

# JUSTICE UNLEASHED

ENDING LIMITATIONS, PROTECTING CHILDREN

A PROPOSAL TO DEVELOP CHILD SEX ABUSE VICTIMS' EFFECTIVE ACCESS TO JUSTICE BY ELIMINATING CRIMINAL LIMITATION PERIODS FOR CHILD SEX ABUSE OFFENCES IN EUROPE



CHILD GLOBAL

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End Childhood Sexual Violence

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## EXECUTIVE SUMMARY

This Report explains why the criminal statutes of limitation (SOL) for child sexual abuse (CSA) crimes should be abolished across all member states of the Council of Europe. It recommends amending the Lanzarote Convention to include an Optional Protocol to achieve this goal.

CSA is a serious public health epidemic in Europe. One in 5 children in Europe today are subject to some kind of sexual violence in their lives. Across the 27 EU member states alone, that equates to more than 16 million children facing life-long stigma, trauma and pain.

This report presents the “postcode lottery” faced by victims and survivors across the European continent when they try to access effective remedial action. Archaic and arbitrary criminal statutes of limitations vary across European Countries.

The Lanzarote Convention has attempted to implement a comprehensive policy to tackle the issue of child sexual abuse. However, the current policy norm is not fit for purpose and gives a generic mandate to Member States to ensure victims have “sufficient” time after reaching the age of majority to report the crimes. Empirical evidence shows that victims often take decades to process the trauma and contact civil authorities about the crime they suffered.

The key policy recommendation is to amend the Convention of Lanzarote to include an Optional Protocol that establishes a common specific basic standard regarding the limitation period of CSA offences across all CE Member States. This policy would ensure that in all Member States limitation periods for child sex offences do not become time barred.

The report scorecard below illustrates the tiered system of justice that victims and survivors face, and highlights those countries where changes are most urgently needed.

### EUROPEAN STATUTE OF LIMITATIONS REPORT CARD



The grading system above is based on analysis of relevant judicial frameworks in the 46 Council of Europe Member States.

The report includes six comparative case studies from Denmark, Belgium, France, Spain, Portugal and Luxembourg, which illustrate the benefits of abolishing SOLs, the avenues available to do so, and the urgent need.

#### **THE ADVANTAGES OF CSA CRIMINAL SOL ELIMINATION**

- Public Education as a result of disclosure can prevent future abuse
- Perpetrators of abuse pose a risk to children throughout their life
- Newly acquired evidence of past crimes is common
- Elimination ameliorates the harsh effects of SOLs
- Criminal SOLs reward institutions that successfully cover-up abuse

#### **KEY RECOMMENDATIONS**

- European states should entirely abolish statutes of limitations for all types of crimes of child sexual violence and abuse - in line with the countries listed in Grade A of the scorecard.
- States listed in Grades E & F of the report should take the most urgent action towards abolition of SOLs
- All European States should ensure SOLs reform policies are in line with the European Convention on Human Rights including the right to live (art. 2); the prohibition of torture and inhuman or degrading treatment (art. 3); the right to liberty and security (art. 5); prohibition of discrimination (art. 14); and the right to an effective remedy (art. 13).
- The Council of Europe's Lanzarote Committee should amend the Lanzarote Convention to include an Optional Protocol that eliminates criminal limitation periods in CSA offences across all member states.

# I. INTRODUCTION

This Report explains why the criminal statutes of limitation (SOL) for child sexual abuse (CSA) crimes should be abolished across all member states of the Council of Europe. It recommends amending the Lanzarote Convention to include an Optional Protocol to achieve this goal. CSA is a serious public health epidemic and a severe violation of children's human rights, both of which are exacerbated when justice is denied. Extensive research into child sex abuse has established that CSA victims typically need decades to come forward. Their delayed disclosure is driven by multiple factors including shame, humiliation, and trauma impacts that include negative physical and psychological outcomes ranging from substance use disorders, depression, and Post-Traumatic Stress Disorder, or PTSD to schizophrenia. Moreover, children are not developmentally able to process and understand what has happened to them. Accordingly, historically short criminal SOLs have barred most victims from justice, which results in three major negative societal impacts: (1) victims are traumatized but do not receive justice, (2) child predators remain hidden from the public, and (3) the public does not learn the factors that undergird CSA in their communities. Short CSA SOLs have contributed to the coverups of child sex abuse across Europe. It is impossible to move forward from this epidemic so long as survivors are silenced, and the truth is hidden from the public, lawmakers, and policymakers. Archaic and predator-friendly laws have protected child abusers from being criminally charged and named in a child sex offenders registry. The former protects children through incarceration of the abusers while the latter does so by banning abusers from working or volunteering with children. Elimination of the CSA SOLs would be a major step forward for CSA prevention.

In the last 15 years, multiple attempts have been made at the national and European levels (Lanzarote Convention; Istanbul Convention; Directive 2011/93/EU) to reform criminal SOLs for CSA offences to ensure that victims have enough time after the age of majority to press charges against their perpetrators, but there is a severe lack of uniformity. Despite best intentions, these diverse policies have resulted in a “post code lottery” for survivors across the Council of Europe's Member States. There is a divergent and illogical regional variation regarding survivors' abilities to access criminal justice remedies depending on the country where they live. Whereas a growing number of European countries have abolished the criminal SOLs for at least the most serious CSA offences, e.g., Belgium, Cyprus, Denmark, Georgia, Holland, and Ireland, others have not even suspended the criminal statute of limitations until the child reaches the age of majority, e.g., Portugal and Bulgaria.

This situation is a clear violation of multiple fundamental rights of CSA victims, which are enshrined in the European Convention on Human Rights including the right to live (art. 2); the prohibition of torture and inhuman or degrading treatment (art. 3); the right to liberty and security (art. 5); prohibition of discrimination (art. 14); and the right to an effective remedy (art. 13). The Lanzarote Committee has the legal obligation to systematically monitor the implementation of the Convention by the Parties. In this policy proposal, we argue that it is necessary for the Committee to promote a process that leads to the amendment of the Lanzarote Convention to include an Optional Protocol that eliminates criminal limitation periods in CSA offences across all CE Member States.

If the Council of Europe refuses to act, victims of CSA will continue to suffer severe discrimination in their ability to access an effective judicial remedy in comparison with other victims of serious crimes, e.g., assault, kidnapping, robbery. The victims of those crimes do not face the phenomenon of delayed disclosure, which makes the SOLs imposed on CSA victims, which block justice, both unfair and irrational. It's worth bearing in mind that three of the core values of the Council of Europe are human rights, rule of law and democracy. Lack of effective access to the criminal justice system for child sex abuse victims undermines victims' human rights and makes a mockery of the concept of the rule of law. Therefore, our proposal is aligned with the CE core values, as it enfranchises a particularly vulnerable group of European citizens, our children.

This Report was prepared through the collaboration of two survivors, co-founders of the Brave Movement and longtime SOL advocates in Europe Dr. Matthew McVarish, and Miguel Hurtado, alongside CHILD Global and CHILD USA founder and U.S. expert on SOL reform, Prof. Marci Hamilton. Research has also been provided by CHILD Global's social science and legal staff.

## A. A BRIEF HISTORY OF CSA SOL REFORM AND A COMPARATIVE EXAMPLE OF THE COST OF ARBITRARY LIMITATION PERIODS FOR CHILD SEX ABUSE OFFENCES.

The UK established its first National Society for the Prevention of Cruelty to Children in 1884. Throughout the twentieth century, the UK addressed CSA as a gendered issue focused primarily on the acts of men on women. The Indecency Act of 1960 shifted the narrative to focus on child sexual abuse as a children's issue, rather than a gendered issue, criminalizing an act of gross indecency towards children under the age of 14. The Act then underwent a significant overhaul in the Sexual Offenses Act of 2003 and it was reviewed again in 2019. There are no statutory limits on the prosecution of crimes in the UK criminal courts for indictable offences such as sexual assault that are tried in crown courts. Therefore, historically in the UK there have not been any statute of limitations on sexual assault. There was only one exception, the only limitation period that existed within the field of sexual crimes – for 'unlawful sexual intercourse' offences that took place between 1956 and 2004. This refers to cases of supposedly consensual sex with teenagers aged between 13 and 15, where a case must have been brought within a year.

The first entity devoted to the protection of children from abuse, the New York Society for the Prevention of Cruelty to Children, was founded in 1875 in the United States by the state. It was not until the twentieth century, however, that laws were passed outlawing child abuse. States passed varying protections in a patchwork of legal remedies across the country to address child abuse and expand the definition to include CSA. In 1910, the Mann Act was passed that prohibited the sexual exploitation of minors but had a short SOL. The federal government next passed the Child Abuse Prevention and Treatment Act of 1974. This Act provided funding to prevent and address child abuse, specifically child sexual abuse and set the legal groundwork for national CSA laws, but the SOLs tended to be two years following the date of the act of abuse. Over the course of time, states incrementally added more CSA crimes and extended the criminal SOLs, first to the age of majority, and now overwhelmingly via elimination.

The following is a revealing comparative example that shows the different effects of eliminating the criminal SOLs and retaining them. It shows that abolition of criminal SOLs dramatically furthers the public good and makes children safer.

In 2013, British police acknowledged in a public report that the recently deceased Jimmy Savile, one of the BBC's star presenters, had probably been the most prolific sex offender in British history. Four hundred and fifty people had accused him of having committed sexual crimes. That tragedy persuaded the British police to open a general investigation into historical sexual crimes against minors, crimes that were committed in the 1960s, 70s, 80s, and 90s. Recently, the police published the preliminary results of this broad ranging investigation. Because there was no UK criminal CSA SOL, even though the alleged crimes were committed decades ago, 35 percent of all complaints (4,024 cases) resulted in a court conviction. Hundreds of offenders, including teachers, clerics, social workers, doctors, sports coaches were convicted and thus placed on the sex offender registry. They were identified to the public and they will be prevented from working with children in the future. Police had warned that in the 1970s and 1980s there had been an epidemic of sexual crimes committed against minors in children's institutions that had gone unpunished for decades. The public was served by the investigation, which was made possible by the fact there is no criminal SOL in the UK, and children today are safer as a result.

In contrast, when the clergy sex abuse crisis became public in the United States, only half of the states had eliminated at least some criminal CSA SOLs, which meant that many identified perpetrators could not be prosecuted. In 2019, the Associated Press (AP) news agency published a journalistic investigation into the 1,700 priests and religious publicly identified and still alive who, according to the Catholic Church, had credible accusations of child sex abuse rendered against them. Due to the coverup by the Catholic hierarchy, these child molesters were not reported to the authorities for years and decades. By the time the victims were able to come forward to file charges, the criminal statutes of limitation had expired in many states. Therefore, they could not be charged and convicted or added to public sex offender registries. AP found that these abusers had no supervision, either by the state nor by the Church, since many of them left the institution voluntarily or were expelled when their crimes came to light. This is a great danger, as many have the capacity to still work

or volunteer in contact with children. They are neither convicted, incarcerated, nor listed on the sex offender registry. If they abuse again, the U.S. has now eliminated the federal criminal SOLs and 88% of the states have as well, but this illustration shows how dangerous it is if the survivors have no access to justice and are immune from prosecution by the SOLs.

There is another benefit of SOL reform illustrated here. The AP learned these facts because expired civil SOLs had been revived in many states, which forced the Catholic bishops to be more transparent to the courts. The bishops have universally fought the release of full information about the depth and breadth of the clergy sex abuse in their midst, but have been required to cooperate with the courts when SOLs are open and the authorities demand evidence (It is also important to point out that the 1,700 priests investigated by the AP is a severe undercount of the actual numbers due to the ongoing coverup.) In sum, short SOLs block justice, hamper child protection, and suppress public knowledge of the crimes.

## B. OUR RESEARCH PROTOCOLS

A great deal of the Report focuses on information gathered on clergy sex abuse within the Catholic Church. The reason for this is that the Church is the largest religious organization in the world, whose widespread, systemic coverup of child sex abuse has been closely scrutinized by the media, the courts (where the SOLs have been opened), scholars, and experts. The Holy See is also located in and a country in Europe. The sheer size and scope of its systemic abuse has been valuable in documenting essential elements of a systemic coverup of child sex abuse in any context. In 2023, we now know, of course, that CSA operates in the family, religions, schools, youth-serving organizations, and across the culture, which means that the Catholic abuse data is not completely representative, but it is probative.

## II. CSA IS A PUBLIC HEALTH CRISIS MADE WORSE WHEN CSA VICTIMS DO NOT HAVE ACCESS TO JUSTICE

### A. THE FACTS OF CHILD SEX ABUSE

CSA is a serious public health epidemic in Europe due to its high prevalence as well as its serious short and long-term consequences. According to the Council of Europe's research, one in five European children has been the victim of some type of sexual violence. The damage caused by childhood sexual trauma does not dissipate during childhood and adolescence; its devastating effects typically persist well into adulthood with costs for the victims, their families, and society as a whole.

There is a strong and complex causal relationship between childhood sexual abuse and experiencing negative adverse consequences in adulthood. Childhood sexual abuse is an independent risk factor for a long list of negative adverse consequences in adulthood.

Violence against children is a serious public health problem, which results in significant economic costs, both for the individual victims, and for the taxpayer, who through taxes must pay for the social and health services necessary to treat or alleviate the aftermath. Survivors face two types of costs: (1) the emerging damage - on many occasions survivors must cover the cost of psychiatric, psychological, and medical treatment needed to heal from the trauma, which constitutes significant economic cost. In the U.S., the average cost of child sex abuse per victim has been estimated as \$1,128,334 per female and \$1,482,933 per male over a lifetime (Letourneau et. al. 2019). It is not uncommon for victims who can afford it to personally have to pay for private therapy on a weekly basis for years, given the impossibility of accessing therapies paid for by the public health system in many European countries; and (2) to experience a serious loss of income, because the continuous injuries they suffer frequently affect their ability to study, train and thrive in a profession. The cost to the taxpayer is significant even if the state decides not to allocate a specific budget item aimed at meeting the health and social needs of adult survivors. Frequently, public administrations, motivated by the fallacy of false savings, decide not to pay for the coverage of psychological treatments for adult survivors of CSA in public healthcare systems. It is a self-defeating cost-containment effort. If the victim has developed a problem with alcoholism, drug addiction, suicidal behaviors, depression or anxiety because of the trauma, the state will have no choice but to bear the direct medical costs of their treatment. If the survivor has been unable to complete their studies, has a low-skilled job, needs multiple temporary medical disabilities or even a permanent one, the state will have to bear the indirect economic costs, in the form of lower tax collection and lower productivity and/or higher expenditure in the form of social benefits. See Appendix B for research on economic impacts of CSA. See Appendix B for a summary of the research literature on the impacts of CSA.

Prosecuting CSA decades after they occur is scientifically justified, because the damage caused by childhood sexual trauma does not disappear during childhood and adolescence.

The current patchwork of criminal SOLs across the Member countries leaves too many survivors of CSA seriously unprotected. One of the main reasons why victims dare to report the abuse they suffered is to prevent their perpetrator from reoffending, since he often continues to exercise a professional role that allows him to have continuous access to children. However, the victims are faced with a perverse, even diabolical, dilemma. If they publicly denounce the crime, as the SOL has run out, they expose themselves to being sued by their perpetrator for slander. But if they don't report it, they risk having their perpetrator reoffend, which generates a significant sense of guilt. Either of the two situations results in a serious secondary re-traumatization of the survivor. This problem is not exclusive to sexual crimes committed against children. It also occurs when the victim of the aggression has been an adult woman. As a result of the #Metoo movement, there have been frequent cases in which sexual predators have sued their victims for slander to try to silence them. For example, the actor Bill Cosby, after being accused of rape by more than 60 women, decided to file a countersuit against seven of them. Although almost all the crimes SOLs had expired, he was able to be convicted in April 2018 for the only case

## II. CSA IS A PUBLIC HEALTH CRISIS MADE WORSE WHEN CSA VICTIMS DO NOT HAVE ACCESS TO JUSTICE

that had not (the case was later overturned on appeal). After the court conviction, Bill Cosby had no choice but to drop his lawsuit, reaching an agreement in 2019 with the women he had falsely accused of defamation. The feminist movement has correctly identified power and not sex as the primary motivation driving sex offenders. In a sexual assault there is always a marked asymmetry of power. As the #MeToo movement has shown, powerful sex offenders have used their money, prestige, and influence to silence their victims for decades. The crooked use of libel and slander claims by the perpetrators is a cynical attempt to recreate that asymmetry of power in the courts of justice. Unlike criminal proceedings, in which the rights of victims of violent crimes are guaranteed by the prosecution, in civil proceedings it is the victim who must pay for her/his lawyer. This situation supposes an inequality of arms between both sides of the litigation, which generates an important chilling effect when it comes to publicly denouncing these crimes. This is a problem that could be solved with an ambitious reform of the criminal SOLs, especially when the victim of the sexual crime has been a child or adolescent.

### B. THE SCIENCE OF DELAYED DISCLOSURE REQUIRES ELIMINATION OF CRIMINAL CSA SOLS

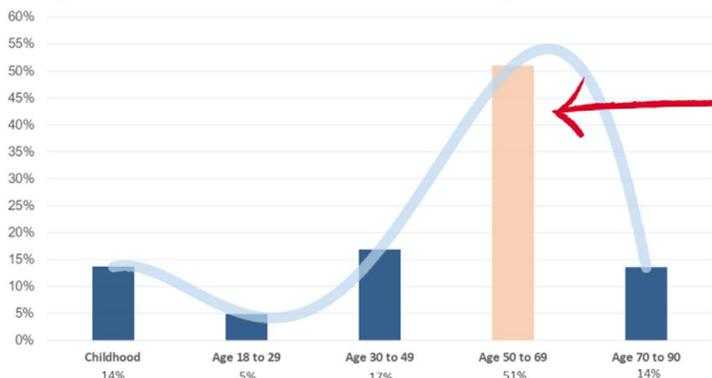
The overwhelming scientific evidence about delayed disclosure have been one of the main factors that has driven a global trend to reform the SOL laws for sexual crimes against minors in the last two decades, either significantly expanding them or eliminating them outright. Multiple scientific studies, systematic reviews and meta-analyses carried out over the last two decades have established that in cases of CSA, it is common for the victim not to disclose the abuse at all or to do so only years or decades after the crime occurred, when the victim is already an adult (Tener, 2015; Hebert, 2009; London, 2007; Jonzon & Lindblad, 2004; Paine & Hensen, 2002; Smith et al., 2000; Hanson, 1999). The esteemed Australian Royal Commission into Institutional Responses to Child Sexual Abuse studied the timing of disclosure in Catholic Church abuse cases, and concluded that the average age of disclosure for Catholic victims was 44.5 years-old. In the most recent study on delayed disclosure of male survivors, CHILD USA analyzed data from 1,576 victims of the Boy Scouts of America and found that over 50% of survivors first disclosed their abuse after age 50. See Appendix B for a summary of other important studies on the phenomenon of delayed disclosure.

IT IS COMMON FOR THE VICTIM NOT TO DISCLOSE THE ABUSE AT ALL OR TO DO SO DECADES AFTER THE CRIME

### DELAYED DISCLOSURE OF CHILD SEXUAL ABUSE

Delayed disclosure is the phenomenon common to survivors of child sex abuse where individuals wait for years, often well into adulthood, before telling anyone they were abused.

Age of First Disclosure of Survivors of Abuse in Boy Scouts of America



Source: CHILD USA's Data on those abused in Boy Scouts of America

More survivors first disclosed between **age 50 and 70** compared to any other age group

**Over half** of survivors who reported first disclosed at **age 50 or older**

**30%** never come forward

The scientific literature also identifies some of the main barriers that make victim disclosure difficult. Barriers to disclosure fall into three categories – intrapersonal, interpersonal, and sociocultural.<sup>1</sup> On an individual level, trauma resulting from the abuse directly impacts disclosure, as regions of the brain responsible for managing memories and controlling emotional responses to those memories may be impaired. Moreover, the executive function of the brain does not fully develop until age 25, which means children and young adults lack the brain development to adequately protect themselves. Child victims also typically lack the ability to fully understand what happened to them until they are adults. Shame, guilt, and self-blame are common emotional reactions for victims. Children are also inherently dependent on their family system for their basic needs and emotional support, and they may fear disruption to the family system or to their own physical safety when considering disclosure. Finally, sociocultural norms surrounding gender, race, religion, and deference to authority can all create other barriers to disclosure.<sup>3</sup>

The 2017 Australian Royal Commission is the gold standard on many issues regarding child sex abuse in institutions due to the size of its investigation and its high legal and criminological quality.<sup>1</sup> While it does not address SOL reform, directly, it does make important findings regarding the average age of disclosure for Catholic victims. In 2012, Australian Prime Minister Julia Gillard required the creation of this Royal Commission after public outrage due to the epidemic of CSA in multiple Australian institutions. The Commission's mandate was to investigate any public, private, or non-profit institution currently or in the past involved in the care of children, including state agencies, schools, sports clubs, leisure and leisure organizations, orphanages, internment centers or religious organizations. A total of 4,444 people claimed to have suffered sexual abuse between 1980 and 2015 in 1,000 Catholic institutions throughout the country. The victims denounced 1880 aggressors (597 religious brothers, 572 priests, 543 lay people and 96 religious sisters). Some 7% of all Catholic priests ordained between 1950 and 2010 had sexually abused minors. The percentage rose to 15% in some dioceses. In some religious orders the percentage of religious abusers was 40%. In four of them the percentage was higher than 20%. Two-thirds of the abuses committed in religious institutions had occurred in Catholic institutions. The average age of the girls at being abused was ten and a half years old while for the boys it was eleven and a half years old. On average, victims took 33 years to report abuse to religious authorities. That means that female victims reported it on average at the age of 43.5, while male victims did so at the age of 44.5.

