offences that may negatively impact the initial handling of a case. The rationale behind this is to reduce first responders inadvertently damaging the investigation. Throughout this chapter, the first responder will have learned of key biases that can influence perceptions of victim credibility and responsibility, as well as general insights into the victim experience that will allow for a more empathetic and victim-centred approach. The following chapter offers first responders guidelines of how they should behave when they are made aware of a child being sexually abused.

7 Guidelines for First Responders in Child Sexual Abuse and Exploitation Cases

A **first responder** is a person in a professional capacity who is informed about (potential) child sexual abuse and is required to act in order to reduce any risk of further harm to the child. First responders are usually professionals working in child protection, teaching and medicine. The guidelines in this chapter primarily focus on supporting first responders in law enforcement. However, the guidelines may also be applicable to first responders in other professions.

A person who has been sexually abused may be referred to and consider themselves as a victim or a survivor. The term **victim** is often associated with characteristics such as innocence, but also weakness and lack of agency. The term **survivor**, on the other hand, may imply strength and agency. Individuals identify differently and some may first identify as a victim and later, for example after completion of therapy, as a survivor. The person's own identifier should be respected and used where possible and appropriate.

All practices in relation to child sexual abuse should be child-centred and trauma-informed. **Child-centred** means that the child's safety and well-being should be the focus of all actions and the child should be involved in all decision-making. All actions should be in the interest of the child. **Trauma-informed** practice recognises the trauma or distress associated with sexual abuse and strives to minimise the risk for any further traumatisation as much as possible. A first responder's behaviour sets the tone for the later stages of the investigation. It is therefore important that a first responder acts empathically and establishes good rapport with the child and/or the person who reports the abuse. This makes it more likely that the person will continue to engage in the investigation.

7.1 Scenario Examples

As a first responder, you may be contacted or learn about (potential) child sexual abuse from different sources and in various situations. The following scenarios are example situations you may encounter. These scenarios aim to support you in how best to respond and things to keep in mind when responding.

The visual presentation in the figure 3 provides a flowchart for first responders' decision-making and with a clearer overview of his/her activities (e.g., child-centred and trauma-informed). It encompasses relevant steps for first responders, but at the same time it can be used by national authorities according to their legislation and policies.

IMPORTANT!

You should be familiar with the national laws surrounding child sexual abuse and exploitation (CSEA). It is also advised that you familiarise yourself with other important local services that work in the area of child sexual abuse and can offer support. This may include specialised CSEA units in local law enforcement agencies, medical services including paediatric services and sexual abuse/rape referral services, child protection services, and psychological or crisis intervention services. It is useful to have contact details for such services at hand so that you can refer children and/or carers or other witnesses to them.

1. A child discloses to you directly that they have been sexually abused/exploited. You may learn about a child sexual abuse case, for example, when called to a crime scene, when a child reports to a police station or calls the police hotline. It is of utmost importance that the child is believed. You should create a relaxed situation in a child-friendly environment (if possible) and only conduct a short interview. This will prevent the child having to repeatedly give their full account as they will need to be interviewed by a trained professional later and this should be the only instance in which they need to tell the complete story. The main focus of your actions needs to be the well-being and safety of the child.

- Be open and friendly and speak with a calm tone of voice. Use plain **language** that is appropriate to the child's age and development. Get advice on child-friendly language if needed. Be empathic and non-judgmental. Try to put the child at ease to help them feel safe and start building trust. Avoid using terms that can have a negative connotation (such as 'victim').
- Validate what the child tells you. The child needs to feel that they are taken seriously. Tell them that the abuse was not their fault.
 - "I can only imagine how difficult it is to speak about this."



- Do not say anything like "I know how you feel."
- If the child tells you about the abuse, **do not interrupt** their narrative. Let them say as much or as little as they want. Allow pauses. Allow them to tell you about what happened in a way they are most comfortable with; this may involve drawing or writing things down.
- Only ask the most important questions about the abuse (**Who? What? Where? When?**) if the child does not disclose such details spontaneously.
- Children are often abused by family members or people they know. While you may condemn the abuse, **avoid criticising the abuser** in front of the child as this can lead to anxiety and worry about what may happen to the abuser and may increase the likelihood for the child to withdraw.
- Assess whether the child needs immediate **medical attention**. If the abuse happened within the last 72 hours (3 days), medical attention should be sought as soon as possible. Physical evidence may be obtainable in this timeframe as well. Emergency contraception can be administered 120 hours (5 days) after the abuse.
- Assess whether the child is **physically and emotionally safe** now. Take measures and/or make referrals to reduce any further harm and to offer the child support.
- Inform the child in plain language about their **legal rights**. It is best to (also) give them or a trusted adult this information in writing so that they can refer back to it and to repeat this information over the course of actions.
- Take **notes** and document as much as possible. If you meet the child face-to-face, avoid taking too many notes during the interview and focus your attention on the child. Complete your notes as soon as possible afterwards.
- Ask the child about any concerns they may have. Any concern, even if it seems trivial, should be addressed.
- Explain in detail but in plain language what the **next steps** are. Give the child or a trusted adult information about **support services**. It is best to give out flyers or information in writing so that they can refer back to this information later.
- Check if the child is happy for you to be in contact with them. Provide contact details of yourself or relevant colleagues.
- Finish by thanking the child and making a positive remark, but do not make false promises.
 - "Thank you for talking to me and helping me understand what happened. I can only imagine that this must have been difficult. We will do our best to support you and keep you safe."