The Royal Commission employed a particularly robust work methodology, which justifies its treatment as the gold standard in this arena. To establish the average age at which victims report, it has investigated a very broad historical period of three and a half decades (from 1980 to 2015) and has used a very large sample of 4,500 people. It did not use a nationally representative sample of the country's population, but rather conducted an active search for all potential victims of sexual abuse within the Catholic Church during that historical period, conducting extensive personal, face-to-face interviews. It is also one of the newer studies as it was published in 2017. Finally, in common law, the Royal Commission is a judicial-type institution. Its results have the value of proven facts. There is no recent scientific, criminological, or judicial report or study that meets all of the characteristics described above.

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## CHILD MOLESTERS OFTEN HAVE A HIGH RISK OF RECIDIVISM IN THE LONG TERM

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For all the aforementioned reasons, it is reasonable to use an average survivor's reporting age of at least 44 years if not 50 years-old to inform enactment of CSA SOL reforms. These numbers are objective, evidence-based conclusions that can be used to assess the quality of different national attempts to reduce impunity for these crimes by significantly extending or abolishing the criminal SOLs. In light of the most recent data, which includes average ages of 44.5 and 50% of victims coming forward after age 50, and scientifically confirmed delayed disclosure phenomenon, abolition of the CSA criminal SOLs makes the most sense to adequately protect children and serve the public interest.

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<sup>1</sup> Wright, K., Swain, S., & McPhillips, K. (2017). The Australian Royal Commission into Institutional Responses to Child Sexual Abuse. *Child Abuse & Neglect*, 74, 1-9. <https://doi.org/10.1016/j.chiabu.2017.09.031>

### C. RECIDIVISM OF CHILD ABUSERS

In 2002, the American Psychological Association (APA) wrote an *amici curiae*<sup>4</sup> brief for the Supreme Court of the United States in which it analyzed whether the scientific evidence supported the extension of the SOLs. It reached an affirmative conclusion, among other reasons because “*child molesters continue to be a threat to children throughout their lives.*” According to the APA, prosecuting CSA offences decades after they have been committed is justified because child molesters are often repeat offenders, so their incarceration can prevent new children from being abused. Many, though not all, who commit CSA are at risk of reoffending long after they have committed their initial crimes.<sup>5</sup>

Recidivism studies with long follow-up periods show that child molesters often have a high risk of recidivism in the long term. A fifteen-year follow-up study of 197 convicted child sex abusers established a 42% recidivism rate for subsequent sexual or violent offenses (Hansen). The age of the abusers was not related to the risk of recidivism, so the authors concluded that many child molesters have a significant risk of recidivism throughout their lives. Another study with 115 child sex abusers established a recidivism rate of 41% during the 25 years following their release from prison.<sup>6</sup> The researchers noted recidivism rates for adult rapists declined more than those for child sex abusers. They also concluded that many child sex abusers were at risk of reoffending throughout their lives.

The APA concluded that the available scientific evidence supports that perpetrators who abused years earlier have a continuing risk of current reoffending by the offender. Many child molesters routinely commit premeditated and planned crimes. They use a process of emotional and psychological manipulation to manipulate their victims, their families, and to reduce their resistance. They tend to abuse minors in their circle of trust with whom they have previously established an emotional bond. By using a *modus operandi* that does not require violence or intimidation, they do not need to have high physical strength, which is consistent with the findings that child sex abusers do not automatically “age out” of committing abuse.

As has been previously highlighted, it is not uncommon for child abusers to be repeat offenders. It has been observed in multiple countries that inadequate criminal SOLs often lead to the unsatisfactory situation that a serial child abuser can only be prosecuted for a minority of his/her crimes. Only the younger victims, whose SOL has not become time-barred can get access to the CJS, whereas older ones see their cases dismissed.

Thus, to prevent repeat offending is important that countries have comprehensive databases of convicted child sex offenders to prevent them to access posts in direct and regular contact with children. This goal is undermined by short CSA limitation periods. According to data from the Ministry of Justice, approximately 570 sex offenders try to work with children each year in Spain but are detected thanks to the national sex offender’s registry. In just three years, 1,730 people with a criminal record for crimes against sexual freedom have been prevented from working as teachers, coaches, or volunteers. However, the Registry is incomplete. For example, it did not include José Miguel San Martín, known as Don Chemi, who received 23 complaints from his former students for committing serious child sexual crimes when he worked as a religious teacher at the Salesian school in Deusto in the 1980s. The management of the centre learned of the events in 1989, but did not report them to the justice system, instead they fired him from the school and expelled him from the congregation. The motivation of the victims to break their silence was when they discovered that he was still working with children, in a summer camp. A court dismissed all complaints due to the SOLs.

This case is not an anomaly but representative of a serious structural and systemic problem. Criminological research has shown that multiple repeat offenders are more frequent than previously believed and that a minority of very prolific offenders commit a disproportionate amount of CSA offences.

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<sup>33</sup> It is important to note that the John Jay Study’s numbers are not completely reliable, because they were a subset of all cases. The data was collected from only those bishops who agreed to report the numbers from their diocese. Many bishops declined to share that information.

## II. CSA IS A PUBLIC HEALTH CRISIS MADE WORSE WHEN CSA VICTIMS DO NOT HAVE ACCESS TO JUSTICE

For example, the Catholic bishops' John Jay Report, published in 2004, studied the magnitude of the clerical clergy sex abuse scandal in the United States. It identified 4,392 religious child abusers, who abused 10,667 individuals. Three and a half percent of them had received more than 10 complaints. This small number of sexual predators were extremely dangerous, as they were responsible for a disproportionate number of sexual assaults, specifically 28 percent of all reports (2,960 cases). While this is accurate, it must be stated that the John Jay Report is not fully representative. The bishops were not required to report their diocesan data and many did not. For this reason, the main utility of ambitiously reforming the SOLs is not to be able to punish crimes committed in the past, but to prevent possible crimes in the future. The legislator must not only weigh the rights of the accused, as opposed to those of their adult victims. They must also value the rights of children to grow up in a safe environment. According to the Convention on the Rights of the Child, in this type of situation, the best interests of the minor must always prevail (art 3 CRC). High levels of impunity due to SOLs ensure that the national sex offender's registries are ineffective, a veritable loophole that does not include many of the most dangerous sexual predators in the different European countries.

This evidence supports complete abolition of limitation periods for CSA offences. However, short of complete abolition, doing a comparative law study, it is easy to identify a possible alternative legal solution to this problem. Some Member State countries like Latvia, Austria or Lithuania have a generic provision that if a criminal commits a new crime, the limitation period for the initial offense starts running on the date of the new offence. France approved in 2021 a specific provision that in CSA offences, if the perpetrator commits a new offence, the statute of limitations for the initial offense is interrupted. Both types of criminal norms would allow the prosecution of a serial child abuser for all his crimes, as the limitation period for the older offences would start counting from the moment, they commit another CSA offence against a new victim.

## III. CURRENT EUROPEAN REGIONAL SOLUTIONS HIDE PREDATORS AND ENDANGER CHILDREN

### A. EXISTING EUROPEAN SOLUTIONS

Both the European Union and the Council of Europe have taken a similar approach. Instead of making a specific binding recommendation to the states, they have included a vaguely worded, generic admonishment to national governments to ensure victims of CSA crimes have enough time to press charges against their perpetrators after they have reached the age of majority. In chronological order these are the relevant international treaties and EU directives to bear in mind:

- The 2007 Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse: Article 33: Each Party shall take the necessary legislative or other measures to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question.
- The 2011 Directive 2011/92/EU of the European Parliament and of the council: Article 13.2: Member States shall take the necessary measures to enable the prosecution of any of the offences referred to in Article 3, Article 4(2), (3), (5), (6) and (7) and of any serious offences referred to in Article 5(6) when child pornography as referred to in Article 2(c)(i) and (ii) has been used, for 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.
- The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence. Article 58: Statute of limitation Parties shall take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority.

Due to the vague wording in each of these early approaches to unfairly short SOLs, it is not surprising that national governments have developed wide interpretations regarding what are their commitments according to these internationally binding legislations. We will therefore review, and grade three different groups of Council of Europe state members based on an objective, evidence-based benchmark, based on the science of delayed disclosure i.e. whether most victims of CSA have at least until they are aged 40 to press charges against their perpetrators. This is the acid test of effective access to justice legislation for child victims of sex crimes.

On the one hand, we have a category comprised of 16 countries (Belgium, Holland, Denmark, Sweden, Croatia, Hungary, Romania, United Kingdom, Ireland, Cyprus, Austria, Poland, Georgia, Norway, Iceland, Switzerland), which have passed this test with flying colors as they have either abolished criminal SOLs for all sex crimes against children or at least for the most serious of them. They should receive a Grade of A or B (from A the best to F the worst).

On the other hand, we have another group of 22 countries which have failed this basic test (Portugal, Greece, Malta, Finland, Lithuania, Estonia, Czech Republic, Luxembourg, Slovakia, Andorra, Ukraine, North Macedonia, San Marino, Montenegro, Turkey, Serbia, Bosnia-Herzegovina, Albania, Moldavia, Armenia, Azerbaijan, Bulgaria). In most cases they have merely suspended the criminal SOL until the age of majority and in some cases like Portugal or Bulgaria not even that. They should receive a Grade of D or F.

On the middle of the spectrum, there's a third group comprised by Council of Europe state members that have introduced legal reforms that significantly expand their criminal statute of limitations laws for child sex abuse crimes but that fall short on complete abolition. In these countries many victims of child sex abuse have at least until they reach age 40 to press charges. These 8 countries are Spain, France, Germany, Italy, Latvia, Slovenia, Liechtenstein and Monaco. They should receive a C.

In summary, over the last 15 years there has been the development of a three-track system, with low, mediocre and high performing Parties. However, all three groups of countries proudly affirm that they are compliant with the aforementioned international legislation and that they are fulfilling their obligations towards their national CSA victims. And considering how these laws are worded they are probably right.

**B. SIX COUNTRIES THAT REPRESENT EXCELLENT, MEDIOCRE, AND POOR APPROACHES TO CSA SOLS CURRENTLY**

The region continues to make progress towards extending CSA SOLs with several countries successfully instituting abolition. However, due to the freedom of movement between European states and the right to work in EU countries, the danger of abusers cannot be abated without uniform abolition that ensures perpetrators cannot exploit countries with negligently lenient laws to avoid conviction, which in turn endangers children. Below is a detailed comparison of six countries and their approach to CSA laws and how they affect victims.

## 1. COUNTRIES WITH EXCELLENT CRIMINAL SOLS FOR CSA OFFENSES.

Denmark and Belgium are leading the way toward the abolition of criminal SOLs in Europe.



# DENMARK

**DENMARK** stands out as a country that has abolished most of the CSA SOLs and acts as a standard for abolition and its goals. The catalyst for abolition was the uncovering of horrific abuse in state-run boy's homes throughout the country. Details about the homes first appeared in the headlines in 2005 when a Danish TV documentary featured shocking allegations of abuse and mistreatment from victims of the Godhavn Boys Home, in north-eastern Denmark. An independent inquiry was conducted in 2010 which found that from 1945 to 1976 children were sexually abused, beaten, and drugged at the care homes. The abuse took place in 19 homes for boys and girls all across Denmark. Nobody was ever prosecuted for the abuse due to the criminal statute of limitations having expired.

The inability to prosecute the abusers led to a public push for systematic change and in 2018 Denmark amended the Danish Criminal Code to abolish the SOLs for most CSA offenses such as incest, sexual abuse, and assault. Danish Prime Minister Mette Frederiksen officially apologized on behalf of the government to hundreds of victims of historical abuse in state-run homes. The prime minister met dozens of victims of the scandal at her official residence at Marienborg. "I would like to look every one of you in the eyes and say sorry," she told them. "I can't take the blame, but I can shoulder the responsibility." Many were in tears as she said that children had been taken from their parents and instead of getting support and warmth, they received humiliation and abuse.

The Danish Parliament abolished the criminal statute of limitations for most CSA offenses, making Danish law one of the most progressive in Europe, however, there is still more work to be done. The public outcry led to major progress, however some offenses like distribution, possession of CSA material, selling pornography to a child, and sexual exhibitionism in front of a child still have a limitation period.



## BELGIUM

Following Denmark's lead, public pressure also pushed **BELGIUM** towards abolition. In 2011, in the middle of a national clergy sex abuse scandal, the Bishop of Bruges Roger Vangheluwe resigned after being accused of historical child sexual abuse. One year later he publicly admitted during a television interview that he had indeed sexually abused two of his nephews. He alleged that the sexual abuse of one of his nephews, which started when the boy was 5 years old and lasted 13 years, started as a game. He rationalized the abuse saying that: "I had the strong impression that my nephew didn't mind at all. On the contrary. It was not brutal sex. I never used bodily, physical violence". He described it as only "a little piece of intimacy". Despite admitting the crime on national television, it was not possible to prosecute him, as Belgium at the time the crime was committed had a 10-year statute of limitations for the offense.

Due to the visibility of the injustices, Belgium abolished the SOL for most CSA crimes in the Preliminary Title of the Belgian Code of Criminal Procedure (2019). There is now no SOL for rape, indecent assault, female genital mutilation, and child trafficking with the intent to commit commercial sexual exploitation. As with Denmark, offenses like distribution, possession of CSA material, selling pornography to a child, and sexual exhibitionism in front of a child still have a limitation period. Although Belgium has room to improve in this area, they have taken substantial steps to support victims and allow for the conviction of predators.

## 2. COUNTRIES WITH MEDIOCRE CRIMINAL SOLS FOR CSA OFFENSES

France and Spain have made some progress regarding elimination of criminal, SOLs but still fall short for many victims.



# FRANCE

**FRANCE**, a powerhouse in the EU, lags behind in SOL reform. Although France has modified its SOL for CSA several times in recent years, abolition still remains out of reach with the maximum SOL only reaching 30 years after the age of majority or 48 years total. The current law comes from the abuse of British photographer David Hamilton who was accused by Flavie Flament, a well-known French television and radio presenter, and three other women of raping them as children in the eighties. He committed some of his crimes after persuading parents to leave him alone with their children during photographic photo shoots. Hamilton was known for his portraits of young, often nude girls. All the victims were in their 40's and 50's. At the time, under French law, the age limit for pressing charges of rape against a minor was 38. This high-profile case persuaded French lawmakers to expand the criminal statute of limitations by 10 years in 2017 in child rape cases to the now applicable 48.

In 2021 Camile Kouchner, the daughter of Bernard Kouchner, a former socialist minister and co-founder of Medecins Sans Frontieres, published her memoirs, *La Familia Grande*. She disclosed the child sex abuse that her brother had suffered by Olivier Duhamel, a well-known political scientist. She alleged that the abuse of her brother was well known in her family's politically connected social circle. Within hours, survivors were posting their traumatic stories under the #MeTooIncest hashtag. Within a fortnight, Emmanuel Macron became involved, praising the bravery of those who had broken the omerta on incest and child abuse and calling for legislative change. In April 2021, French lawmakers established for the first time an age of consent, which was set at 15 years old. They also reformed France's statute of limitations establishing an interruption clause for child abusers who re-offend, to ensure that serial offenders are tried for all their crimes and not only the most recent ones.

Although France has taken substantial steps to reform the CSA SOLs and the ten additional years is an improvement, in light of research showing the advanced age of disclosure, this remains woefully inadequate and can lead to predators continuing to evade prosecution and offend. It should not take another public case with perpetrators avoiding prosecution to advance toward abolition when the science of disclosure is clear that abolition is the only way to adequately seek justice and prevent future abuse.



## SPAIN

**SPAIN** is another leader in the EU that is falling behind in this area. In 2020, Miguel Millan received a custodial sentence of 15 years and six months for sexually abusing two teenagers abusing his position of trust as an athletic coach. He had been a coach in Spain's athletic team, helping famous Spanish athlete Antonio Peñalver to win a silver medal in the Barcelona Olympic games in 1992. During the criminal investigation, it was discovered that he was a serial child abuser who had abused dozens of children in the small village of Alhama, where he was a teacher and athletic coach. When some children disclosed the abuse, public officials in the town, such as the mayor, intervened expelling him from his post but they refused to report him to law enforcement. During the trial, a dozen adult survivors, including Antonio Peñalver, who were in their fifties, testified as witnesses, detailing the abuse they had suffered as children, corroborating the reports of the younger victims. Tragically, Millan was not convicted for these historical crimes as the statute of limitations had run out.

In 2012, Gloria Viseras, a former member of the Spanish gymnastics delegation to the 1980 Moscow Olympics, filed a criminal complaint against his former coach, Jesus Carballo. Viseras accused him of repeatedly raping her when he was a child and he was the official coach of the Spanish gymnastic delegation. The case was dismissed due to the statute of limitations even though law enforcement considered the allegations as highly credible. However, Carballo's post as the main coach of the Spanish gymnastic delegation was rescinded. Viseras explained that her main motivation for coming forward was ensuring his alleged perpetrator did not re-offend as Carballo was still in direct and regular contact with children as a coach. Carballo sued Viseras for libel and defamation. After a five-year ordeal the civil suit was dismissed. In 2016, she demonstrated with other survivors in front of Spain's Congress, demanding the abolition of Spain's criminal SOL for CSA offenses. In 2021 the Spanish government suspended the SOL by 17 years or until the victim is age 35. The SOL is then 20 years for a maximum of 55 years of age for the victim.

Again, although this is a longer criminal SOL than before, it still fails to comply with the science of late disclosure. To ensure victims can seek justice and protect future children from harm, abolishing the SOL is the only way forward.

### 3. COUNTRIES WITH POOR CRIMINAL SOLs FOR CSA OFFENSES



## PORTUGAL

**PORTUGAL** is one of the last remaining countries in the region that has not suspended the SOL until the age of majority for child sex abuse offenses. The minimum age a victim can file is age 23 and the maximum is 15 years from the commission of the crime or 33 years if the victim was 17 when the crime was committed. Although woefully insufficient, the SOL was extended due to public pressure after a high-profile case of the Casa Pia institution.

In 2010, six members of a child sex abuse exploitation ring were convicted and sentenced to up to 18 years in prison, ending the Casa Pia child sex abuse scandal. The Casa Pia was a Portuguese state-run institution for the education and support of poor children and under-age orphans. Mr. Silvino, one employee of the institution, which at the time comprised 10 orphanages and schools caring for 4,600 children, was accused of running for decades a male child commercial sexual exploitation network involving 100 boys during the eighties and nineties. The scandal involved several prominent men, including TV presenter Carlos Cruz, former Casa Pia governor Manuel Abrantes, and former UNESCO ambassador Jorge Ritto (who were all convicted). The trial was one of the longest-running in Portuguese history, lasting more than five years, with testimony from 32 alleged victims, out of a total of over 800 witnesses and experts. However, it was not possible to prosecute most of the CSA offenses due to the criminal SOL. Due to the impact of the case, Portuguese lawmakers reformed the limitation period for CSA offenses. After the reform, the criminal SOL started when the abuse occurred, but it established a minimum age before the limitation period could expire (it could not end before the victim reached the age of 23 years).