After you have spoken with the child, you need to take further actions:

- Complete your **documentation**. Use the exact words the child used as much as possible.
- If you are at the crime scene, collect any further evidence and **preserve the crime scene** to avoid contamination.
- Refer the case to a **specialised local CSEA law enforcement unit**. You may stay in touch with the unit and the child (if they have said they want you to keep in contact). Stress to your colleagues that the child should be interviewed by a trained member of staff using appropriate forensic child interviewing techniques as soon as possible.
- **Ask for updates** about the case. Following through with a case can help you get closure.
- **Get support**. Dealing with CSEA cases can be distressing for first responders. You may receive support from your colleagues, family and friends, and other professionals such as psychologists and counsellors.

2. Another person reports directly to you that a child has been sexually abused/exploited following the disclosure of a child. This could be a parent/carer of a child, someone working with the child such as a teacher or nurse, or another witness to the abuse. A child may disclose abuse to such a witness and the witness then reports to you. Again, your focus needs to be on the well-being and safety of the child.



- Before you interview the witness, ensure that the **child is not present and cannot overhear** your conversation. Listening to other people talking about the abuse can be highly distressing to the person who was victimised. The child should, however, not be left waiting on their own while you talk to the witness. The child may have a trusted adult with them and/or do something to keep them busy, e.g., drawing or reading.
- Ask the witness to **repeat the exact words** the child used when they disclosed to the witness. Ask if there are any other witnesses or whether the witness is aware of any further evidence, such as physical evidence.
- Check when the abuse happened and whether **medical support** is needed. If the abuse happened in the previous 72 hours (3 days), medical attention should be sought. Emergency contraception can be administered up to 120 hours (5 days) after.
- Assess if the child is **physically and emotionally safe** now and offer support in reducing any further harm.
- Advise the witness **not to talk to the child about the abuse**. However, in case the child approaches the witness and talks about the abuse, the witness should listen and be supportive. They **should not show any strong emotions** like anger or despair in front of the child as this may give the child the impression that they are distressing the witness.
 - The witness may say to the child: "It was brave of you to tell me what happened and I am proud of you. I'm sorry this happened to you. It wasn't your fault. I have contacted the police (or other relevant organisations) to help keep you safe."
- Tell the witness **not to confront the alleged perpetrator**. In case the abuse happened in an organisation such as the child's school, advise the witness to inform the manager and that the **child and the perpetrator should be separated**. This means that the perpetrator should be taken out of situations in which they could encounter the child; the child should not be taken out of their usual situation or context.
- Inform the witness of the next steps and give them details for **support services** for victims and carers. Being a witness to CSEA or caring for a child affected by CSEA can be distressing and the witness should therefore access support if they need it.

After you have spoken with the witness, you need to take further actions:

- If the child is nearby, you can have a conversation with them to assess their safety and any concerns. Your conversation should focus on the child's well-being. Only ask limited questions about the abuse (see Scenario 1). Tell the child you are there to support them and that you are doing your best to help keep them safe.
- If you are at the crime scene, collect any further evidence and **preserve the crime scene** to avoid contamination.
- Complete your **documentation**. Document as much detail as possible.
- Refer the case to a **specialised local CSEA law enforcement unit**. Stress to your colleagues that the child should be interviewed by a trained member of staff using appropriate forensic child interviewing techniques as soon as possible.
- **Ask for updates** about the case. Following through with a case can help you get closure.
- **Get support**. Dealing with CSEA cases can be distressing for first responders. You may receive support from your colleagues, family and friends, and other professionals such as psychologists and counsellors.

3. A person discloses historic CSEA to you. A young person or an adult may report that they were sexually abused as a child.

- Be **empathic and non-judgemental**. Speak with a calm tone of voice.
- Assess whether the person is **emotionally and physically safe** now. Take measures to reduce any risk if needed.

- Signpost the person to **support services**, such as organisations that support people who were sexually abused.
- Inform the person about their **legal rights** and what legal steps are possible at this point in time.
- Ask the person about any **concerns** they may have and address their concerns.

4. You suspect a child was sexually abused or you learn about a CSEA case indirectly. You may learn or suspect CSEA in situations in which a child does not disclose the abuse, but you suspect abuse due to other indications. This may involve different scenarios:

a. Child sexual exploitation material (CSEM) showing the sexual abuse of a child is reported to you.

Someone may have come across CSEM on someone else's device or on the internet. This person may report a child they know to have been exploited for CSEM.

- If the CSEM is on a website, the **website needs to be reported** so that the material can be taken down. [INHOPE](#) or the [Virtual Global Taskforce](#) can support this. Facilitate the material being reported.
- If you are given information about a child that is depicted in CSEM, **do not contact the child** yourself. **Refer the case to specialised local CSEA law enforcement unit.** Being confronted by the police in relation to CSEM can be traumatising to children. The existence of CSEM can add to a child's feelings of shame and helplessness. Therefore, if the child needs to be identified and contacted for safeguarding issues, only trained professionals should speak to the child.
- Give the person who contacted you information about **support services**.
- **Get support** for yourself and keep updated about the case. This can help you get closure.

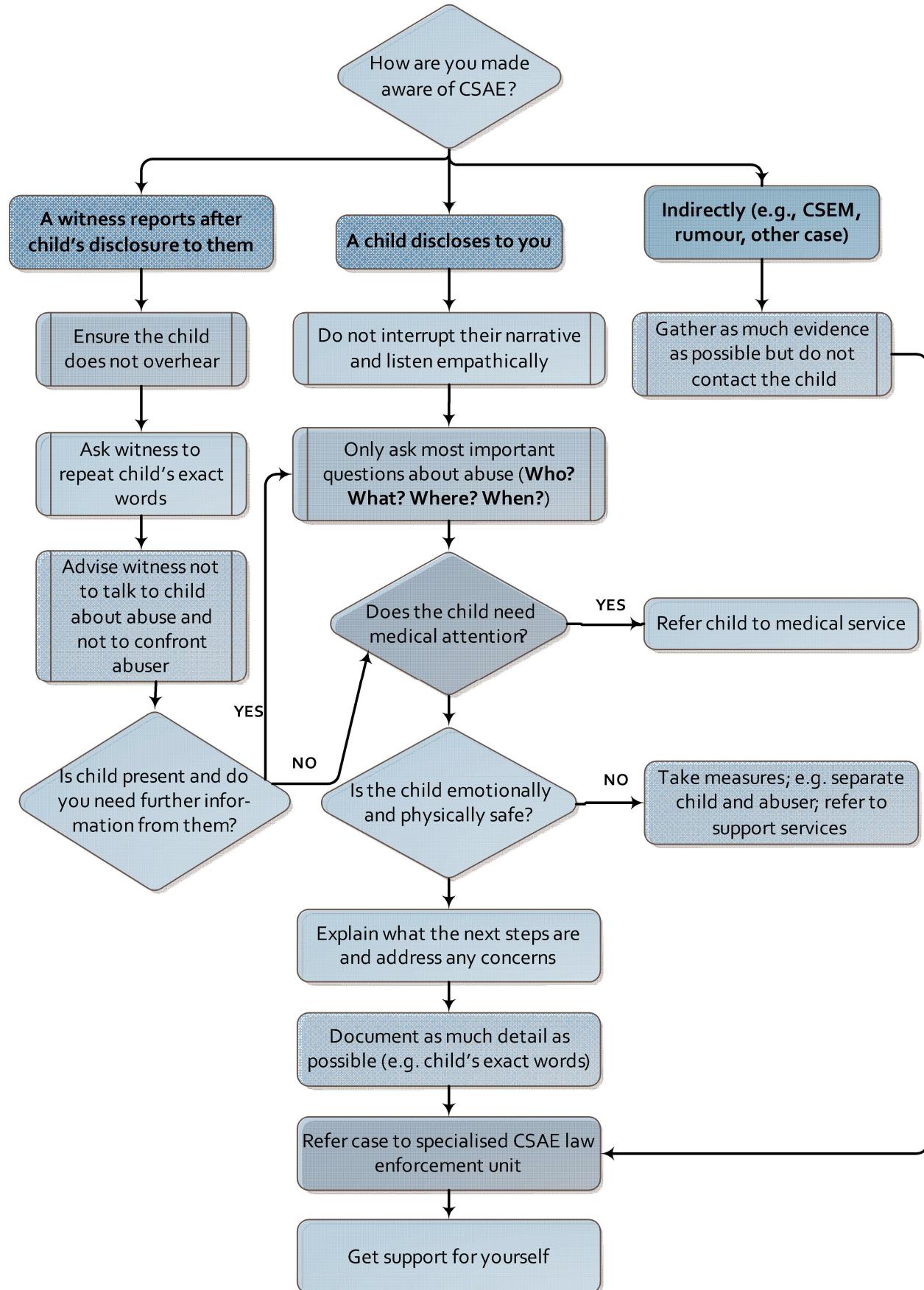
b. You learn through talking to other people that a child may be sexually abused/ exploited. You may learn about rumours of CSEA cases, for example in organisations such as schools, or you find indications for CSEA on social networks or in other communications.