Currently, in Portugal, there is pending litigation to continue the expansion of the CSA SOLs. In 2023 an internal commission set up by the Catholic Church, after hearing from more than 500 survivors, claimed that catholic clergy in Portugal had abused nearly 5,000 children since 1950. Even though the criminal statute of limitations for the vast majority of offenses had expired, the commission reported 25 cases to the Portuguese prosecution service. The Church Commission recommended a modest expansion of the limitation period in CSA offenses. In 2023 the Portuguese government presented a proposal in Parliament that would suspend the criminal SOL in CSA cases until the victim reaches the age of majority. The proposal has been criticized by child protection organizations and survivor's groups for its lack of ambition. If the reform is implemented, it would mean that it would be impossible to prosecute CSA cases after the victim reaches the age of 33. This still places Portugal significantly behind its EU peers and fails to close the gap of justice for Portuguese victims.



# LUXEMBOURG

**LUXEMBOURG** has a ten-year SOL for all CSA abuses making the maximum possible criminal SOL age 28 due to the suspension of the SOL until the victim reaches the age of majority.

In 2013 human rights campaigner Dr Matthew McVarish met with Luxembourg’s justice minister Ms Octavie Modert. He explained to her that during his 16,000 kilometre walk across Europe to demand the complete abolition of criminal SOL in CSA cases he had been contacted by survivors in Luxembourg concerned about the unsurmountable barriers that survivors were facing to effectively access justice. He shared the case of “Robi” who reported to the police being abused by Leslie Woodhall, a youth leader. Robi gave the police a letter by Mr. Woodhall apologizing for the harm he had caused him, written in 1999 after he had confronted him at his house. The case was dropped due to the statute of limitations having expired. Robi was concerned that his abuser was still in direct and regular contact with children. After his disclosure, multiple men came forward alleging similar abuse by the same perpetrator, but he could not be prosecuted for his alleged crimes. Luxembourg police admitted that they would only be able to investigate his alleged crimes if victims with more recent allegations came forward. In 2021, Luxembourg’s government presented a draft bill to abolish criminal SOL for CSA offenses. Two years later, the bill has still not been passed by parliament. Ten years after Dr. McVarish raised his concerns with the Ministry of Justice about Luxembourg’s predator-friendly and archaic SOL law this country still has one of the shortest SOLs in Europe for SOL offenses.

**C. CRIMINAL CSA SOL REPORT CARD COVERING THE FORTY-SIX COUNCIL OF EUROPE MEMBER STATES**

To aid in the understanding of the current situation across the Council of Europe we are also including summaries of the SOL laws in the 46 CE State Members. To see an extended country-by-country summary of the member states' CSA SOL's legislation, see Appendix A.<sup>4</sup> The following Report Card summarizes that research.

## EUROPEAN STATUTE OF LIMITATIONS REPORT CARD



<sup>4</sup> This research highlights the initial findings of a comprehensive investigation into current criminal statute of limitations (SOL) legislation in Council of Europe member states by Child Global and the Brave Movement. The analysis provides a reliable overview of relevant national legislation in Europe and the progress being made. This research project is supported by the Cyrus Vance Centre for International Justice which provides pro bono legal representation to human rights bodies.

More in-depth analysis is forthcoming which will include information reviewed and expanded by lawyers affiliated with the Cyrus Vance Centre from the country of origin for each of the 46 member states of the Council of Europe. Upcoming analysis will include the individual limitation period for the most serious sexual crimes against children for each country (i.e. sexual abuse, production and distribution of CSAM, commercial child sex exploitation, child trafficking), not just generic SOL information.

## D. THE NEGATIVE CONSEQUENCES OF EXISTING EUROPEAN REGIONAL CRIMINAL SOL GUIDELINES

The failure of the current legal provision established in Article 33 of the Convention to introduce a minimum standard across all Council of Europe Member States regarding the limitation periods for CSA offences and the development over the last 15 years of a three-track system, with low, mediocre and high performing Parties has four very obvious negative consequences.

### 1. THERE IS A POSTCODE LOTTERY SYSTEM FOR CSA VICTIMS REGARDING THEIR ABILITY TO HAVE EFFECTIVE ACCESS TO REMEDIAL JUDICIAL ACTION.

To review the efficacy of international treaties it's important to consider whether certain legal provisions have fallen short of their lofty goals, not being effective in achieving their objectives. The vague, generic current wording of article 33 of the Convention is a case study of a disproportionately lenient and weak policy that has utterly failed at achieving its main goal. In the last 15 years, instead of developing across all Council of Europe Member States a homogeneous, effective CJS that is capable of investigating CSA offences, overcoming the common phenomenon of delayed disclosure present in these crimes, the Council of Europe has helped to establish a three-track system, with a low, mediocre and high performing group of states (see section C3). Unfortunately, now there's a postcode lottery where the right of victims of CSA to access effective remedial judicial action, for the violation of their rights, as described by article 13 of the ECHR, depends on which Member State they live in.

### 2. THE CONVENTION'S LEGAL PROVISIONS ARE INEFFECTIVE

It's important to bear in mind that Chapter VI of the Convention establishes homogenous, specific standards regarding the need to criminalize certain harmful sexual behaviors of adults against children across CE Member States. In addition, Article 27.1 of the Convention establishes the legal obligation of each Party to guarantee that the offences included in Chapter VI are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include penalties involving deprivation of liberty. Moreover, Article 28 of the Convention establishes the legal obligation of each Party to guarantee that a number of circumstances are taken into consideration as aggravating circumstances in the determination of sanctions in relation to offences included in Chapter VI. However, it is not effective to establish common offences which are punished by proportionate penalties if in practice these criminal behaviors cannot be effectively punished in most cases because of excessively short limitation periods. The severity of the penalty and the probability that it will be imposed in practice need to work in a coordinated way to ensure the efficacy of any criminal justice system.

In democratic systems, lawmakers and policymakers frequently tweak these two measures (i.e., severity of the penalty, probability of being imposed the penalty in practice) when attempting to design sophisticated criminal legislation that acts as a deterrent for criminal behavior. That approach is supported by a strong and growing body of empirical evidence. In criminology, when designing public policies to prevent crime, it is common to use the rational choice theory of crime (Cornish and Clarke). Its main postulate affirms that a potential criminal adopts an individualistic agenda, focused on guaranteeing his own interest and maximizing his personal objectives (i.e., money, sex, power, status, revenge, emotional satisfaction). Therefore, the crime is an intentional decision of the offender, the result of a rational calculation, in which he/ she has assessed the risks and benefits of committing a certain crime in specific circumstances (situational theory of crime). The citizen who is tempted to transgress the law carries out an analysis of profitability, of the risks and benefits of his conduct. In his mental calculations, he moves between the pleasure he can get if he is successful, versus the pain if he is punished. Therefore, the State—which is responsible for preserving social order and the common good through the legal system—has the authority and the obligation to design an effective dissuasive incentive system. For this reason, the general prevention effect is one of the main functions of penal systems in democratic countries.

It is an uncontroversial principle in criminology, ever since it was enunciated in the 18th century by the jurist Cesare Beccaria, that there are three elements that the state can try to modify to influence to control the behavior of citizens, creating this effective deterrence system: speed, severity, and the likelihood of punishment for certain criminal behaviors. The often-maligned punitive populism school of thought focuses solely on the severity of the penalty, ignoring the other two factors, when criminological evidence suggests that draconian penalties are not necessary to achieve high levels of public safety. By way of illustration, the Cambridge University Institute of Criminology was commissioned by the British Home Office to carry out a review of the main existing scientific research on the most effective criminal deterrence mechanisms. Their report concluded that: *“the studies reviewed do not provide a solid basis to infer that increasing the severity of sentences in general is capable of enhancing the deterrent effects of sentences”*. In addition, reviewing major macro-studies examining crime rates for a specific population, they found that a higher probability (certainty) of apprehension and punishment was associated with decreased crime rates.

Any CE member state that focuses on increasing the severity of the punishment without considering the likelihood that, in practice, an offender will serve that penalty is trying to design an effective CJS which has an effective deterrent effect in sex crimes against children with one hand tied behind its back. Member States could even be accused of practicing punitive populism if they appear to believe that strengthening penalties for crimes is always going to be a more effective measure than increasing the efficacy of these criminal norms. Toughening up criminal penalties is not a helpful way to fight crime if there's a low likelihood that, in practice, offenders are going to be prosecuted by national criminal justice systems and therefore be imposed these “tough” sentences because by the time their crimes have been detected the statute of limitations has already run out. It can be even argued that by strengthening the generic provision included in Article 33 of the Convention, developing a specific binding minimum standard instead of a vague one, the Council of Europe and Member States are attempting to substitute the traditional tough on crime approach to CSA offences for a smart on crime one.

### **3. THE CONVENTION'S COMMAND TO CREATE A NATIONAL REGISTER, THEN TRACK AND STORE THE DATA AND THE EMPLOYEE SCREENING REQUIREMENTS HAVE PROVED INEFFECTIVE**

Each Party to the Convention has the legal obligation to establish a central register to record and store the data on convicted sexual offenders as well as share it with the competent authority of another Party (article 37 of the Convention). To avoid the risk of repetition of offences, according to article 5.3 of the Convention, each party shall take the necessary measures to ensure that a natural person who has been convicted of CSA is prevented from exercising at least professional activities involving direct and regular contact with children. They shall also take the necessary measures to ensure that employers, when recruiting a person for professional or organized voluntary activities involving direct and regular contacts with children, are able to request information in accordance with national law by way of any appropriate means, such as access upon request or via the person concerned, of the existence of criminal convictions for any of the offences.

However, short SOLs for CSA undermines these important provisions of the Convention. If most child abusers can't be prosecuted because, by the time victims break their silence, the limitation period has run out, they cannot be convicted. Therefore, they will not be included in the national sex offender's registry. Obviously, this problem has serious national implications. The countries with short limitation periods are less likely to be able to effectively implement other policy measures included in the Convention such as the obligation to screen potential candidates who are applying to work with children to rule out those who have previous CSA offences convictions. Therefore, in these countries when employers make a request to hidden/unidentified predators that they provide the certificate of previous criminal convictions when they apply for a professional or voluntary position in direct and regular with children they will not be flagged up as a serious risk. They will become what is called a false negative, which will allow them to continue to be in contact with children, significantly and unnecessarily increasing their risk of recidivism.

But this problem also has a negative impact on other states who have strong criminal SOL's legislation. The efficacy of the Council of Europe wide sharing of criminal information mechanism established in article 37.3 of the Convention depends in the first place on the accuracy of the national criminal databases of the different Member States. If there are countries with weak CSA criminal SOLs, their criminal justice systems will be unable to successfully prosecute most sex crimes against children, due to the well-established phenomena of delayed disclosure, as by the time survivors are ready to press charges as adults, the limitation period has expired. This seriously concerning situation becomes a systemic loophole which undermines the quality of the data contained in their national criminal database, endangering in the first instance local children. However, this alarming situation also has CE wide implications undermining the measures that other Member States, with higher quality SOL legislation, are implementing to fulfil their obligations under article 5.3 of the Convention to ensure previous CSA offences are considered a disqualification to exercise professional/voluntary activities in regular and direct contact with children. To be able to effectively apply these criminal background checks to nationals of other Member States, information concerning the existence of criminal convictions for any of the CSA included in the Convention, needs to be transmitted in accordance with the procedure established by article 37.3 of the Convention.

As an illustrative example, a Bulgarian doctor or teacher (this country has the lowest mark, an F, on this effective access to justice indicator) who is a hidden predator and moves to another country such as Ireland, Cyprus, Sweden or Belgium (countries who have highest marks of A and B on this indicator), if he wants to work or volunteer in direct and regular contact with children in his new country, he will be asked to provide a criminal certificate of previous convictions by his home country which has been validated by the Hague apostille. However, as Bulgaria's sex child abuse criminal SOLs only make it possible to prosecute a tiny minority of sexual offences against children, he will be able to comply with this requirement. Bulgaria's poor CSA SOLs not only endangers national children but also children in other countries of the Council of Europe. The national systemic loophole caused by a weak criminal SOLs becomes a CE wide systemic loophole. That can be easily fixed by establishing a specific standard regarding limitation periods for sexual offences against children across all CE Member States, approving and Optional Protocol to the Convention of Lanzarote.

#### **4. THE CONVENTION'S ESTABLISHMENT OF EXTRA-TERRITORIAL JURISDICTION OVER CSA OFFENCES IS INEFFECTIVE**

It is important to bear in mind that Article 25 of the Convention establishes an obligation for the Parties to ensure their national legislations allow them to have extra-territorial jurisdiction to prosecute sexual offences committed against children outside their borders when the offender is one of their nationals (or a person who is a habitual resident in their territories). It also allows them to prosecute sexual crimes against children committed outside their borders against one of their nationals (or a person who is a habitual resident in their territories).

This criminal rule is an important step toward addressing the worrying criminal phenomenon of child sex tourism. It is a well-established fact that most of the perpetrators of these crimes come from the most developed countries of the world, including Europe. Usually, those who travel for the purpose of sex tourism target countries where law enforcement is weak and the chances of prosecution are minimal in Central and South America, Africa, Southeast Asia or the Caribbean. Child sex tourism is often closely linked to issues surrounding poverty, armed conflicts, rapid industrialization and exploding population growth. If, in developed countries, CSA victims often face multiple barriers that delay disclosure, (see section B2) the difficulties that more vulnerable victims face in developing countries may be even greater. Thus, it is not unreasonable to establish the hypothesis that they may disclose the abuse on average even later in life, especially if there is a huge asymmetry of power, as usually happens in the context of sexual tourism exploitation.

It is also important to highlight a closely related phenomenon. Certain multinational institutions like the Catholic Church have developed, over decades, a pattern of sending serial child abusers from developed to developing countries. The goal is to take advantage of their weaker justice systems, a more deferential attitude by the media and civil society towards the church and more vulnerable child populations. It's a strategy to try to avoid intense legal and media scrutiny in developed countries. Council of Europe Member States have been a traditional country of origin of this transnational criminal network (i.e., Spanish bishops and religious order superiors sending Spanish clergy sex abusers to Spanish speaking Latin-America). Later in this report, we will detail an example, the paradigmatic case of Father Nicola Corradi and the longstanding clergy sex abuse scandal over six decades in the deaf Provolo institutes of Verona (Italy), La Plata and Mendoza (Argentina).

However, extra-territorial jurisdiction becomes window dressing if it is not possible to effectively prosecute most sex crimes against children due to the delayed disclosure phenomenon coupled with inadequately short CSA criminal SOLs in some countries. Moreover, the Convention of Lanzarote ignores the risk of a potentially serious unintended consequence of increasing child protection standards across CE Member States if they are not accompanied by measures to increase child protection standards in other parts of the world: the possibility that, in sexual crimes against children, we may observe what criminologists describe as a “displacement of crime effect.” When a jurisdiction implements measures to prevent the commission of a crime, the offender is encouraged to modify his behavior to avoid such preventive actions. One of the possible strategies is geographic displacement, when an intervention reduces or eliminates the opportunities to commit crimes in a geographic area, the potential offender moves to another geographic area where these impediments do not exist. If child protection standards are increased in the CE, potential European child abusers may decide to move abroad, to states with less strict legislation, weaker judicial systems, or significant numbers of especially vulnerable minors, in order to continue to commit sexual crimes against minors with impunity.

## IV. THE PUBLIC POLICY ADVANTAGES OF CSA CRIMINAL SOL ELIMINATION

### A. PUBLIC EDUCATION AS A RESULT OF DISCLOSURE CAN PREVENT FUTURE ABUSE

The abolition of all CSA SOLs is the clear best practice for allowing victims access to justice, protecting future children, and benefiting communities. Abolition would take into account the science of delayed disclosure and would have widespread benefits.

## HOW CRIMINAL STATUTES OF LIMITATIONS REFORM HELPS EVERYONE

- 1 IDENTIFIES HIDDEN CHILD PREDATORS AND THE INSTITUTIONS THAT ENDANGER CHILDREN**  
 to the public, shielding other children from future abuse.
- 2 PUNISHES BAD ACTORS**  
 to protect other children from an abuser.
- 3 PREVENTS FURTHER ABUSE**  
 by educating the public about the prevalence, signs, and impact of child sex abuse so that it can be prevented in the future.

As hidden predators are exposed, the public learns about the dangers of CSA and how to prevent it. When predators and institutions are exposed, the media publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse. By shedding light on the problem, parents and other guardians are better able to identify abusers and responsible institutions, while the public is empowered to recognize grooming and abusive behavior and pressure youth serving organizations to implement prevention policies to report abuse in real time. Indeed, CSA publicity creates more social awareness to help keep kids safe, while also encouraging institutions to implement accountability and safe practices. This, in turn, prevents future children from being abused in those institutions.

## B. PERPETRATORS OF ABUSE CAN POSE A RISK TO CHILDREN THROUGHOUT THEIR LIVES

Unlike other types of criminal offenders, the recidivism risk of child sex abusers does not significantly decrease merely by the passage of time. Child molesters routinely commit premeditated and planned crimes. They use a process of emotional and psychological manipulation with their victims, grooming, to reduce their resistance. They tend to abuse minors in their circle of trust with whom they have previously established an emotional bond. By using a modus operandi that does not require violence or intimidation, they do not need to have high physical strength or sexual potency. Thus, their risk may increase as they age, since they have more practical experience and a more sophisticated modus operandi, their social status in the community is higher, and there is a greater asymmetry of power with their victims. Some predators abuse a high number of victims and continue abusing children well into their elderly years. If, due to restrictive SOLs, the criminal justice system can't prosecute historical cases, child abusers are not convicted, they do not enter the sex offender registry and therefore can easily access professional or voluntary positions in close contact with children. If the criminal SOL is eliminated, then hidden predators are brought into the light and are prevented from abusing more children.

An example of this worrying phenomenon would be the long criminal career of Father Nicola Corradi, a sexual predator who abused dozens of children over 60 years at the Provolo deaf institutes of Verona, La Plata and Mendoza. In 2009, 15 pupils of the deaf institute in Verona sent a sworn document to the weekly news magazine L'Espresso breaking the silence about the serious incidents of CSA committed by multiple priests and religious brothers against disabled children during a period of at least 30 years up to 1984. The statement named 24 priests and other faculty members, including Father Corradi. They described harrowing abusive acts including sodomization, forced masturbation and other forms of serious sexual exploitation. They explained that dozens of their peers had experienced similar experiences but that they did not want to come forward publicly. They had been very vulnerable children who came from poor backgrounds, had boarded at the school while away from their families and due to their disability and social isolation were unable to communicate with trusted adults about the abuse. Unfortunately, despite the overwhelming evidence they could not press criminal charges against their perpetrators due to Italy's predator friendly, archaic, restrictive criminal SOL.

Failed by the criminal justice system, survivors tried to warn the local church, the Vatican, as well as Pope Francis about the danger of free sexual predators who remained in contact with children. In 2014, they mailed the Pope a list of 14 credibly accused priests who had committed systematic abuse and were still alive. They delivered that same letter by hand to him in 2015, an incident which was documented by a Vatican photographer. Mentioned in the list were the names of four priests who had been sent to Argentina, including Father Nicola Corradi a notorious abuser who had been transferred by the Church to the Provolo institute of La Plata in 1970, where he stayed until 1994, before moving to the Provolo institute of Mendoza where he became the director of the school. The local canonical investigation launched by the local bishop was a whitewash. Only one priest was ordered to lead a life of prayer and penance away from minors and three others were given admonitions. Regarding Corradi, no action was taken by Pope Francis or the Vatican to launch a canonical investigation, warn Argentinian civil authorities about the allegations or to suspend him of his teaching responsibilities.

In 2016, the Argentinian police broke into the premises of the school, detaining 14 people accused of cooperating or participating in very serious sex crimes, including multiple instances of aggravated rape, against children at the school. Nicola Corradi, who was 80 at the time, was the ringleader. The worst cases of abuse had happened between 2004 and 2009, when Corradi was in his seventies. However there had been more recent incidents: in 2013 he distributed pornography to children, and he touched students inappropriately in 2015 and 2016. Prosecutors in La Plata launched another investigation identifying another pedophile ring composed of at least five perpetrators, among them Corradi. He was accused by two survivors of abuse while he was teaching in La Plata. Another adult survivor committed suicide. Argentine prosecutors accused the church of not cooperating with the criminal investigations refusing to turn over relevant documentation. Corradi was convicted in 2019 to 42 years of jail. He died three years later. He remained a danger to children throughout his life, constituting a powerful case study that unlike other criminals, the risk of recidivism of child abusers does not usually significantly diminish over time. A clear example of why the main function of expanding/abolishing criminal SOLs is not necessarily prosecuting the crimes of the past but preventing the crimes of the future.

### C. NEWLY ACQUIRED EVIDENCE OF PAST CRIMES IS COMMON

Opponents of CSA SOL reform frequently argue that over time it becomes progressively more difficult to prove whether an alleged crime has happened, which increases the risk of judicial errors. As the Catholic hierarchy in the U.S. has frequently argued when it lobbied against SOL reform: “*witnesses die, memories fade, evidence disappears.*” (*Archdiocese of Baltimore policy statement opposing Senate Bill 575*) However, each case is different. Older crimes may have an abundance of evidence and newer crimes may have very little. In sexual crimes against minors there are at least five situations where the passage of time does not entail excessive difficulties to probe a crime has indeed occurred:

- 1) **Confession of the perpetrator:** It is not unheard of that sometimes child abusers do confess the crimes they have committed. For example, in 2016, in Barcelona (Spain) one teacher who had worked for decades at a religious school, Joaquín Benítez, publicly confessed to the media having committed sex crimes against his pupils. He ratified his confession during the subsequent criminal trial. Benítez was accused by 17 victims, but he could only be convicted in 4 cases. The rest were time-barred since they were committed in the 1980s and 1990s.
- 2) **Existence of biological evidence:** Thanks to the progress of forensic science, it is possible to obtain biological evidence, such as DNA, in many cases of sexual assault and murder. However, the police do not always immediately have a suspect with whom they can compare the genetic information obtained at the crime scene. For this reason, solving cases committed decades ago is becoming more and more frequent. For example, in 2018 police arrested Joseph de Angelo in California, accused of being the Golden State Killer, who committed 12 murders and 45 sexual assaults between 1976 and 1986. DNA collected more than three decades ago had never matched any of the samples stored in police databases. The police decided to use a private DNA profiling service used by its members to establish their family tree. With this approach, the police found a distant relative of the murderer. After a rigorous investigation in which a direct DNA sample of the suspect was obtained, the murderer was arrested.
- 3) **Existence of graphic material:** It is not uncommon for sex offenders to record or take photographs of the crimes they commit. They consider them “trophies” from their “hunts” and they often keep them. Later they visualize this material to remember the aggression, which produces sexual stimulation. This is what happened in the San Viator case in Spain. José Ángel Arregui Eraña, a Spanish religious member of the Congregation of Clerics of San Viator, was arrested in Chile in 2010 for possessing thousands of images of CSAM. Among them were recordings made with a hidden camera of the sexual abuse he committed against at least 15 children between the ages of 12 and 14 in religious schools in Madrid and the Basque Country. When the religious order learned of the abuses, they did not report him to the criminal justice system, but transferred him to a new school, first within Spain and later abroad. He was sentenced to eight months in prison, only for the crime of possession of CSAM. The sexual abuse that he had committed and recorded, which the court considered proven, was not criminally punished due to the unfairly short SOL.
- 4) **Multiple complaints of sexual abuse against the same perpetrator:** Typically, when one survivor of a serial child abuser comes forward publicly, others follow suit. It is also not uncommon for multiple victims, acting independently (often without knowing each other personally), to report similar abusive acts committed by the same perpetrator, who has used the same modus operandi. In Spain, there have been several high-profile cases. A paradigmatic case has been that of the religious Jesús Linares who sexually abused over decades dozens of his students with total impunity (among them the renowned Spanish award-winning writer Alejandro Palomas who was the first to denounce the case in the media) in Catalan schools belonging to the La Salle religious order. He benefited from the protection and cooperation provided by his superiors, who, after multiple complaints, instead of fulfilling their legal obligation by reporting the facts to the courts, decided instead to transfer the serial child abuser from school to school so that he could continue committing his crimes. Another example is what happened at Montserrat Abbey in Catalonia, the shrine that holds the Virgin of Montserrat, patron saint of Catalonia and one of the most well-known and visited touristic destinations in Catalonia. After a first isolated complaint it was discovered that brother Andreu, head of the Catholic scout group for 40 years, had been a sexual predator and pedophile who abused at least 12 victims over several decades. Other similar cases of serial pedophiles recently uncovered by the media have been that of the BBC presenter Jimmy Savile or the Spanish athletic coach Miguel Ángel Millán (who abused, among others, the former silver athletics Olympic Spanish champion Antonio Peñalver).

**5) Documentary evidence:** When sexual abuse occurs in institutions that care for minors, there may be documentary evidence (i.e., previous complaints from other victims, witness statements, medical and work history) that will help clarify the case. For example, in Anglo-Saxon countries, it has been common for lawyers of victims abused in the Catholic Church in civil litigation to request evidence that is in the “Secret Archives,” which are required to be kept regarding legal and other violations by priests, including CSA. In the numerous clergy sex abuse investigations in the United States, the same information is requested and required to be turned over. The canonical documents obtained have made it possible to demonstrate on countless occasions that the Catholic hierarchy knew of the sexual crimes committed by their religious members but decided not to report them to the civil justice, allowing the child molester to continue abusing children with impunity. This criminal, documented in their archives, has forced them to pay four billion dollars in compensation in the United States alone. Canonical files have also been useful in the context of other criminal investigations. For example, in Chile the prosecutor’s office carried out multiple judicial searches at the headquarters of several dioceses, which allowed the discovery of 90 canonical investigations carried out against child offending priests since 2007, of which the Church had not informed the civil justice system. The evidence obtained led the prosecutor to charge the Cardinal of Santiago, Ricardo Ezzati, with covering up sexual abuse against children committed by one of his close collaborators, the priest Óscar Muñoz.

### D. ELIMINATION AMELIORATES THE HARSH EFFECTS OF SOLS FOR CSA

The ability to prosecute sexual assault and abuse decades after it occurs is scientifically justified because of the unique harms borne by victims of these heinous crimes. The trauma stemming from CSA is complex and individualized, and it impacts victims throughout their lifetimes:<sup>5</sup> Childhood trauma, including CSA, can have devastating impacts on a child’s brain,<sup>6</sup> including disrupted neurodevelopment; impaired social, emotional, and cognitive development; psychiatric and physical disease, such as post-traumatic stress disorder (PTSD)<sup>7</sup>; and disability.<sup>8</sup> The devastating consequences of CSA usually persist well into adulthood. The damage caused by the perpetrator is not attenuated or eliminated by the mere lapse of time—the harms to the victim do not belong to the past but continue every single day.

Based on empirical data, an early renunciation of the *ius puniendi*<sup>9</sup> of the state in these crimes is not justified. The state should not arbitrarily waive the *ius puniendi*, if the criminal sanction is still necessary to maintain the order and the fundamental values of society, since neither the memory nor the consequences of the crime have disappeared. This principle is what justifies the international norm that there should be no SOLs in crimes of genocide and crimes against humanity, since it is considered that, even if they happened decades ago, the

## ELIMINATING THE CRIMINAL SOLs HELPS SURVIVORS AND THE PUBLIC

<sup>5</sup> B. A. van der Kolk, *The Body Keeps the Score: Memory & the Evolving Psychobiology of Posttraumatic Stress*, 1(5) HARVARD REV. OF PSYCHIATRY 253-65 (1994); see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, JUSTICE CANADA (2019), [https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma\\_eng.pdf](https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf).

<sup>6</sup> As explained by the Center for Disease Control, “Adverse Childhood Experiences” (“ACEs”), like CSA, “have a tremendous impact on future violence victimization and perpetration, and lifelong health and opportunity.” Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14(4) AM. J. PREV. MED. 245 (1998); S.R. Dube et al., *Childhood Abuse, Household Dysfunction, and the Risk of Attempted Suicide Throughout the Life Span: Findings from the Adverse Childhood Experiences Study*, 286 JAMA 24, 3089 (Dec. 2001).

<sup>7</sup> Josie Spataro et al., *Impact of Child Sexual Abuse on Mental Health: Prospective Study in Males and Females*, 184 Br. J. Psychiatry 416 (2004).

<sup>8</sup> See Felitti, at 245–58; see also R. Anda, et al., *The Enduring Effects of Abuse and Related Adverse Experiences in Childhood*, 256 EUR. ARCH. PSYCHIATRY CLIN. NEUROSCIENCE 174, 175 (Nov. 2005) (“Numerous studies have established that childhood stressors such as abuse or witnessing domestic violence can lead to a variety of negative health outcomes and behaviors, such as substance abuse, suicide attempts, and depressive disorders”); M. Merricka., et al., *Unpacking the impact of adverse childhood experiences on adult mental health*, 69 CHILD ABUSE & NEGLECT 10 (July 2017); see also Sachs-Ericsson, et al., *A Review of Childhood Abuse, Health, and Pain-Related Problems: The Role of Psychiatric Disorders and Current Life Stress*, 10(2) J. TRAUMA & DISSOCIATION 170, 171 (2009) (adult survivors are thirty percent more likely to develop serious medical conditions such as cancer, diabetes, high blood pressure, stroke, and heart disease); T.L. Simpson, et al., *Concomitance between childhood sexual and physical abuse and substance use problems: A review*, 22 CLINICAL PSYCHOL. REV. 27 (2002) (adult survivors of CSA are nearly three times as likely to report substance abuse problems than their non-survivor peers).

<sup>9</sup> *Ius puniendi* - Right to punish - the state’s right to punish criminal offences pursuant to its laws within the limits of the international law respecting jurisdiction and human rights.

social memory is still valid, so they do not constitute the past, but the present. CSA is a heinous crime and perpetrators should not be afforded the “legal certainty” of an SOL when they knew that their behavior was criminal when they sexually abused the child.

### E. FAILING TO ABOLISH CRIMINAL SOLS REWARDS INSTITUTIONS THAT COVERUP ABUSE

It is argued that citizens have the right to have their case processed by the courts in a timely manner. Therefore, the criminal SOL “is the legal instrument that implements the fundamental right to the finalization of criminal proceedings within a reasonable period.” Accepting this legal argument implies recognizing this right as absolute, even in cases where the behavior of the accused or his accomplices has been precisely what has prevented criminal proceedings from being initiated or advanced. In this way, legally undesirable attitudes such as being in contempt of court or engaging in a cover-up would be encouraged. With respect to sexual crimes against minors, in the last two decades it has been proved beyond a reasonable doubt that multiple institutions (Catholic Church, Jehovah’s Witnesses, Boy Scouts, sports federations, and others) have covered up these crimes in a generalized and systematic way. They have obstructed justice, destroyed evidence, and intimidated witnesses. The child abusers themselves have operated freely within the culture of coverup. A paradigmatic case of structural and systemic cover-up is that of the Holy See (Tapsell). The Vatican went so far as to establish in its Code of Canon Law that clerical child sex abuse was protected by the Pontifical Secret, which barred both the victims and the clergy from reporting the crime to civil justice, under penalty of excommunication. In practice, this meant that in most countries where the Catholic Church operated, a parallel and secret justice system was established for decades, in which sexual abuse committed by priests was considered a sin that had to be atoned for with sentences of prayer and penance, which meant the Church kept the facts of criminal abuse from the authorities. They treated this criminal behavior as a secret to be kept instead of as crimes punished with custodial sentences (Robertson).

It’s unreasonable and unfair to describe the common delay in investigating these CSA offences by the criminal justice system as undue delays, and attributing the responsibility of the delay to a supposedly abnormal functioning of the administration of justice or to the irresponsible attitude of the victims when the facts have been intentionally kept from the public. This is especially true when delays are mainly due to the obstruction of justice by the institutions where the crimes took place or to the threats and pressure of the perpetrators to silence the victims, which is common. In addition, it is important to bear in mind that in CSA crimes, since the initiation of the criminal action depends on the report of the victim, the risk of state manipulation is avoided, even when there are no SOLs, since the State is unable to strategically instrumentalize the exercise of criminal action, because its initiation depends on the psychological process of recovery by the abused child, not on the will of the state powers.

## V. PROPOSAL: OPTIONAL PROTOCOL TO THE LANZAROTE CONVENTION

Member states who have ratified the Convention of Lanzarote have a legal obligation under Article 33 to ensure their national legislations provide for an appropriate criminal SOL for CSA offences. We have already discussed the interpretation problems caused by its vague and unclear language. However, there is another issue that needs to be addressed and that would justify on its own a treaty change. A serious criminal policy mistake in the list of crimes included in article 33 of the Convention, the ones which merit an extended limitation period after the victim reaches the age of majority. It is important to bear in mind that Chapter VII of the Convention regulates substantive criminal law norms. It includes a list of intentional conduct that should be criminalized by all Member States: 1) Article 18 – sexual abuse; 2) Article 19 – Offences concerning commercial child sex exploitation (unhelpfully denominated as child prostitution in the Convention); 3) Article 20 – Offences regarding child sex abuse material (unhelpfully denominated as child pornography<sup>10</sup>); 4) Article 21 – Offences concerning the participation of a child in pornographic performances; 5) Article 22 – Corruption of children and 6) Article 23 – Solicitation of children for sexual purposes (online grooming). However, the legal obligation to extend the limitation period after the age of majority of the victim included in article 33 only covers the CSA offences of sexual abuse (Article 18); commercial child sex exploitation (article 19) and participation of a child in pornographic performances (art 21). Surprisingly this list does not include the offence of producing, offering, distributing, procuring, accessing or obtaining child sex abuse material described in article 20.

Both the EU and the Council of Europe have identified as one of their child protection priorities the fight against child sexual abuse material (CSAM). This high-profile public commitment makes it illogical to include CSAM in the list of offences whose limitation period starts from the commission of the crime. It can have very pernicious effects on the ability of law enforcement to fight against this despicable crime. To illustrate this argument, it is helpful to take into consideration two empirical facts. First of all, it is not uncommon for law enforcement agencies to locate CSAM online and then try to identify the victim/s and perpetrator/s represented in the CSAM material. If the limitation period for the offence of producing CSAM starts from the commission of the crime, but the one for the actual sexual abuse starts from the age of majority of the victim or later, law enforcement will often encounter the situation where they can only prosecute the perpetrator for the sexual offence and/or for the possession of CSAM but not for producing it. Second, in these offences it is not uncommon for perpetrators to try to silence their victims threatening them with publishing the CSAM online. The victim's founded fear that their family, friends or acquaintances will find this material online is a significant barrier that often leads to delayed disclosure of the abuse, making it more difficult to prosecute the crime if it has a short limitation period. Last but not least, this type of CSAM offence has a particularly traumatizing effect on the abused child. Many victims often describe a sense of dread, walking on the street and thinking that the strangers they are encountering may have seen them online and therefore could easily identify them, which severely exacerbates their posttraumatic symptomatology.

This decision is even more surprising when you take into account that in these offences, as there's objective evidence of the commission of a crime, extending the limitation period would not cause any evidentiary problems for the criminal justice system to determine the culpability of the accused, even if the crimes were committed decades ago.

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<sup>10</sup> There's a growing international consensus in the human rights community that using terms such as child pornography or child prostitution is unhelpful as words like pornography or prostitution imply the ability of the person to give consent. Thus, the recommended terminology would be child sex abuse material – CSAM (instead of child pornography) and commercial child sex exploitation – CCSE (instead of child prostitution). In this report we have tried to consistently use this recently developed child rights-based terminology except when directly mentioning national or European legislation that still uses old-fashioned and outdated forms.

The unsatisfactory outcomes achieved during the last 15 years highlight the importance of strengthening the Lanzarote Convention regarding the right of victims of CSA to access effective remedial action by the CJS. There is the need to establish across the CE member states a legally binding, evidence based, minimum CSA SOL standard enshrined in an Optional Protocol to the Lanzarote Convention. Access to justice should not depend on the victim's postcode. This optional protocol should significantly strengthen the watered-down norm included in article 33 of the convention. To be effective the Optional Protocol should include three important measures:

**I) Abolition of at least the most severe CSA offences:** Even though there is a growing number of European countries which are abolishing criminal SOLs in CSA offences, very few of them are choosing the option of eliminating them for most crimes (apart from common law countries, only Georgia, Denmark and Belgium have taken this approach). Most countries are settling for the more conservative option of only abolishing them in a limited number of offences, the ones where the nature of the offence is considered more severe. The CE should take an active role in consolidating this developing European human rights standard by enshrining it in law. State members could still retain the flexibility of deciding which specific CSA offences should be included in this category.

**II) No limitation period for CSA offences should expire before a survivor reaches age 50:** A common significant shortcoming in the national legislation of the CE member states who have abolished criminal SOLs for the most serious CSA offences is that the criminal SOLs for the rest of sex crimes against children are still extremely short. A notable exception is Poland, which has established a legal provision that for most sex crimes against children which still have a SOL no CSA offence limitation period should expire before a victim turns 40 years old. A similar legal provision should be included in any future Optional Protocol. However, we recommend increasing the level of ambition, so that this CE standard establishes that no CSA criminal SOL expires before a victim turns 50 years old. This criminal SOL "floor" would be consistent with current scientific evidence about delayed disclosure and the average age at which victims report abuse (which as previously explained is age 44, according to the results of the Australian Royal commission's study of a clergy sex abuse victims' sample).

This norm would reflect our current scientific understanding that disclosure rates of abuse are not necessarily tied to the severity of the crime. Most CE countries have a graduated criminal SOL system in their criminal codes, where the length of the SOL correlates to the severity of the punishment for the CSA offence. However, scientific data does not support the idea that CSA offences that are punished by longer custodial sentences (i.e., penetrative versus non-penetrative offences, use of violence or force, multiple perpetrators, duration of abuse) necessarily result in longer delays of disclosure of the abuse by victims. Existing evidence on the association between the nature of abuse and subsequent psychopathology is somewhat contradictory and inconclusive. Survivors may differ on a number of social, biological, and psychological domains which can either enhance or detract from their resilience and ability to cope with trauma. Finally, as discussed in section B2, there are multiple factors that affect disclosure timing, many of which are unrelated to the severity of the abusive act itself. For a full discussion of the relevant research, see Appendix B.

**III) Tolling the criminal SOL's for perpetrators who reoffend:** To address the common problem of reoffending perpetrators, it would be advisable to include a specific provision modeled on the French legislation, that ensures that when a perpetrator who has committed a child sex abuse offence reoffends, the limitation period for the initial crime is tolled so it does not expire until the date the new offence's limitation period ends. This recommendation would apply to the Parties that do not have a generic interruption clause of the criminal SOL for criminals who reoffend.

As already explained, article 33 of the Convention establishes that only offences established in accordance with articles 18 (sexual abuse), 19, paragraph 1.a and b (Commercial sex exploitation), and 21, paragraph 1.a. and b (participation of a child in pornographic performances), should have an extended statute of limitations. We strongly recommend adding the offences established in accordance with article 20 (child sex abuse material - CSAM) to this category. We believe that this clause should cover the offences included in paragraph 1.a (production of CSAM), 1.b (offering or making available CSAM) and 1.c. (distributing or transmitting CSAM). The Council of Europe may decide not to include to this category offences covered in paragraph 1.d (procuring of CSAM for oneself or for another person), 1.e. (possession of CSAM) and 1.f (knowingly obtaining access, through

information and communication technologies to CSAM). We also recommend including the offence established in accordance with article 19.1.c (having recourse to child commercial sexual exploitation) to this category.

We recommend establishing that in the offences included in article 22 (corruption of children) and article 23 (solicitation of children for sexual purposes – online grooming) the limitation period is suspended until the victim reaches the age of majority. That would leave only the offences included in article 20.1.d (procuring CSAM for oneself or for another person), 20.1.e (possession of CSAM) and 20.1.f (knowingly obtaining access, through information and communication technologies to CSAM) and art 21.1.c (knowingly attending pornographic performances involving the participation of a child) as the ones whose limitation period starts counting from the time the offence is committed.

The Parliamentary Assembly of the Council of Europe, under Resolution 2330 (2020), has already made the following recommendation: *“6. To this end, the Assembly urges member states: 6.1. with respect to policy to: 6.1.4. abolish the statute of limitations for sexual violence against children, or to at least ensure that the prescription periods for sexual violence against children in civil and criminal laws are proportionate to the gravity of the alleged abuse and, in any case, no shorter than thirty years after the alleged victim has reached the age of 18”*. Therefore, the proposal we have just described, regarding a minimum SOL standard for CSA offences, is based on the recommendation of a CE body that represents European lawmakers. The Lanzarote Committee, which represents European governments, should demonstrate a similar level of ambition.

The CE has led the way in establishing European-wide human rights standards in other contexts, and should do so with respect to the rights of children against sexual abuse as well. To understand the important role that the CE can play in establishing a European-wide standard on this issue it is helpful to look at previous examples of good practice with other human rights standards.

One clear example is the leading role the CE has played in abolishing the death penalty for all crimes. Over decades the CE has progressively increased its level of ambition, until it has achieved the almost complete abolition of the death penalty for all crimes in Europe (with the only exception of Belarus and Russia). The regulation of the death penalty in international treaties started in 1966 with the adoption by the General Assembly of The International Covenant on Civil and Political Rights (ICCPR). In article 6 it established that: *“In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes, in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention of the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court”*. The ICCPR used very watered-down legal language, giving ample latitude to the Member states to maintain the death penalty in their legislations.