- If you learn details about a specific child who may be victimised, **do not contact the child** yourself. **Refer the case to a specialised local CSEA law enforcement unit.** Collect the evidence you found and hand it over to your colleagues. There are various reasons why a child may not disclose and being confronted with the abuse can have a traumatising effect. Therefore, only trained professionals should contact and speak to the child. The child's health and well-being should always be the focus.

c. You suspect (additional) CSEA in a case you investigate. You may suspect a child who is a victim in an unrelated case may also have been sexually abused. You may also suspect that an adult who you are investigating in a CSEA case may be abusing additional children.

- If you investigate a case where a child may have been maltreated or harmed, you may suspect that the child was also sexually abused. **Document** all indications that point towards CSEA. Your investigation should focus on the alleged perpetrator and other corroborating evidence. If necessary, you can conduct a **short interview** with the child, focussing primarily on assessing any risks. Keep the interview short (see Scenario 1). If you feel a full interview with the child is necessary, refer the case to trained staff who can conduct a forensic child interview.
- If you are investigating an adult for alleged CSEA, it is important that you **assess if they have access to any other children.** Take measures to safeguard the children, for example, by keeping the adult separate from the children. Avoid interviewing any children yourself, but **refer the case to a specialised local CSEA law enforcement unit.**

Figure 3: Flowchart for First Responder Decision-Making



Useful Links:

- [European reporting channels for \(online\) child sexual exploitation](#)

Support for people who have been victimised:

- Innocence in Danger (support for victims of CSEA and prevention of CSEA): [Austria](#), [Germany](#), [France](#), [Switzerland](#), [UK](#)
- Support for victims of CSEA in Germany: [Hilfeportal Missbrauch](#)
- Victim Support in Cyprus: <http://www.foni.org.cy/>
- Victim support and child protection in the UK: [NSPCC](#), [Barnado's](#)
- European organisations supporting victims of crime: [Victim Support Europe](#)
- Helpline for victims of crime: 116 006 (operationalised in Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Latvia, the Netherlands, Portugal and Sweden)
- Weißer Ring (support for victims of crime): [Germany](#), [Austria](#), [Czech Republic](#), [Hungary](#)
- Victim support in the Netherlands: [Slachtofferhulp](#)

8 Conclusion

The global response against child sexual exploitation and abuse is a highly complex matter and affects everyone, especially children. Nobody is able to respond on its own, the cooperation and collaboration are the key in this fight.

However, the route of information or disclosure of child sexual abuse often starts at/with LEA first responders, before it reaches the experts for further investigation. This means that first responder should have at least basic knowledge about the CSEA crimes and afterwards approach, if informed.

The readers, officers, trainers and managers are encouraged to use this document, especially the guidelines with flowchart for decision-making in educating law enforcement officers and in nationwide usage. The deliverable provide a great basis for understanding how important is to make relevant decisions in interaction with victims, how to serve them for their well-being and respecting their rights. It gives wider scope to different aspects on victims' behaviour and their needs, on the other hand it provides sufficient basis to understand the importance of the first approaches to victims of sexual abuse to their protection and to initiate relevant investigative procedures in a professional way. The latter is of utmost importance in order to avoid unsuccessful protection of evidence and consequently unsuccessful criminal investigation. First responders could even not knowingly ruin further steps in CSEA investigations. These are the reasons, why it is so important to properly communicate with victims, i.e. gaining trust, opening golden bridge, their protection, securing evidence and providing all relevant information to experts, who take over the case. Even more, to understand what, how and why in these highly sensitive situations, especially in first contact.