As a result of the criticism by human rights organizations and civil society the UN decided to increase its level of ambition regarding the death penalty. In 1989 the General Assembly adopted the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty. Article 1 of the Protocol established: *“No one within the jurisdiction of a State Party to the present Protocol shall be executed. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction”*. Article 2.1 established that: *“No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime”*. Therefore, the protocol enshrined the obligation of state members who adopted it to abolish the death penalty for ordinary crimes but established an exception for military crimes.

Even though it was a significant improvement, European countries decided to go a step further in their regional regulation of the issue. The 1950 original European Convention on Human Rights did not include any provision aiming to abolish the death penalty. However, in 1983 the Member States to the Council of Europe approved the Protocol no 6 to the Convention. Article 1 established the abolition of the death penalty for ordinary crimes: *“the death penalty shall be abolished. No one shall be condemned to such penalty or executed”*. Article 2 provided an exception for military crimes: *“A State may make a provision in its law for the death penalty in respect of acts*

*committed in time of war or imminent threat of war, such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions*". In 2002, the Member States of the CE approved Protocol no 13 to the Convention. Article 1 established the abolition of the death penalty for all crimes: *"The death penalty shall be abolished. No one shall be condemned to such penalty or executed"*. Article 2 and 3 excluded the possibility that Member states could request a reservation or derogation.

Currently all 46 Member States of the CE have abolished the death penalty for all crimes. Moreover Protocol 13 to the Convention has been ratified by 44 of the 46 Member States of the CE (except Azerbaijan and Armenia). Due to its moral credibility on the issue, based on the effective application of this human rights standard across its borders, European countries have taken a leadership role in global institutions advocating for the abolition of the death penalty. For example, supporting multiple UN resolutions requesting a moratorium on the global application of the death penalty. They have also made it a key goal of their foreign policy of promoting human rights globally.

It is extremely painful for European victims of CSA to compare the current lack of ambition of the CE regarding the abolition of criminal SOLs for CSA offences in comparison with its bold approach regarding the abolition of the death penalty for all crimes. It is not only a clear missed opportunity for European countries to embrace a global pioneer role in child protection. It also exemplifies the low priority that protecting children's rights has on the political agenda of European countries. It still has not become part of our common European political culture the basic principle that: *"children rights are human rights; human rights are children rights"*. At the current glacial pace of progress, unless there is a change in the treaties, it may take decades for children to achieve the same legal level of protection against sexual violence that European citizens enjoy against violence by the state.

## VI. CONCLUSION

Empirical evidence shows that CSA is a serious public health emergency in Europe both due to its frequency, the severe long-term consequences for victims, and its huge financial cost. The Lanzarote Convention has tried to implement a comprehensive policy to tackle the issue based on prevention, healing and access to justice measures. The Convention acknowledged the science of delayed disclosure, where victims often need decades to be able to process the trauma and contact civil authorities regarding the crimes inflicted on them. Due to inappropriately short SOL's, it is often impossible to investigate these crimes and convict perpetrators, because the sexual offences are time-barred. This situation not only denies a group of vulnerable EU citizens access to effective remedial judicial action, contravening the ECHR (art 13), but also unnecessarily puts Europe's children at risk. Unlike other criminals, the risk of reoffending by child abusers often does not significantly decrease over time. If a historical sex crime allegation cannot be investigated by the criminal justice system, no matter the actual evidence, the perpetrator will not be convicted and therefore will not be included in the national sex offender registry. If he attempts to work or volunteer in regular and direct contact with children, a criminal background check will yield a false negative.

Despite this glaring child protection loophole, the current policy norm included in article 33 of the Convention of Lanzarote, is not fit for purpose. It gives a generic mandate to Member States to ensure victims have **“sufficient”** time after reaching the age of majority to report the crimes. A postcode lottery has developed, with three groups of countries that provide examples of excellent, mediocre, and poor s criminal SOLs. Sixteen years have passed since the initial attempts to fix the problem at the European level (Lanzarote Convention – 2007). It is time to strengthen the Convention by including a specific mandatory minimum statute of limitations framework for CSA offences across all CE Member States. The most comprehensive empirical evidence (Australian Royal Commission) proves that in developed countries, on average, victims do not report the abuse to official authorities until they are 44 years, 33 years on average after the crime was committed. More recent studies show that over 50% of victims come forward after age 50.

This Brave Movement and CHILD Global Report's key policy recommendation is to amend the Convention of Lanzarote to include an Optional Protocol that establishes a common specific basic standard of abolition of the criminal SOLs for CSA offences across all CE Member States. This policy would ensure that all Member States' CSA victims can obtain justice when they are ready, not according to an arbitrary SOL that blocks their access to justice. Ideally, all CSA SOLs should be eliminated. At this time, however, we recommend the elimination of limitation periods for at least the most serious CSA offences and a minimum limitation period of age 50 for the remaining CSA offences. It would also be appropriate to add a specific criminal norm that interrupts the statute of limitations when a child sex abuser reoffends and, therefore, the law tolls the SOL with each new offense.

Excessively short limitation periods seriously undermine important legal provisions included in the Lanzarote Convention. First, due to inadequately criminal SOL laws in many countries, national crime databases do not include a significant number of hidden child predators who, in turn, are able to continue to work and volunteer directly and regularly with children, undetected by institutions and parents alike. This situation undermines the application of article 5.3 of the Convention, which obliges Member States to establish mechanisms to prevent repeat CSA offenders from accessing professions that place them in direct and permanent contact with children. Moreover, when a CE member state has inadequately short criminal SOL's it is not only a national problem but a national systemic loophole. If a hidden predator from a CE member state with poor CSA limitation period laws moves to another CE Member State with strong ones, he/she will be able to easily pass criminal background checks as the information about criminal history sent by the country of origin is invalid. The suppression of investigation and conviction due to short criminal SOLs undermines attempts to guarantee the exchange of criminal justice information among Member States included in art 37.3 of the Convention. Therefore, this problem has become a European-wide systemic loophole that needs to be closed by a European-wide solution. This issue is also a foreign policy black mark. It undermines the assertion that one of the key principles of CE member states' foreign policy is to promote human and children's rights abroad. CE Member States are overrepresented as countries of origin in international sex tourism global networks. To combat this situation, article 25 of the Lanzarote Convention has enshrined the legal principle of extra-territorial jurisdiction in sex crimes committed by CE nationals. Inadequate criminal SOL laws make a mockery of this criminal norm.

Some legal experts have raised concerns about the possible deleterious effects of abolishing or expanding criminal statute of limitations for sex crimes against children. Frequent civil liberty objections are that over time evidence disappears; the offender may spontaneously rehabilitate himself; it is a poor use of scarce resources to prosecute crimes decades after they happened due to the low likelihood of success; or that the state has a duty to renounce the use of its *"ius puniendi"* when a crime has long been forgotten by the community. The most up-to-date empirical, criminological, scientific, journalistic or judicial evidence available undermine these arguments, including the settled experience in the United States as the federal government and 88% of the states have eliminated criminal CSA SOLs. The result has been more justice, more information for the public, and more child safety.

Due to the urgency of the crisis, the strength of the empirical evidence already available, and the incremental improvement achieved over the last 15 years with the current approach, the only reason why Member States and the Council of Europe may decide not to implement our policy proposal would be due to a lack of political will to address the problem. After 15 years of disappointing promises, European children and survivors of child abuse deserve better.

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## VIII. APPENDIX A: AN EXTENDED COUNTRY-BY-COUNTRY SUMMARY OF THE MEMBER STATES CSA SOLS

Thirteen Council of Europe state members have abolished criminal statute of limitations for at least the most severe sex crimes against children, most of them in the last decade, showing a clear and growing European trend. They join three other states, United Kingdom, Ireland and Cyprus, three common law countries that historically have not had them. They should receive the highest rating (A or B) in this important measure of effective access to justice for child sex abuse victims.

### EXAMPLES OF GOOD PRACTICE (GRADE A OR B):



*Countries that have no statute of limitations for all/ most sex crimes against children (GRADE A):*

#### UNITED KINGDOM

This member state does not have criminal statute of limitations for crimes known as indictable offences, that is, crimes tried in the crown court in front of a judge or a jury. Regarding summary offences, judged in the magistrate court (before a judge, but without a jury) they have a six-months statute of limitations from the commission of the offence according to the Magistrates Court Act of 1980. Child sexual abuse crimes are indictable offences. Therefore, they have no limitation period.

#### IRELAND

Article 7 of the Criminal Justice Act of 1951 (based on the modification of section 177 of the Criminal Justice Act of 2006) establishes that what are known as “indictable offences” (which are judged in front of a judge and a jury, unlike the “summary offenses” that only do it in front of a judge) have no criminal statute of limitations. However, if the delay in prosecuting a crime is excessively long, the judge has the power to decide not to hear the case. In making the decision, the judge considers whether the delay has reduced the accused’s chances of a fair trial, for example, if the delay means that key witnesses are no longer available to testify or if the delay may have affected the defendant’s memory. Among the “indictable offences” are sexual crimes against minors.

#### CYPRUS

This state is governed by common law. The criminal and judicial process is based on the English system that the British gradually introduced when they colonized Cyprus. In this state, there are no statute of limitations to initiate criminal proceedings or execute sentences for serious crimes (felonies), including sexual crimes against minors. However, the possibility that the rights of the defendant are affected due to a long period of time that has elapsed will be considered in the final judgment and may even terminate the judicial procedure.

#### DENMARK (2018)

In February 2018, the Danish Parliament approved amending article 93. b of the Danish Criminal Code to abolish the limitation period in most child sex abuse offences: incest (art 210 Dan.Crim.Cod.); sexual abuse and assault (art 216-224, 225 Dan.Crim.Cod); production of child sex abuse material (art 226 and 227.1 Dan.Pen.Cod.) have no limitation periods. Some child sex abuse offences like being the client of live child sex abuse event (art 227.2 Dan. Crim.Cod); sexual crime against a child by neglect (art 228 Dan.Crim.Cod.); child sexual exhibitionism (art 232 Dan. Crim.Cod.); selling pornography to a child (art 234 Dan.Crim.Cod.); distribution or possession of child sex abuse material (art 235 Dan.Crim.Cod.), still have a limitation period. In other crimes violent crimes committed against minors, the statute of limitations is suspended until the victim reaches the age of 21 (art 94.4 Dan.Crim.Cod.).

### **BELGIUM (2019)**

In a law approved on November 14, 2019, the Belgian parliament approved the modification of article 21 bis of the Preliminary Title of the Belgian Code of Criminal Procedure. Previously only crimes against humanity had no limitation period under Belgian law. After the entry into force of this legislative amendment, consummated or attempted crimes of voyeurism also had no limitation period (art 371 Bel.Pen.Cod.) as well as other crimes such as indecent assault (art 372 to 374 Bel.Pen.Cod.); rape (art 375 Bel.Pen.Cod.); indecent assault and aggravated rape (art 376 Bel.Pen.Cod.); use of the internet by an adult to meet a minor with the intention of committing a crime provided for in Chapters V, VI, VII of the Penal Code (art 377 quater Bel.Pen.Cod.); corruption and child commercial sexual exploitation (art 379 and 380 Bel.Pen.Cod.); Distribution of pornographic material (art 383 bis Bel.Pen.Cod.); mutilation of genital organs (art 409 Bel.Pen.Cod.); trafficking in persons for the purpose of prostitution or sexual exploitation (art 433 quinquies, art 1, paragraph 1.1 Bel.Pen.Cod.) when the victim is a minor.

### **GEORGIA (2020)**

In May 2020 Georgia lawmakers passed Law no 6753. It amended Article 71.5.1 of the Georgian Criminal Code which regulates criminal statutes of limitations. It established there is no criminal limitation period for criminal offences included in Chapter XXII (Crimes Against Sexual Freedom and Sexual inviolability – art 137-141 Geo. Crim.Cod.); child commercial sex exploitation (art 253 and 254 Geo.Crim.Cod.), production of CSA exploitation material (art 255 and 255.1 Geo.Crim.Cod.) and online grooming (art 255.2 Geo.Crim.Cod.). However, it did not abolish the limitation period for offences of child and human trafficking (art 143 section 1, 2 and 3 Geo.Crim.Cod.). For these offences the limitation period is not suspended until the victim reaches the age of majority. Depending on the severity of the crime it has a limitation period of six, ten or thirty years from the commission of the crime.



*Countries that have no statute of limitations for the most serious sex crimes against children*  
**(GRADE B):**

### **AUSTRIA (2001)**

Section 57 (1) of the Austrian Criminal Code establishes that criminal offenses that are punishable by imprisonment for a period of ten to twenty years up to life imprisonment, as well as offences included in Section twenty-fifth (genocide, crimes against humanity, war crimes) do not have a criminal statute of limitations. The Criminal Law Amendment Act 2001 (Federal Law Gazette no 130/2001), introduced an aggravated form of offence in cases of rape and severe sexual abuse of minors which was punishable by life imprisonment or a custodial sentence of 10-20 years. This aggravated form is applicable if the offence leads to severe bodily injury (section 84(1) Aus. Crim.Cod); pregnancy; if the victim is particularly humiliated by the act; he/she must endure a state of torment for a long period of time or if the abuse causes the victim's death. However, after a period of twenty years, the threatened life imprisonment is replaced by a prison sentence of ten to twenty years. Section 57 (3) Aus. Crim.Cod. establishes that for other crimes the statute of limitations depends on the duration of the custodial sentence. The minimum limitation period is one year, whereas the maximum one is twenty years. The criminal Law amendment act of 2009 amended section 58 (3) Aus.Crim. Cod. to establish that if a child under the age of eighteen is the victim of a criminal offence against life and limb (First Section Aus.Crim. Cod); against freedom (Third Section Aus.Crim. Code) or against sexual integrity and self-determination (Section Ten Aus.Crim.Code) the criminal statute of limitations is suspended until the victim reaches the age of 28 years. Therefore, whereas the most serious sex crimes against children do not have a criminal statute of limitations, for the other crimes the statute runs out between age 31 (less severe crimes) of the victim until age 48 (more severe type of crimes).

### **ICELAND (2007)**

In 2007 Icelandic lawmakers approved the modification of article 81 of the Icelandic Criminal Code (Isl.Crim. Cod.). The new law established that there is no limitation period for the most serious CSA offences punished in art 194 (rape), art 200 (sexual intercourse with own child or descendant), art 200.1 (sexual intercourse with child when the perpetrator has parental responsibility towards the victim) 202.1 (sexual contact with child under fifteen years old) Isl.Crim.Cod. In the rest of CSA offences (art 197, art 198, art 199, art 200.2, 3 and 4, art 210.b.1, Art. 218a and Art 227.1.2 Isl.Crim.Cod) the limitation period is suspended until the victim reaches the age of majority. According to art 81 Isl.Crim.Cod. the limitation period depends on the severity of the crime. The

minimum limitation period is two years. The maximum limitation period is fifteen years. There are intermediate limitation periods of five and ten years. Therefore, in all other CSA offences which still have a criminal SOL, the limitation period runs out before the victim reaches age 33.

#### **SWITZERLAND (2008)**

In 2008, Switzerland approved in referendum the abolition of the criminal statute of limitation in child sex abuse offences. Swiss lawmakers reformed art 101 Switzerland Criminal Code (Swi.Crim.Cod.), adding paragraph e). It established that the most serious child sex abuse offences did not have a limitation period: art 187.1 (sex acts against children), art 189 (indecent assault), art 190 (rape), art 191 (sexual acts with people unable to give consent), art 192.1 (sexual acts with victims who are in an institutional setting), 193.1 (exploitation of a person in need or dependency if the victim is under 12 years old) Swi.Crim.Cod. In other child sex offences such as those punished in art 187 (sexual acts against children), 188 (sexual acts against dependant persons), art 189-191 (crimes against sexual freedom and honour), art 195 and 197.3 (induction of commercial child sex exploitation) Swi.Crim.Cod. as well as other violent offences against children such as those punished in art. 111 (homicide), 113 (reckless homicide), 122 (aggravated assault), 124 (female genital mutilation); 182 (child human trafficking) Swi. Crim.Cod. committed against a victim who is under 16 years old the limitation period cannot run out before the victim reaches age 25. Articles 97 and 98 Swi.Crim.Cod. establish a limitation period which is proportional to the severity of the crime. There is a minimum limitation period of seven years, a maximum limitation period of fifteen years and an intermediate limitation period of ten years.

#### **THE NETHERLANDS (2013)**

On April 1, 2013, a modification of article 70.2 of the Dutch Penal Code entered into force. All violent crimes against children punished by imprisonment of twelve years or more have no limitations period. Moreover, child sex abuse offences punishable by a maximum penalty of up to eight years imprisonment do not have a criminal statute of limitations either. These crimes are the production of aggravated child sex abuse material (art 240.b second section Neth.Pen.Cod.); rape (art 243 Neth.Pen.Cod.), statutory rape with an adolescent under the age of 16 (art 245 Neth.Pen.Cod.) and indecent crimes (art 246 Neth.Pen.Cod.). A limitation to this general rule is established when the aggressor is between 12 and 16 years old. In these cases, a statute of limitations of 20 years is established. If the aggressor is 16 or 17 years old, these crimes still do not have a criminal statute of limitations. According to art 71.3 of the Dutch penal code the limitation period for many crimes against children is suspended until the victim reaches age of majority. They have a maximum limitation period of twelve years. Therefore, for these sexual offences against children the criminal statute of limitations runs out by the time the victim reaches age 30.

#### **HUNGARY (2014)**

In November 2014, the Hungarian Parliament approved the modification of Article 26, third section of the Hungarian Criminal Code. In addition to crimes against humanity and crimes punishable by a life sentence, sexual crimes against minors punishable by imprisonment for more than five years became imprescriptible. Article 28 (1a) establishes that for other child sex abuse crimes as well as other violent crimes committed against children the statute of limitation is suspended until the victim reaches age 21. The limitation period for sex crimes against children punishable by less than five years imprisonment is five years. Therefore, the criminal statute of limitations runs out by the time the victim reaches age 26.

#### **NORWAY (2014)**

According to article 91 of the Norwegian Criminal Code (Nor.Crim.Cod), there is no limitation period for the crimes of genocide, crimes against humanity, war crimes and terrorist crimes punished by more than fifteen years in prison. There is no limitation period either for crimes of murder or arson that causes a death. In July 2014, Norwegian lawmakers reformed art. 91 Nor.Crim.Cod. They established that CSA offences included in art 291 (sexual assault); 299 (sexual abuse of a child under 14 years old) and 302 (sexual abuse of a child between 14 and 16 years old) Nor.Crim.Cod. do not have a criminal SOL. According to art. 82 Nor.Crim.Cod. in the rest of violent crimes against children punished in articles 253 (forced marriage), 257 (trafficking of human beings), 282 (domestic abuse) and 284 (female genital mutilation) Nor.Crim.Cod. the SOL is suspended until the victim reaches the age of majority. According to article 86 Nor.Crim.Cod. the limitation period depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is two years. There is an intermediate limitation period of five years, ten years and the maximum limitation period is 15 years. Therefore, in all violent child offenses included in art 82 Nor.Crim.Cod. the limitation period runs out before the victim reaches age 38.

### **ROMANIA (2021)**

In June 2021, the Romanian Parliament approved amending article 153.2 of the Romanian Penal Code (Rom.Crim.Cod.). This new law has abolished the criminal statute of limitations for crimes of trafficking and sexual exploitation of vulnerable persons (Chapter VII, art 209-211 and 213 Rom.Crim.Cod.) and crimes against sexual freedom and integrity (Chapter VIII art 218 to 220 Rom.Crim.Cod.) when the victim is a minor. Previously, only crimes against humanity, the crimes of intentional homicide and those of torture had no limitation period. According to article 154.4 of the Rom.Crim.Cod. in the crimes of trafficking and exploitation of vulnerable persons (Chapter VII Rom.Crim.Cod.) and crimes against sexual freedom and integrity (Chapter VIII Rom.Crim.Cod.) other than those provided for in art. 153.2 Rom. Crim.Cod., as well as for the crime of child pornography (art 374.Rom.Crim.Cod.), the statute of limitations begins to run from the date on which the child reaches the age of majority. If the minor dies before the age of majority, the statute of limitations will begin to run from the date of death.

### **CROATIA (2021)**

On July 23, 2021, the sixth reform of the Croatian Penal Code (Cro.Pen.Cod) entered into force, modifying the statute of limitations regulated in article 81 second paragraph Cro.Pen.Cod. In this way, in addition to crimes against humanity, terrorism crimes had no statute of limitation (art 97 fourth paragraph Cro.Pen.Cod) as well as other criminal offences such as aggravated murder (art 111 Cro.Pen.Cod) and aggravated crimes of sexual abuse and child sexual exploitation (art 166 second and third paragraph Cro.Pen.Cod). This last offence consists on child sex offense that causes severe bodily injury to the victim; or compromises his or her physical or emotional development, or produces a pregnancy, or is committed by multiple perpetrators or by a family member or person who lives with the child in a joint household; or is committed in a specially cruel or degrading manner or against an especially vulnerable child. According to art 82.3 Cro.Pen.Cod, for the rest of the sexual crimes against minors, the limitation period is suspended until the victim reaches the age of majority.

### **SWEDEN (2021)**

In 2021 the Swedish social democratic government promoted a law that modified Chapter 35, second section of the Swedish Penal Code. Previously, only the crimes of homicide and reckless homicide or crimes against humanity had no limitation period. From the entry into force of the law, the completed crimes of rape, aggravated rape (Chapter 6, first section, first and third paragraph and fourth section of the Swedish Penal Code) and female sexual mutilation (Second section, first and third paragraph of the Law against female sexual mutilation) committed against minors do not have a criminal statute of limitations either. For other child sex offences, the limitation period is suspended until the victim reaches the age of majority. There is a maximum limitation period of fifteen years. Therefore, no child sex abuse case can be prosecuted after victim reaches the age of 33.

### **POLAND (2023)**

In July 2021, the Polish State Commission for the Investigation of Sexual Abuse in Catholic Institutions published its first report. It made twenty-two recommendations among which was abolishing the criminal statute of limitations in child sex abuse offences. As the emeritus judge and member of the Commission Agnieszka Rekas said: “victims of child sexual abuse usually report after 30 or 40 years and for this reason the perpetrators are no longer criminally responsible.” The Polish government decided to implement this recommendation. On the 14th of March 2023 a reform of the Polish Penal Code (Pol.CP) came into force that modified the statute of limitations for sexual crimes against minors. The new wording of art 101.4 Pol.CP establishes that when a victim under 18 years of age experiences a crime against life and health punishable by more than 5 years in prison, a crime specified in Chapter XXV (crimes against sexual freedom and decency) committed to the detriment of the child or when the pornographic content includes the participation of the minor, the criminal statute of limitations cannot run out before the victim reaches 40 years of age. Art 105 Pol.CP establishes a series of crimes which do not have a criminal statute of limitations, including: war crimes and crimes against humanity; certain serious crimes committed by an official in the exercise of his functions; the crimes punished by art 197.4 Pol. CP (aggravated rape) and 197.5 Pol.CP (hyper-aggravated rape that causes the death of the victim) when the victim is less than 15 years old or if he is older than that age when the perpetrator acts with special cruelty; the crimes punished in art. 148.2.2 Pol.CP (homicide in connection with rape) and 148.3 (multiple homicide, recidivist homicide, homicide of a public official) when the victim is under 15 years of age or older when the aggressor acts with special cruelty; the crime of aggravated injuries (art 156.1 Pol.CP) in conjunction with the crime of aggravated rape (197.4 Pol.CP).

On the other end of the spectrum, there is another group comprised by Council of Europe state members that have made minor changes in their criminal statute of limitations laws for child sex abuse or not made any change at all. However, these new watered-down laws are not fit for purpose as most victims still cannot press charges against their perpetrator after age forty. These twenty-two countries are Portugal, Greece, Malta, Finland, Lithuania, Estonia, Czech Republic, Luxembourg, Slovakia, Andorra, Ukraine, North Macedonia, San Marino, Montenegro, Turkey, Serbia, Bosnia-Herzegovina, Albania, Moldavia, Armenia, Azerbaijan, Bulgaria. They would receive a grade of D, F or F minus.

## EXAMPLES OF MEDIOCRE PRACTICE (GRADE C):



*Countries that have significantly expanded their criminal statute of limitations in sex crimes against children but fall short of complete abolition. Many victims have at least until they reach age 40 to press charges (GRADE C):*

### SPAIN

In June 2021, Spain approved Organic Law 8/2021, for the comprehensive protection of children and adolescents against violence. Its sixth final provision, amendment ten, modified Organic Law 10/1995, of 23rd of November, the Spanish Criminal Code. This amendment modified article 132 paragraph 1 Esp.Crim.Cod. establishing that in the crimes of attempted homicide, of injuries of articles 149 and 150 Esp.Crim.Cod., in the crime of habitual mistreatment provided for in article 173.2 Esp.Crim.Cod., in crimes against freedom and sexual indemnity (Title VIII, Book II Esp.Crim.Cod.) and in crimes of trafficking in human beings (Title VII.bis, Book II Esp.Crim.Cod.), when the victim is a person under 18 years of age, the limitation period is suspended until the victim is 35 years of age, and if he/she dies before reaching that age, from the date of death. According to art 131.1 Esp.Crim.Cod. the limitation period to initiate criminal proceedings depends on the severity of the crime, with a minimum of 5 years and a maximum of 20 years. This criminal norm means that the limitation period in sex crimes against children shall not run out at least until the victim reaches age 40 but that even in the most serious cases it's not possible to initiate criminal proceedings after a victim reaches age 55.

### GERMANY

Section 78b of the German Criminal Code establishes that the limitation period is suspended until the victim of an offence under sections 174 to 174c, 176 to 178, section 180(3), sections 182, 225, 226(a) and 237 has reached the age of 30. According to section 78 (3) where prosecution is subject to the statute of limitations, the limitation period to initiate criminal proceedings depends on the severity of the crime, with a minimum of 3 years and a maximum of 30 years. This criminal norm means that the limitation period in sex crimes against children shall not become time barred at least until the victim reaches age 35 but that even in the most serious cases (i.e., section 176.b sexual abuse of children resulting in death) it's not possible to initiate criminal proceedings after a victim reaches age 60. However, in most sex crimes the actual limitation period has run out by the time the victim has reached age 50.

### FRANCE

The criminal statute of limitations in sex crimes against children has been modified multiple times in the last few years by Laws no 2021-478, no 2018-703 and no 2017-242. Article 7.III of the French Procedural Code establishes that the limitation period to initiate criminal proceedings regarding the crimes specified in art 706-47 of that same code (Book IV, Title XIX, special procedure applicable to offences of a sexual nature and the protection victims who are minors) when they are committed against minors is of 30 years from the age of majority of the victim. Art 8.II of the French Procedural Code establishes that for offences mentioned in Art 706-47 of the same code, when they are committed against minors, apart from those mentioned in art 222-29-1 and 227-26 of the French penal Code, the limitation period is ten years from the age of majority of the victim. Art 8.III of the French Procedural Code establishes that for the offences mentioned in articles 222-12, 222-29-1 and 227-26 of the French criminal code, when they are committed against minors, the limitation period is 20 years from the age of majority of the child. This criminal norm means that the limitation period in sex crimes against children

shall not become time barred at least until the victim reaches age 28, although most victims have at least until they reach age 38 to press charges. However, even in the most serious cases, it's not possible to initiate criminal proceedings after a victim reaches age 48. Article 7.III (in fine) and 8.IV establishes that when a child sex abuser commits a new sexual crime against a child, when the limitation period for the older offence has still not run out, the initial crime limitation period is interrupted. Therefore, the statute of limitations for the first offence will not become time barred until the end of the limitation period of the second crime. The goal is to ensure that when a perpetrator abuses multiple children over a long period of time, he can be prosecuted for all his crimes and not only for the most recent ones where the statute of limitations has not expired as has happened historically.

## ITALY

Article 157.I of the Italian Criminal Code establishes that the limitation period for a criminal offense equals the maximum penalty established by the law for that offence. There's a minimum limitation period of six years for felonies and four years for a misdemeanour. In October 2012 Italy amended art 157.VI of the Italian Criminal Code establishing that for criminal offences included in Book II (specific crimes), Title XII (crimes against Person) Chapter III (crimes against individual freedom), section Ia (crimes against individual personality which include slavery/servitude (art 600 Ita.Crim.Cod), child prostitution (art 600-bis Ita.Crim.Cod), child pornography (art 600-ter Ita.Crim.Cod.), sexual tourism (art 600-quinquies Ita.Crim.Cod.), human trafficking (art 601 Ita.Crim.Cod.), harvesting of organs (art 601-bis Ita.Crim.Cod.), commerce of slaves (art 602 Ita.Crim.Cod.); as well as the offences described in art 572 (mistreatment of family and cohabitants), 609-bis (sexual violence), 609-quarter (statutory child abuse), 609-quinquies (corruption of minors) and 609-octies (group sexual violence) Ita.Crim.Cod. the limitation period is doubled.

In August 2017, Italy amended art 158 of the Italian Criminal Code adding paragraph III. The amended article established that in certain violent crimes committed against children and described in art 392, paragraph 1-bis of the Italian Criminal Procedural Code (which applies to articles 572, 600, 600-bis, 600-ter, 600-quarter, 600-quinquies, 601, 602, 609-bis, 609-quarter, 609-quinquies, 609-octies, 609-undecies and 612 bis of the Italian Criminal Code) the statute of limitations is suspended until the victim reaches the age of majority. This criminal norm means that in sex crimes against children there's a minimum limitation period of 10 years and a maximum limitation one of 28 years. Therefore the criminal statute of limitations shall not run out at least until the victim reaches age 28. However even in the most serious child sex abuse offences it's not possible to initiate criminal proceedings after a victim reaches age 46.

## LATVIA

In January 2018, Latvia amended its criminal statute of limitations for sex crimes against children adding paragraph (1) and modifying paragraph (2) of article 56 of the Latvian Criminal Code. The limitation period in criminal offences directed against the morality and sexual integrity of the victim (chapter XVI Lva.Crim.Cod.), serious bodily injury caused by mutilation of genitals or loss of reproductive capacity (art 125 Lva.Crim.Cod.), human trafficking (art 154 Lva.Crim.Cod.) or coercion to commit abortion (art 136 Lva.Crim.Cod) when the victim is a child under eighteen is suspended until the victim reaches the age of majority. It establishes a specific maximum limitation period for these crimes of 20 years unless they are punished by a sentence of life imprisonment. According to article 56 (4) Lva.Crim.Cod. when prosecuting this very serious crime the question of whether to apply the limitation period shall be decided by the court if from the date when the victim of a crime against the morality and sexual integrity of a minor has reached the age of majority, 30 years have passed. This criminal norm means that the limitation period for most sex crimes against children shall not run out at least until the victim reaches age 38 but that even in the most serious cases it's quite challenging to initiate criminal proceedings after a victim reaches age 48 as it depends on the discretion of the court. According to art 56 (3) the limitation period is interrupted if the person who committed a criminal offense commits a new criminal offence before the limitation period of the original one has run out. In this case the limitation period, which is intended for the most serious of the committed criminal offenses, starts counting from the moment of committing the new criminal offense. This provision facilitates prosecuting serial child abusers who abuse multiple victims during a prolonged period.

## SLOVENIA

According to article 90(3) of the Slovenian Criminal Code, the limitation period in criminal offences against sexual inviolability (Chapter XIX – art 170 to 176 Slo.crim.Cod.) and criminal offences against marriage, family or youth (Chapter XXI – art 188 to art 195 Slo.Crim.Cod.) committed against a minor shall be suspended until the injured party reaches the age of majority. According to article 90(1) of the Slovenian Criminal Code, the limitation period to initiate criminal proceedings depends on the severity of the crime, with a minimum of 6 years and a maximum of 50 years. However, in sex crimes against children, based on the severity of the sentences imposed for these offences, the minimum limitation period is 10 years and the maximum one is 30 years. This criminal norm means that the limitation period in sex crimes against children shall not run out at least until the victim reaches age 28 but that even in the most serious cases it's not possible to initiate criminal proceedings after a victim reaches age 48.

## LIECHTENSTEIN

Article 58.3.3 of the Liechtenstein Criminal Code establishes that when a victim of an offence against life and limb, against liberty, against sexual determination or another sexual offence is a minor when the act was committed, the limitation period is suspended until the victim has reached the age of 28 years. According to article 57.3 Lie. Crim.Cod. the limitation period depends on the severity of the penalty for the child sexual abuse offence. The minimum limitation period is five years. There is an intermediate limitation period of ten years and the maximum limitation period is twenty years. Therefore, in many CSA offences the limitation period does not run out before the victim reaches age 38. In the most severe CSA offences, it runs out when the victim reaches age 48. In less severe CSA offences the limitation period runs out when the victim reaches age 33.

## MONACO

In 2021, Monaco lawmakers passed Law 1517. It amended art. 13 of the Monegasque Criminal Procedure Code. It established that the limitation period for less serious child sex abuse offences (delits) punished by articles 261 (child sex abuse), 263 (sexual assault) and 264 (aggravated sexual assault) runs out after twenty years of the victim's age of majority. In 2013, Monaco lawmakers passed Law 1401. It amended Article 12 of the Monegasque Criminal Procedure Code establishing that for the more serious child sex abuse offences (crimes) such as rape the limitation period runs out after thirty years of the victim's age of majority. Therefore, in most child sex abuse cases the limitation period does not run out before the victim reaches age 38. In the most severe cases the limitation period runs out when the victim reaches age 48.

## EXAMPLES OF POOR PRACTICE (GRADE D, F OR F MINUS):



*Countries that have suspended the statute of limitations in sex crimes against children at least until the victim reaches the age of majority (GRADE D):*

## LUXEMBOURG

According to Article 637 (2) of the Luxembourg Criminal Procedure Code the limitation period for public action for the crimes referred in art 348, 372 to 377, 382-1, 409bis, paragraphs 3 to 5 and 442-bis, of the Luxembourg Criminal Code committed against minors only begin to run from the age of majority of the victim or from their death if it is prior to their age of majority. According to Article 637(1) of the Luxembourg Criminal Procedure Code public action resulting from a crime shall become time-barred after ten years from the day on which the crime was committed, if during this interval no act of investigation or prosecution has been carried out. The maximum limitation period for a sex crime against children is therefore 10 years which starts running when the victim reaches the age of majority. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 28 years. In 2022 the government approved draft bill 7949 which would abolish the criminal statute of limitations for the most severe crimes against children.

## ESTONIA

In 2017 Estonia modified article 81.7.3 of the Estonian Criminal Code. It established that in the crimes of forced marriage, female genital mutilation, illegal termination of pregnancy and crimes against sexual self-determination when the victim is a person younger than eighteen years of age, the criminal statute of limitations is suspended until the victim turns eighteen years old if criminal proceedings had not been initiated before that date. Article 81.1 of the Estonian Criminal Code establishes that the criminal statute of limitations for a crime in the first degree is ten years and five years in the case of a crime in the second degree. The maximum limitation period for a sex crime against children is therefore 10 years which starts running when the victim reaches the age of majority. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 28 years.

## GREECE

In 2019 the new Greek Criminal Code entered into force (Law 4619/2019). In article 113.4 it establishes that the statute of limitations for crimes committed against minors starts from the time the victim reaches the age of majority. Regarding the crimes established by articles 323A, 324 and Chapter 19 of the Special Part of the Greek Criminal Code, when they are committed against a minor, the statute of limitations begins one year after the victim reaches the age of majority, if it's a misdemeanour, and three years after reaching the age of majority if it's a felony. Article 111 of the Greek Criminal Code establishes a limitation period that depends on the maximum penalty of the custodial sentence, with a maximum of twenty years for felonies punished by life imprisonment and fifteen years for other felonies. The maximum limitation period for a sex crime against children is therefore 15 years which starts running when the victim attains age 21 years. This criminal rule means it's not possible to prosecute child sex abuse cases after a victim has turned 36 years.

## MALTA

In 2021 Malta amended Article 208-B (6) of Malta's Criminal Code establishing that regarding offences established by art 198, 203 to 204D, art 208A(1)(1A)(1B), 208AA and 208AB the statute of limitations shall run from the day on which the victim attains the age of 23 years. Article 688 of Malta's Criminal Code establishes a limitation period depending on the maximum penalty of the custodial sentence, with a minimum limitation period of two years and a maximum of twenty years. The maximum limitation period for a sex crime against children is therefore 15 years which starts running when the victim attains age 23 years. That means it's not possible to prosecute child sex abuse cases after a victim has turned 38 years.

## CZECH REPUBLIC

According to Section 34 (3) of the Czech's Criminal Code if a person under eighteen years suffers any of the criminal offences referred to in Chapter III of the Special Part of the Criminal Code (criminal offences against human dignity in the sexual sphere) or the crimes of grievous bodily harm consisting of female genital mutilation or sterilization (section 145 Czh.Crim.Cod); illegal termination of a pregnancy without the consent of the pregnant woman (section 159 Czh.Crim.Cod); human trafficking (section 168 Czh.crim.Cod); abduction (section 172 Czh.crim.Cod) or extortion (section 175 Czh.crim.Cod) or oppression (section 177 Czh.crim.Cod) completed with the intent to force another person to marry or to undergo an intervention consisting in mutilation of the genitals the criminal statute of limitations is suspended until the victim reaches the age of majority. Section 34 (1) of the Czech Criminal Code establishes a limitation period that depends on the severity of the offence. The minimum limitation period is three years and the maximum is twenty years. However, the longest limitation period for a child sex crime is fifteen years which is suspended until the victim reaches the age of majority. Therefore, no child sex abuse case can be prosecuted after the victim turns thirty-three years.

## ANDORRA

In February 2005, Law 9/2005, the new Andorran Criminal Code (And.Crim.Cod), entered into force. In its article 82 it established that in crimes against sexual freedom (art 144 to 161, Title VII, Book II And.CP), when the victim is a minor, the limitation period is suspended until the victim reaches the age of majority. According to article 81 And.Crim.Cod. the limitation period depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is four years. There is an intermediate limitation period of ten years and the maximum limitation period is 30 years. Although in the most serious child sexual offences the victim can report up to the age of 48, in most cases the limitation period has run out by the time the victim turns 28 years.

## UKRAINE

Article 49.6 of the Ukrainian criminal code establishes that in criminal offences punished by articles 151.2 (forced marriage), art 152 - 156.1 (Crimes against sexual freedom and sexual inviolability of a person, 301.1 -303 (production of CSA material, commercial child sex exploitation) of the Ukrainian Criminal Code, when the victim is a child, the limitation period is suspended until the victim reaches the age of majority. According to article 49.1 Ukr.Crim.Cod. the limitation period depends on the severity of the penalty for the CSA offence. The minimum limitation period is three years. There is an intermediate limitation period of seven years and fifteen years and the maximum limitation period is 20 years. Therefore, in all child sexual abuse offences the limitation period runs out before the victim reaches age 38.

## NORTH MACEDONIA

Article 108.1 of the Macedonian criminal code establishes that when a crime is committed against a child, the limitation period is suspended until the victim reaches the age of majority. According to article 107 Mac.Crim.Cod. the limitation period depends on the severity of the penalty for the child sexual abuse offence. The minimum limitation period is two years. There is an intermediate limitation period of three, five, ten and the maximum limitation period is twenty years. Therefore, in all child sexual abuse offences the limitation period runs out before the victim reaches age 38.

## SAN MARINO

In 2016, San Marino lawmakers passed Law no 57 (Rules adjusting San Marino Legal System to the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence – Istanbul Convention). It amended article 178 of the San Marino Criminal Code. In the event that a child is the victim of a criminal offence, the statute of limitations is suspended until the victim reaches the age of majority. According to article 54 of the San Marino Criminal Code the limitation period depends on the severity of the penalty for the violent offence. The minimum limitation period is one year. There is an intermediate limitation period of two, three, five, eight and fifteen years and the maximum limitation period is twenty years. Therefore, in all violent offences against children the limitation period runs out before the victim reaches age 38.

## MONTENEGRO

Article 125.3 of the Montenegro Criminal Code establishes that the statute of limitations for an offence committed against a child under 18 years old shall not run until the victim reaches the age of majority. According to article 124 Mon.Crim.Cod. the limitation period depends on the severity of the penalty for the violent offence. The minimum limitation period is three years. There is an intermediate limitation period of five, ten and fifteen years and the maximum limitation period is twenty years. Therefore, in all violent offences against children the limitation period runs out before the victim reaches age 38.

## TURKIYE

Article 66.6 of the Turkish Criminal Code establishes that the statute of limitations for an offence committed against a child under 18 years old by their direct ascendant or person who have influence upon them, shall begin on the day when the child turns eighteen years of age. According to article 66.1 Tur.Crim.Cod. the limitation period depends on the severity of the penalty for the violent offence. The minimum limitation period is eight years. There is an intermediate limitation period of fifteen years and the maximum limitation period is twenty years. Therefore, in all violent offences against children the limitation period runs out before the victim reaches age 38.