The exhaustive overview of international legislation and policies are provided with intention to use them in educating law enforcement officers, while the pre-investigative phase contributes to understanding of making good decisions and reduces the risk of unintentional misconduct of every officer, not just first responders in this situations. Guidelines and decision-making flowchart are the tools for these.

The main stakeholders of this deliverable are the first responders and consequently trained CSEA investigators, while the greatest benefit is on victims. In addition, this deliverable will also contributing in achieving the goals set in the UN Sustainable Development Goals (SDG):

- 16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children and
- 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.

8.1 Way forward

It is worth to consider for the activity in near future that the findings written down in this deliverable could be used in the form of a short manual containing terminology, legal aspects of victims' rights, the pre-investigation phase and guidelines. It should be noted, however, that this would lead to some basic form, which should then be transferred to national frameworks, taking into account the needs, practices, policies and national legislation. Certainly, the current form is a sufficient basis for training, awareness-raising and adaptation of national systems for responding to reports of criminal offenses in the field of protection of the sexual integrity of children.

This deliverable will be updated according to new research, trends, threats and society's collective responses against the sexual exploitation and abuse of children. Partners and wider public can contribute as well.

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ANNEX I – GLOSSARY, ACRONYMS AND COUNTRY ABBREVIATIONS

Term	Definition / Description
AI	Artificial Intelligence
APA	American Psychological Association
CAID	Child Abuse Images Database
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW	Committee on the Elimination of Discrimination against Women
CETS	Council of Europe Treaty Series
CIOS-SCP	Cornwall and the Isles of Scilly, Safeguarding Children Partnership
COE	Council of Europe
CRC	Convention on the Rights of the Child
CSA	Child Sexual Abuse
CSAM	Child Sexual Abuse Material
CSE	Child Sexual Exploitation
CSEA	Child Sexual Exploitation and Abuse
CSEM	Child Sexual Exploitation Material
DG	Directorate General (at EC)
EC	European Commission
ECHR	European Convention on Human Rights, officially: Convention for the Protection of Human Rights and Fundamental Freedoms
ECOSOC	United Nations Economic and Social Council
EEA	European Economic Area
EMT	Emergency medical technician
ESP	Electronic Service Providers
ETS	European Treaty Series
EU	European Union
F.R.	First responder
GC	General comment
GDPR	General Data Protection Regulation
GRACE	Global Response Against Child exploitation
GSC	General Secretariat of the Council
ICSE	International Child Sexual Exploitation images database
ICT/IT	Information and communication technology, Information technology
INHOPE	International Association of Internet Hotlines
IOCTA	Internet Organized Crime Threat Assessment
IP	Internet Protocol
ILO	UN International Labour Organization
IVAS	Images and Video Analysis System
IWF	Internet Watch Foundation
IWG	Interagency Working Group
JHA	Justice and Home Affairs
LDCA	Live Distant Child Abuse
LEA	Law Enforcement Agency (also Authority)
MS	Member State
n.d.	No date
NCA	National Crime Agency

NCECC	National Child Exploitation Coordination Centre (Canada)
NCMEC	National Center for Missing and Exploited Children (US)
NGO	Non-Governmental Organization
NSPCC	National Society for the Prevention of Cruelty to Children (UK)
OJ	Official Journal
OPSC	UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
RQ	Research question
SDG	Sustainable Development Goal
STD	Sexual transmitting disease
TCSO (CSO)	Transnational Child Sex Offender (Child Sex Offender)
THB	Trafficking in Human Beings
TOR	The Onion Router
UFAM	Unidad de Atención a la Familia y Mujer (Family and Women's Care Unit)
UN	United Nations
UNICEF	United Nation's Children Fund
VGT	Virtual Global Taskforce
WPGA	We Protect Global Alliance to End Child Sexual Exploitation Online

Table 3 - Glossary and Acronyms

Belgium	(BE)	Greece	(EL)	Lithuania	(LT)	Portugal	(PT)
Bulgaria	(BG)	Spain	(ES)	Luxembourg	(LU)	Romania	(RO)
Czechia	(CZ)	France	(FR)	Hungary	(HU)	Slovenia	(SI)
Denmark	(DK)	Croatia	(HR)	Malta	(MT)	Slovakia	(SK)
Germany	(DE)	Italy	(IT)	Netherlands	(NL)	Finland	(FI)
Estonia	(EE)	Cyprus	(CY)	Austria	(AT)	Sweden	(SE)
Ireland	(IE)	Latvia	(LV)	Poland	(PL)	United Kingdom	(UK)
United States	(US)						

Table 4 – Abbreviation of countries