*Countries that have not suspended the statute of limitations in sex crimes against children at least until the victim reaches the age of majority but have established a minimum age before which the limitation period cannot run out (GRADE F):*

## PORTUGAL

In September 2007 Portugal approved Law no 59/2007 (23rd modification to the criminal Code). It amended article 118 of the Portuguese Criminal code adding paragraph fifth. It established that in crimes against sexual freedom and self-determination of minors when the victim is a minor, the criminal procedure cannot end, due to the criminal statute of limitations having run out, at least until the offended party reaches the age of 23. Portugal is one of the few EU countries that has not suspended the criminal statute of limitations in child sex abuse cases until the victim reaches the age of majority. This criminal rule means most sex crimes against children can't be prosecuted after victim has reached age 30.

## LITHUANIA

Article 95.3 of the Lithuanian Criminal Code establishes that if a minor is the victim of the criminal acts described in Chapters XVIII (crimes against human health), XX (crimes against human liberty), XXI (crimes and misdemeanours against a person's sexual self-determination and inviolability), XXIII (crimes and misdemeanours against the child and the family) and XLIV (crimes and misdemeanours against morality) of the Criminal Code the statute of limitations can't run out before the person reaches the age of twenty five years old. Article 95.1 of the Lithuanian Criminal Code establishes that the limitation period depends on the severity of the crime. Regarding crimes against children there's a minimum limitation period of three years and a maximum limitation period of twenty-five years. There's no rule suspending the criminal statute of limitations until the victim reaches the age of majority. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 43 years (if at the time the crime was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of twenty-five years). However, in the majority of crimes the limitation period has run out before the victim reaches age 40.

## FINLAND

In 2011 Finland approved act 540/2011, which was later amended by act 486/2019 and 723/2022. It amended chapter 8 section one (5) of the Finish Criminal Code establishing that the right to bring charges for child rape, aggravated child rape, sexual abuse of a child and aggravated sexual abuse of a child becomes time-barred at the earliest when the complainant reaches the age of twenty-eight years. The same rule applies to rape, aggravated rape, coercion into sexual intercourse, coercion into a sexual act, sexual abuse, pandering, aggravated pandering, trafficking in persons and aggravated trafficking person, directed at a person below the age of eighteen years. In the case of enticement of a child for sexual purposes referred to in Chapter 20, section 8(b) Fin.Crim.Cod., the right to bring charges becomes time-barred when the person who was the object of the offence reaches the age of twenty-three years. According to chapter 8 section one (2) the limitation period depends on the severity of the crime, with a minimum of two years and a maximum of 20 years. There's no provision to suspend the statute of limitations in sex crimes against children until they reach the age of majority. This criminal rule means it's not possible to prosecute any child sex abuse cases after a victim has turned 38 years. (if at the time the crime was committed the victim was seventeen and the crime that he/she suffered had a limitation period of twenty years).

## SLOVAKIA

Section 87 (5) establishes that criminal prosecution when a child is a victim of the criminal offense of unauthorized removal of organs, tissues and cells an illegal sterilization (Section 159 Slo.Crim.Cod); of human trafficking (section 179 Slo.Crim.Cod.); rape (section 199 Slo.Crim.Cod.); sexual violence (section 200 Slo.Crim.Cod.); sexual abuse (sections 201 to 202 Slo.Crim.Cod.); abuse by a close and trusted person (section 208 Slo.Crim.Cod.); production of child sex abuse material (section 368 Slo.Crim.Cod.) shall not be time-barred no earlier than fifteen years after the victim has reached the age of majority. Thus, for these crimes the statute of limitations will not run out at least until the victim reaches age 33. According to section 87(1) Slo.Crim.Cod. the limitation period depends on the severity of the crime, with a minimum of 3 years and a maximum of 30 years. However, the maximum limitation period for a sex crime against children is 20 years. There's no provision to suspend the statute of limitations in sex crimes against children until they reach the age of majority. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).



*Countries that have neither suspended the statute of limitations in sex crimes against children at least until the victim reaches the age of majority nor have established a minimum age before which the limitation period cannot run out (GRADE F minus):*

### SERBIA

Article 104(1) of the Serbian Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 103 Srb.Crim. Cod. the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is three years. There is an intermediate limitation period of five, ten and fifteen years and the maximum limitation period is twenty years. This criminal rule means that it is not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).

### BOSNIA HERZEGOVINA

Article 15(1) of the Bosnian Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 14(1) of the Bosnian Criminal Code the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is five years. There is an intermediate limitation period of ten and fifteen years and the maximum limitation period is twenty years. This criminal rule means that it is not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).

### ALBANIA

Article 66 of the Albanian Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 61.1 Alb.Crim.Cod. the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is three years. There is an intermediate limitation period of five and ten years and the maximum limitation period is twenty years. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).

### BULGARIA

Bulgaria is the only country in the European Union that has not made any attempt whatsoever to comply with article 15.2 of the EU Directive 2011/92/EU. It has not suspended the criminal statute of limitations until a victim reaches the age of majority in sex crimes against children. It has not established a minimum age before which claims of child sex abuse cannot become time barred either. According to article 80 (1) of the Bulgarian Criminal Code the limitation period or a crime depends on its severity, with a minimum of 3 years and a maximum of 30 years. However, the maximum limitation period for a sex crime against a child is 15 years. Article 80 (3) Bgr.Crim. Cod. establishes that the statute of limitations for prosecution starts from the completion of the crime, in the case of attempt and preparation, from the day the last act was committed, and for crimes that last continuously, from their termination. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 33 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 15 years).

### MOLDOVA

Article 60 of the Moldovan Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 61.1 Mol.Crim.Cod. the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is two years. There is an intermediate limitation period of five and fifteen years and the maximum limitation period is twenty years. This criminal rule means that it is not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).

### ARMENIA

Article 75 of the Armenian Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 75.1 Arm.Crim.Cod. the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is two years. There is an intermediate limitation period of five and ten years and the maximum limitation period is fifteen years. This criminal rule means that it is not possible to prosecute child sex abuse cases after a victim has turned 33 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 15 years).

### AZERBAIJAN

Article 75.2 of the Azerbaijan Criminal Code regulates criminal statute of limitations. It establishes that the limitation period starts counting from the time the crime is committed. It does not include a rule that suspends the limitation period until the age of majority of the victim in CSA offences. According to article 75.1 Aze.Crim.Cod. the limitation depends on the severity of the penalty for the child sex abuse offence. The minimum limitation period is two years. There is an intermediate limitation period of seven and twelve years and the maximum limitation period is twenty years. This criminal rule means that it's not possible to prosecute child sex abuse cases after a victim has turned 38 years (if at the time the crimes was committed the victim was seventeen years old and the crime that he/she suffered had a limitation period of 20 years).

On the middle of the spectrum, there's a third group comprised by Council of Europe state members that have introduced legal reforms that significantly expand their criminal statute of limitations laws for child sex abuse crimes but that fall short on complete abolition. In these countries many victims of child sex abuse have at least until they reach age 40 to press charges. These eight countries are Spain, France, Germany, Italy, Latvia, Slovenia, Liechtenstein and Monaco.

46 COUNCIL OF EUROPE MEMBER STATES REPORT CARD: <sup>11</sup>



**GRADE A:** NO CRIMINAL SOL FOR ALL/ MOST CHILD SEX OFFENCES. SIX COUNCIL OF EUROPE MEMBER STATES: UNITED KINGDOM, IRELAND, CYPRUS, DENMARK, BELGIUM, GEORGIA

COUNTRY	CURRENT CRIMINAL STATUTE OF LIMITATIONS LAW
UNITED KINGDOM	NO CRIMINAL SOL FOR INDICTABLE OFFENCES INCLUDING ALL SEX CRIMES AGAINST CHILDREN
IRELAND	NO CRIMINAL SOL FOR INDICTABLE OFFENCES INCLUDING ALL SEX CRIMES AGAINST CHILDREN
CYPRUS	NO CRIMINAL SOL FOR INDICTABLE OFFENCES INCLUDING ALL SEX CRIMES AGAINST CHILDREN
DENMARK	NO CRIMINAL SOL FOR MOST CHILD SEX ABUSE OFFENCES. SOME OFFENCES LIKE DISTRITUBTION, POSESSION OF CHILD SEX ABUSE MATERIAL; SELLING PORNOGRAPHY TO A CHILD; SEXUAL EXHIBITIONISM IN FRONT OF A CHILD HAVE A LIMITATION PERIOD.
BELGIUM	NO CRIMINAL SOL FOR MOST CHILD SEX ABUSE OFFENCES, FEMALE GENITAL MUTILATION AND CHILD TRAFICKING WITH THE INTENT TO COMMIT COMMERCIAL SEXUAL EXPLOITATION. SOME OFFENCES LIKE POSSESSION OF CHILD SEX ABUSE MATERIAL OR EXHIBITIONISM IN FRONT OF A CHILD HAVE A LIMITATION PERIOD.
GEORGIA	NO CRIMINAL SOL FOR MOST CHILD SEX ABUSE OFFENCES, CHILD COMMERCIAL SEX EXPLOITATION, PRODUCTION OF CHILD SEX ABUSE MATERIAL AND ONLINE GROOMING. IT DID NOT ABOLISH CRIMINAL SOL FOR CHILD TRAFFICKING (SUSPENSION OF SOL UNTIL AGE OF MAJORITY)

<sup>11</sup> This research highlights the initial findings of a comprehensive investigation into current criminal statute of limitations (SOL) legislation in Council of Europe member states by Child Global and the Brave Movement. The analysis provides a reliable overview of relevant national legislation in Europe and the progress being made. This research project is supported by the Cyrus Vance Centre for International Justice which provides pro bono legal representation to human rights bodies.

More in-depth analysis is forthcoming which will include information reviewed and expanded by lawyers affiliated with the Cyrus Vance Centre from the country of origin for each of the 46 member states of the Council of Europe. Upcoming analysis will include the individual limitation period for the most serious sexual crimes against children for each country (i.e., sexual abuse, production and distribution of CSAM, commercial child sex exploitation, child trafficking), not just generic SOL information.



**GRADE B:** NO CRIMINAL SOL FOR SOME CRIMES. TEN COUNCIL OF EUROPE MEMBER STATES: NETHERLANDS, SWEDEN, CROATIA, HUNGARY, AUSTRIA, RUMANIA, POLAND, SWITZERLAND, NORWAY, ICELAND.

COUNTRY	CHILD SEX OFFENCES CRIMES WITHOUT SOL	CHILD SEX ABUSE OFFENCES WITH SOL				
		CRIMINAL SOL SUSPENSION	MINIMUM SOL	INTERMEDIATE SOL		MAXIMUM SOL
<b>NETHERLANDS</b>	All crimes against children punished by imprisonment of twelve years or more.  Child sex abuse offences punishable by a term of imprisonment not exceeding 8 years.	Until victim reaches age 18.	6 years. Until victim reaches age 24	No intermediate SOL.		12 years. Until victim reaches age 30.
<b>SWEDEN</b>	Rape or aggravated rape of a child over fifteen using violence/ intimidation or exploiting dependent relationship. Rape or aggravated statutory rape of child under fifteen.	Until victim reaches age 18.	5 years. Until victim reaches age 23.	10 years. Until victim reaches age 28.		15 years. Until victim reaches age 33.
<b>CROATIA</b>	Serious criminal offenses of sexual abuse and exploitation of a child (i.e., sexual abuse that causes serious bodily injury; causes pregnancy, committed against very vulnerable victim; committed by multiple perpetrators or family member)	Until victim reaches age 18.	10 years. Until victim reaches age 28.	15 years. Until victim reaches age 33.	20 years. Until victim reaches age 38.	25 years. Until victim reaches age 43.
<b>AUSTRIA</b>	Child sex abuse offences punishable by life imprisonment. Aggravated child sex abuse offences (i.e., causing death of child, grievous bodily harm, pregnancy).	Until victim reaches age 28.	5 years. Until victim reaches age 33.	10 years. Until victim reaches age 38.		20 years. Until victim reaches age 48.
<b>HUNGARY</b>	Chapter XIX (sexual freedom and sexual offences) against a child punishable by more than 5 years imprisonment)	Until victim reaches age 21.	5 years. Until victim reaches age 26.			
<b>ROMANIA</b>	Many child trafficking and sexual exploitation of vulnerable persons and crimes against freedom and integrity when the victim is a minor.	Until victim reaches age 18.	3 years. Until victim reaches age 21.	5 years. Until victim reaches age 23.		8 years. Until victim reaches age 26.

VIII. APPENDIX A: AN EXTENDED COUNTRY-BY-COUNTRY SUMMARY OF THE MEMBER STATES CSA SOLS

COUNTRY	CHILD SEX OFFENCES CRIMES WITHOUT SOL	CHILD SEX ABUSE OFFENCES WITH SOL			
		CRIMINAL SOL SUSPENSION	MINIMUM SOL	INTERMEDIATE SOL	MAXIMUM SOL
<b>POLAND</b>	Many child sex abuse offences such as aggravated rape or rape of a child under 15yo.	No suspension until victim reaches age 18.	SOL cannot run out before victim reaches age 40 years old in child sex abuse and production of child sex abuse material offences and in serious crimes against life and limb.		
<b>SWITZERLAND</b>	Many child sex abuse offences such as sexual acts against children, indecent assault, rape, sexual acts with people unable to give consent and sexual acts with victim who is in an institutional setting.	No suspension until victim reaches age 18.	SOL cannot run out before victim reaches age 25 years old. Depending on the severity of offence, limitation period of 7, 10 and 15 years. Even when applying maximum limitation period and victim is 17 years the criminal offence limitation period will run out after victim reaches age 33.		
<b>ICELAND</b>	Many CSA offences such as rape, sexual intercourse with own child or sexual contact child under 15 years.	Until victim reaches age 18.	2 years. Until victim reaches age 19.	5 years. Until victim reaches age 23.  10 years. Until victim reaches age 28.	15 years. Until victim reaches age 33.
<b>NORWAY</b>	Many CSA offences such as sexual assault, sexual abuse of a child under 14 years and sexual abuse of a child between 14 and 16 years.	Until victim reaches age 18.	3 years. Until victim reaches age 21.	5 years. Until victim reaches age 23.  10 years. Until victim reaches age 28.	15 years. Until victim reaches age 23.



**GRADE C:** CRIMINAL SOL FOR ALL/MOST/MANY CRIMES AT LEAST UNTIL VICTIM REACHES AGE 40. EIGHT COUNTRIES: SPAIN, GERMANY, ITALY, FRANCE, LATVIA, SLOVENIA, LIECHTENSTEIN, MONACO.

COUNTRY	CRIMINAL SOL SUSPENSION	MINIMUM CRIMINAL SOL	INTERMEDIATE CRIMINAL SOL				MAXIMUM CRIMINAL SOL
<b>SPAIN</b>	Until victim reaches age 35.	5 years. Until victim reaches age 40.	10 years. Until victim reaches age 45.		15 years. Until victim reaches age 50.		20 years. Until victim reaches age 55.
<b>GERMANY</b>	Until victim reaches age 30.	3 years. Until victim reaches age 33.	5 years. Until victim reaches age 35.	10 years. Until victim reaches age 40.		20 years. Until victim reaches age 50.	60. Crimes punished by life in prison (i.e., causing death of child).
<b>ITALY</b>	Until victim reaches age 18.	6 years. Until victim reaches 24.	8 years. Until victim reaches 26.	10 years. Until victim reaches 28.	12 years. Until victim reaches 30.	24 years. Until victim reaches 42.	28 years. Until victim reaches age 46.
<b>FRANCE</b>	Until victim reaches age 18.	10 years. Until victim reaches age 28.	20 years. Until victim reaches age 38.				30 years. Until victim reaches age 48.
<b>LATVIA</b>	Until victim reaches age 18.	20 years. Until victim reaches age 38.	30 years. Until victim reaches age 48. Crimes punished by life in prison.				More than 30 years. Crimes punished by life in prison. Depends on judicial discretion.
<b>SLOVENIA</b>	Until victim reaches age 18.	10 years. Until victim reaches age 28.	20 years. Until victim reaches age 38.				30 years. Until victim reaches age 48.
<b>LIECHTENSTEIN</b>	Until victim reaches age 28.	5 years. Until victim reaches age 33.	10 years. Until victim reaches age 38.				20 years. Until victim reaches age 48.
<b>MONACO</b>	Until victim reaches age 18.	20 years. Until victim reaches age 38	No intermediate limitation period				30 years. Until victim reaches age 48



**GRADE D:** CRIMINAL SOL SUSPENDED UNTIL VICTIM REACHES AGE OF MAJORITY ( IN SOME CASES UP TO AGE 21 OR 23). CRIMINAL SOL FOR ALL OR MOST CRIMES RUNS OUT BEFORE VICTIM REACHES AGE 40. ELEVEN COUNCIL OF EUROPE MEMBER STATES: GREECE, MALTA, ESTONIA, LUXEMBOURG, CZECH REPUBLIC, MONTENEGRO, UKRAINE, NORTH MACEDONIA, TURKIYE, SAN MARINO AND ANDORRA.

COUNTRY	CRIMINAL SOL SUSPENSION	MINIMUM CRIMINAL SOL	INTERMEDIATE CRIMINAL SOL			MAXIMUM CRIMINAL SOL
<b>MALTA</b>	Until victim reaches age 23.	2 years. Victim age 25.	5 years. Victim age 28.	10 years. Victim age 33	15 years. Victim age 38.	
<b>GREECE</b>	Felony: Until victim reaches age 21. Misdemeanour: Until victim reaches age 19.	5 years (misdemeanour) Victim age 24.	No intermediate criminal SOL.			15 years (felony). Victim age 36
<b>ESTONIA</b>	Until victim reaches age 18.	5 years. Victim age 23.	No intermediate criminal SOL.			10 years. Victim age 28.
<b>LUXEMBOURG</b>	Until victim reaches age 18.	10 years. Minimum and maximum criminal SOL is the same. Victim age 28.				
<b>CZECH REPUBLIC</b>	Until victim reaches age 18	3 years. Victim age 21.	5 years. Victim age 23.	10 years. Victim age 28.	15 years. Victim age 33.	
<b>MONTENEGRO</b>	Until victim reaches age 18	3 years. Victim age 21.	5 years. Victim age 23.	10 years. Victim age 28.	15 years. Victim age 28	20 years. Victim age 38.

VIII. APPENDIX A: AN EXTENDED COUNTRY-BY-COUNTRY SUMMARY OF THE MEMBER STATES CSA SOLS

COUNTRY	CRIMINAL SOL SUSPENSION	MINIMUM CRIMINAL SOL	INTERMEDIATE CRIMINAL SOL					MAXIMUM CRIMINAL SOL
<b>UKRAINE</b>	Until victim reaches age 18.	3 years. Victim age 21.	5 years. Victim age 25.		15 years. Victim age 28.			20 years. Victim age 38.
<b>NORTH MACEDONIA</b>	Until victim reaches age 18.	2 years. Victim age 21.	3 years. Victim age 21.	5 years. Victim age 23.		10 years. Victim age 28.		20 years. Victim age 38.
<b>TURKIYE</b>	Until victim reaches age 18.	8 years. Victim age 26.	15 years. Victim age 33.					20 years. Victim age 38.
<b>SAN MARINO</b>	Until victim reaches age 18.	1 year. Victim age 19.	2 years. Victim age 20.	3 years. Victim age 21.	5 years. Victim age 23.	8 years. Victim age 25.	15 years. Victim age 28.	20 years. Victim age 38.
<b>ANDORRA</b>	Until victim reaches age 18	4 years. Victim age 22	10 years. Victim age 28.					30 years. Victim age 48.



**GRADE F:** CRIMINAL SOL SINCE SEXUAL OFFENCE AGAINST CHILD WAS PERPETRATED. MINIMUM AGE BEFORE WHICH CRIMINAL SOL FOR SEX CRIMES CANNOT RUN OUT. FOUR COUNCIL OF EUROPE STATE MEMBERS: PORTUGAL, LITHUANIA, FINLAND, SLOVAKIA.

COUNTRY	CRIMINAL SOL SUSPENSION	MINIMUM AGE BEFORE CRIMINAL SOL IN CHILD SEX ABUSE OFFENCES CAN RUN OUT	INTERMEDIATE CRIMINAL SOL		MAXIMUM CRIMINAL SOL
<b>PORTUGAL</b>	SOL not suspended until age of majority for child sex abuse offences.	Victim age 23.	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).		15 years from commission of crime. Maximum possible criminal SOL age 33 (if victim is 17 years when crime is committed)
<b>LITHUANIA</b>	SOL not suspended until age of majority for child sex abuse offences.	Victim age 25.	12 years form commission of crime. Maximum possible criminal SOL age 30 (if victim is 17 years when crime is committed).	15 years from commission of crime. Maximum possible criminal SOL age 33 (if victim is 17 years when crime is committed).	25 years from commission of crime. Maximum possible criminal SOL age 43 (if victim is 17 years when crime is committed).
<b>FINLAND</b>	SOL not suspended until age of majority for child sex abuse offences.	Victim age 23. For some less misdemeanour sex abuse offences. Victim age 28. For most child sex abuse felony offences.	2 years from commission of crime (some misdemeanour). Maximum possible criminal SOL age 20 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	20 years from commission of crime. Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).
<b>SLOVAKIA</b>	SOL not suspended until age for majority for child sex abuse offences.	Victim age 33.	No intermediate criminal SOL.		20 years from commission of crime. Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).



**GRADE F MINUS: CRIMINAL SOL SINCE SEXUAL OFFENCE AGAINST CHILD WAS PERPETRATED. SEVEN EU MEMBER STATE: BULGARIA, SERBIA, BOSNIA-HERZEGOVINA, ALBANIA, MOLDOVA, ARMENIA, AZERBAIJAN.**

COUNTRY	MINIMUM CRIMINAL SOL	INTERMEDIATE CRIMINAL SOL			MAXIMUM CRIMINAL SOL
<b>BULGARIA</b>	3 years from commission of crime (some misdemeanour). Maximum possible criminal SOL age 21 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).	15 years from commission of crime. Maximum possible criminal SOL of age 33 (if victim is 17 years when crime is committed).	15 years from commission of crime. Maximum possible criminal SOL age 33 (if victim is 17 years when crime is committed).
<b>SERBIA</b>	3 years from commission of crime Maximum possible criminal SOL age 21 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed)	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).	15 years from commission of crime. Maximum possible criminal SOL age 33 (if victim is 17 years when crime is committed).	20 years from commission of crime Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).
<b>BOSNIA-HERZEGOVINA</b>	5 years from commission of crime (some lesser felonies) Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).	15 years from commission of crime. Maximum possible criminal SOL age 33 (if victim is 17 years when crime is committed).	20 years from commission of crime. Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).	
<b>ALBANIA</b>	3 years from commission of crime. Maximum possible criminal SOL age 21 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).	15 years from commission of crime. Maximum possible criminal SOL of age 33 (if victim is 17 years when crime is committed).	20 years from commission of crime. Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).
<b>MOLDOVA</b>	2 years from commission of crime. Maximum possible criminal SOL age 20 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	15 years from commission of crime. Maximum possible criminal SOL of age 33 (if victim is 17 years when the crime is committed).	20 years from commission of crime. Maximum possible criminal SOL age 38 (if victim is 17 years when crime is committed).	
<b>ARMENIA</b>	2 years from commission of crime. Maximum possible criminal SOL age 20 (if victim is 17 years when crime is committed).	5 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 23 (if victim is 17 years when crime is committed).	10 years from commission of crime. Maximum possible criminal SOL of age 28 (if victim is 17 years when the crime is committed).	15 years from commission of crime. Maximum possible criminal SOL of age 33 (if victim is 17 years when crime is committed).	
<b>AZERBAIJAN</b>	2 years from commission of crime. Maximum possible criminal SOL age 20 (if victim is 17 years when crime is committed).	7 years from commission of crime (some lesser felonies). Maximum possible criminal SOL age 25 (if victim is 17 years when crime is committed).	12 years from commission of crime. Maximum possible criminal SOL of age 30 (if victim is 17 years when the crime is committed).	20 years from commission of crime. Maximum possible criminal SOL of age 38 (if victim is 17 years when the crime is committed).	

# IX. APPENDIX B: RESEARCH ON IMPACT OF CHILD SEXUAL ABUSE

## RESEARCH ON THE LONG-TERM IMPACT OF CSA

### **NELSON ET AL. (2002)<sup>[1]</sup>**

In a sample of 1991 twins of both sexes in Australia, the authors found that having experienced childhood sexual abuse (CSA) was correlated with a higher rate of suicide attempts, mental problems (depression, alcohol abuse, drug abuse, eating disorders, behavioural disorders and personality disorders), history of re-victimization and relationship problems, including divorce. The authors controlled for potential confounders such as a history of family dysfunction or genetic inheritance.

### **MOLNAR ET AL. (2001)<sup>[2]</sup>**

In a representative sample of the North American population consisting of 5,877 adults, the authors found that a history of CSA was correlated with most mood, anxiety, and substance abuse disorders. CSA victims had twice the risk, compared to people without a history of CSA, of suffering from one or more mental disorders. Women who were raped as children were four times more likely to have made a suicide attempt compared to women who had no history of victimization. Men who had been raped as children were 11 times more likely to have attempted suicide compared to men who were not assaulted.

### **KENDLER ET AL. (2000)<sup>[3]</sup>**

In a population-representative sample of 1,411 women, who were twins, the authors found a significantly increased risk of depression, generalized anxiety disorder, alcohol and drug dependence among women who had a history of past childhood sexual abuse, even after controlling for potential confounders (parental mental illness, history of family dysfunction).

### **FERGUSON ET AL. (2013)<sup>[4]</sup>**

In a cohort study of a sample of 900 people in New Zealand who were followed prospectively from birth to their 30th birthday, the authors found that having experienced CSA was correlated with a higher risk of suffering from mental disorders (major depression, anxiety, post-traumatic stress disorder, behavioural disorders, suicidal ideation and attempts, alcohol and other drug dependence); lower levels of psychological well-being (lower self-esteem, lower life satisfaction); risky sexual activities (younger age at the time of initiating sexual relations, greater number of sexual partners); worse levels of health and lower socio-economic level (greater economic dependence on social services).

### **GILBERT ET AL. (2008)<sup>[5]</sup>**

The authors conducted a systematic review of the available high-quality scientific evidence. They found that sexually abused children as adults had higher rates of serious medical, psychological, social and occupational problems compared to children who had not been abused. There is a significant relationship between childhood sexual abuse and suicide attempts during adulthood. An increased risk of suffering from mental disorders (anxiety disorders, depression, alcohol and drug abuse, eating disorders and behavioural disorders) and physical diseases (obesity, cardiovascular diseases or cancer) has also been identified. Minors who have been victims of child sex abuse have a higher risk of being re-victimized and suffering mistreatment or new sexual assaults during adulthood. Their risk of having problems in the area of affective and sexual relationships is also increased, including divorce, teenage pregnancy, sexually transmitted diseases, or prostitution. Their educational and work adjustment runs the risk of being harmed, reaching less academic and professional development, which negatively affects their purchasing power as adults. The risk of developing aggressive and criminal behaviour in adolescence and adulthood is also increased, as well as the probability of incarceration compared to non-abused minors.

## RESEARCH ON THE ECONOMIC IMPACT OF CSA:

### NATIONAL SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN (2014)<sup>[6]</sup>

The costs of childhood trauma place a heavy burden on the treasury and family finances of the survivors. The organization NSPCC (National Society for the Prevention of Cruelty to Children) calculated that the annual cost of sexual CSA in the United Kingdom was 3.2 billion pounds (3.567 million euros). The cost in lost productivity, due to the inability of victims to reach their educational potential or the difficulty of maintaining a stable job due to physical and/or mental health problems in adulthood, was £2.7 billion (3.010 million of euros). The cost to the state due to increased use of health services, social services or the criminal justice system was 424 million pounds (472 million euros). The study did not calculate the cost to the state due to a decrease in income, the result of a lower payment of taxes and/or social contributions by adult survivors due to their lower level of economic income in adulthood.

### WORLD HEALTH ORGANIZATION (2020)<sup>[7]</sup>

The World Health Organization funded a systematic review and meta-analysis that attempted to measure both the health consequences throughout adult life, as well as the associated economic cost, of having suffered one or multiple adverse experiences in childhood (the ACEs include not only childhood sexual or physical abuse, but also other profoundly stressful experiences during childhood such as parental mental illness or substance abuse or a history of gender-based violence in the family). The study estimated that the annual cost attributable to ACEs was \$581 billion in Europe and \$748 billion in the United States. More than 75% of the costs were caused by adults who had suffered two or more ACEs. They calculated that a 10% reduction in the prevalence of ACEs would save \$105 billion and a reduction of \$3 million disability-adjusted life years (DALYs).[8] Fortunately, there are public programs to prevent ACEs and moderate their negative effects. The authors argued that redirecting the public budget to ensure safe and caring childhoods would be financially beneficial and would reduce pressure on health systems. The legislator must consider that extending the statute of limitations in sexual crimes against minors is not only a preventive program, but unlike other socio-health and educational programs, it has a minimal cost.

## RESEARCH ON DELAYED DISCLOSURE OF CHILD SEXUAL ABUSE

### RUSSELL (1986)<sup>[9]</sup>

In a sample with 930 adult women, 44 revealed for the first time that they had suffered childhood sexual abuse. They explained that some of the main barriers to disclosing the abuse were: fear of being punished by the aggressor, wanting to protect the abuser, fear of being abandoned and rejected by their families, fear of being blamed for the abuse.

### HANSON ET AL. (1999)<sup>[10]</sup>

In a nationally representative sample of 4,000 American women, only 12% of sexual assaults in childhood were reported at some point to law enforcement 88% never reported the facts. In half of these cases, the aggressor had made threats to the life of the child or his family (43%) or had perpetrated multiple sexual assaults against the child (42%). In a fifth of the cases, the abuse caused physical injuries (22%). The results of the study suggested that one of the main interpersonal barriers that hindered the disclosure of abuse were the threats made by the aggressor against the victim.

### SMITH ET AL. (2000)<sup>[11]</sup>

In a nationally representative sample of 3,222 American women, 28% of women who had been raped as children had never disclosed the assault to anyone before being interviewed (including mothers, husbands, or best friends). 58% took between one and five years to verbalize the abuse for the first time. Only 10% of the aggressors were unknown. Rapes by unknown men were more likely to be disclosed. Children almost always knew their attackers. Among the known aggressors, half were relatives, and the other half were family friends and acquaintances. The results of the study suggested that one of the interpersonal barriers that hindered the disclosure of abuse was that the aggressor was a person from the victim's environment of trust.

**PAINE & HANSEN (2002)<sup>[12]</sup>**

The authors conducted a systematic review of the scientific literature on the factors that influence the disclosure of child sexual abuse by the victim. They identified feelings of shame as one of the main barriers. The fact that on many occasions the child gives in to the sexual demands of a trusted adult leads him to feel responsible for the abuse, which makes it more difficult to disclose it as the abuse increases in frequency and severity. Boys experience additional barriers to disclosing abuse, including socialization that teaches them to hide their vulnerabilities and the stigmatization of being abused by other males.

**JONZON & LINDBLAD (2004)<sup>[13]</sup>**

In a sample with 122 Swedish women, they concluded that less than a third of the victims of child sexual abuse reveal the abuse during childhood. Most took an average of 21 years to reveal the secret.

**LONDON ET AL. (2007)<sup>[14]</sup>**

A systematic review of existing scientific studies revealed that 60-70% of adult survivors had not disclosed abuse during childhood.

**HÉBERT (2009)<sup>[15]</sup>**

Conducted a representative sample telephone survey of 804 Quebec adults. They found a prevalence of child sexual abuse of 22.1% for women and 9.7% for men. One in five victims had never disclosed the abuse to anyone. Only 21.2% had disclosed the aggression early (within a month after the abuse), while 57.5% had made a late disclosure (more than five years after the first episode of abuse).

**SPRÖBER ET AL. (2014)<sup>[16]</sup>**

In 2010, following the outbreak of a child sexual abuse scandal in Catholic and Protestant religious institutions, the German government established a hotline that victims could contact anonymously to describe their experiences of child sexual abuse. The information provided by the people who contacted them was later documented and analysed by a team of researchers. With a sample of 1050 victims (404 in Catholic institutions, 130 in Protestant institutions and 516 in non-religious institutions) the average reporting age was established. The average age of abuse disclosure by victims to the hotline was 52.2 years. Victims who had been abused in religious institutions were significantly older than survivors who had been abused in secular institutions (mean age in Catholic institutions 54.9 years, in Protestant institutions 56.5 years, and in secular institutions 49.1 years). Nearly half of the victims had been both physically and sexually abused, and most victims reported that the abuse had occurred repeatedly.

**CHILD USA (2020)<sup>[17]</sup>**

A lack of knowledge about sexual norms or an inability to articulate the experience of abuse may also create barriers to disclosure. These factors often coincide with a lack of developmental maturity needed to process abuse and verbalize its negative effects. Some children may also lack opportunities to disclose abuse if they are socially isolated or in unsupportive families. Finally, there is an inherent power imbalance between children and adult perpetrators, and this imbalance can be exacerbated in institutional settings where the perpetrator may have cultural influence and community trust.

## DISCUSSION OF FACTORS AFFECTING PSYCHOPATHOLOGY FOLLOWING ABUSE

Although the relationship between CSA and psychopathology is well established, the scientific understanding of the mechanisms by which abuse exerts its effects is complex. There is, therefore, a lack of complete consensus on how each characteristic of abuse affects every survivor's later functioning. Over the years, numerous scientific studies have tried to identify multiple factors that may influence and moderate the frequency and severity of the psychopathology commonly observed after child sex abuse:

- ***The number and severity of other forms of child abuse and adverse childhood experiences can play a significant role on the impact of CSA on the child.*** A significant proportion of children who are sexually abused also experience physical abuse or emotional deprivation (Ruggiero et al 2000, Fergusson et al 2008). Childhood sexual abuse is interrelated with other types of childhood maltreatment (Clark et al., 2010; Kessler et al. 2010; Turner et al., 2010). In longitudinal studies of maltreated children, it has been observed that exposure to a higher number of adverse childhood events precipitates a more severe long-term PTSD trajectory (Miller-Graff and Howell 2015, Nungent 2009). Numerous large-scale studies have reported a dose-response relationship between the number of adversities experienced during childhood and the severity of a wide range of symptoms and disorders later in life (Anda et al., 2006, Chapman et al., 2004, Clark, Caldwell, Power 2010; Cloitre et al., 2009; Koskenvuo, Hublin, Partinen, Paunio 2010; Schilling, Aseltine 2008; Turner, Finkelhor 2010; Walker, Gelfand 1999).
- ***The nature of sexual abuse.*** Researchers have hypothesized that the nature of child sex abuse may play a primary role in the severity of psychopathology in adult life (Ruggiero et al., 2000). Numerous scientific studies have examined the possible role of multiple child sex abuse characteristics on the frequency and severity of psychopathology after abuse. However, The use of force and threats has been linked to a more severe form of PTSD in some studies (Wolfe et at., 1994; Steine et al., 2017). Some longitudinal studies have found an association of penetrative abuse with PTSD severity (Fergusson et al., 2013) whereas others surprisingly have not (Steine et al., 2017). There is evidence to suggest that multiple perpetrators are associated with increased levels of dissociation (Gold et al., 2004) and psychological distress (Steel et al, 2004). In some studies, longer duration of abuse was associated with higher levels of PTSD (Rodriguez et al., 1996) and psychological distress (Steel et al 2004) whereas others have not found any correlation between frequency of abuse and the intensity of depression and eating disturbances (Ruggiero et al., 2000). Some studies have not found any association between perpetrator type (familial vs non-familial) and severity of psychopathology (Lee et al 2008). Earlier age of onset of abuse has been positively correlated in some studies with higher levels of depression (Johnson et al 2001; Lee et al 2008) and dissociation (Johnson et al 2001; Gold et al 2004). For example, the relative risk of having severe depressive symptoms was higher for those abused before the age of 12 than those abused after that age (Schoedl et al 2010). However, in others no significant association has been found between age of onset and severity of depression and eating disturbances (Anderson et al 2000). Some studies have not found any relationship between sexual abuse characteristics and psychopathology severity altogether suggesting that for severely disordered, treatment seeking CSA survivors' other factors not related to the nature of the sexual abuse (i.e., poor family relationships) might have contributed to the development of post-abuse symptomatology.
- ***Resilience factors such as biological, psychological and social factors that act to ameliorate or enhance the effects of trauma (Luthar 2000).*** Family environment can play an important contribution to the development of post-abuse psychopathology. Aspects of family environment such as level of parental support, the presence of parental conflict, parental substance abuse and mother's psychological health have all been found to be linked to adjustment following CSA (Adams & Bukoswki 2007). Psychological factors, coping strategies or attributional style can also buffer or intensify the relationship between CSA and post-abuse mental health effects (Feiring et al 2002). Lower perceived levels of social support have been associated with more severe PTSD in survivors of CSA (Burgess & Holmstrom, 1978; Hyman, Gold 2003; Lueger-Schuster et al., 2015; Runtz & Schallow 1997). Better quality of social relationships has been linked in survivors of CSA to more positive mental and physical health outcomes (Broadhead et al., 1983; Cohen, 2004; Umberson & Montez, 2010).

*- Multiple factors influence the length of time a CSA survivor waits before disclosing the abuse.* It is also important to consider research on how abuse characteristics influence later disclosure when determining appropriate SOL benchmarks. As with research on abuse severity and later functioning, there is no single answer as to how a given type of abuse leads to delayed disclosure. Several studies have found that low quality of family relationships and lack of parental support can have a direct influence on disclosure timing, especially in household environments where domestic violence is present or there is instability in the family structure (Alaggia & Kirshenbaum, 2005; Tashjian et al., 2016; Alaggia, 2010; Priebe & Svedin, 2008). Many children and adult survivors fear various repercussions when considering disclosure, including not being believed, receiving a negative reaction from the disclosure recipient, being stigmatized, or experiencing a disruption in relationships (Alaggia, 2010; Alaggia, 2005; Goodman-Brown et al., 2003; Crisma et al., 2004; Jensen et al., 2005). Intrafamilial abuse and/or having a close prior relationship with the perpetrator have been found to be associated with longer delays in disclosure (Schonbucher et al., 2012; Hershkowitz et al., 2005; Collings et al., 2005; Schaeffer et al., 2011; Kogan, 2004; Goodman-Brown et al., 2003). Victim gender is also a moderating factor in delayed disclosure – men typically take longer than women to tell anyone about their abuse (O’Leary & Barber, 2008; Priebe & Svedin, 2008). Socio-cultural norms surrounding men’s ability to experience or acknowledge abuse can have a direct impact on their ability to come forward (Sorsoli et al., 2008; Alaggia, 2005). Individual psychological responses to abuse including experiencing shame, guilt, and self-blame are commonly reported barriers to disclosure (Hunter, 2011; Goodman-Brown et al., 2003; Crisma et al., 2004). The impact of the trauma itself is also important, as decreased capacity for developing intimacy and trust may result from CSA, leading to an inability to identify an appropriate confidant or outlet for disclosure (Jonzon & Lindblad, 2004). A child’s developmental ability to understand the experience as abusive is another crucial factor in determining disclosure timing (Sorsoli et al., 2008; Alaggia, 2010). Although evidence is mixed on how age at time of abuse relates to delayed disclosure, a lack of understanding of norms of sexual behavior often inhibits disclosure for younger children. In sum, disclosure of CSA is a complex process involving psychological and socio-cultural barriers that affect each survivor uniquely. Acknowledging this complexity argues in favor of establishing a single benchmark for criminal SOLs at age 50 to allow survivors to come forward when they are ready. Severity of the crime is not a sufficient indicator of how long a survivor will need to come to grips with their abuse and seek legal remedies. CHILD USA’s analysis of a dataset of CSA victims formerly in the Boy Scouts of America found that over 50% of the individuals disclosed their abuse after age 50. This data provides strong evidence that those who would most benefit from longer criminal SOLs are commonly older than 50, especially by the time they are ready to engage in legal action.

Therefore, the nature of sexual abuse is only one of the multiple possible factors which could influence the development of post-abuse symptomatology in a particular victim. That means that a child who suffers a CSA offence classified by the criminal law as severe (penetrative sex, long duration, multiple perpetrators, use of force and/or intimidation) and therefore punished by a long custodial sentence but who has other protective factors which increase his/ her resilience to trauma (strong family support, no previous history of abuse and/or adverse childhood experiences, supportive response after disclosure, access to high quality therapy after the offence) may develop low levels of post-abuse psychopathology and present with high levels of educational, social and family adjustment. On the other hand a child who suffers a CSA offence classified by the criminal law as “mild” (non-penetrative sex, isolated incident, one perpetrator, no use of force and/or intimidation) and therefore punished by a short custodial sentence but who has multiple risk factors which decrease his/ her resilience to trauma (family dysfunction, multiple types of abuse and/or adverse childhood experience, hostile or neglectful response after disclosure, no social support, lack of access to early and high quality therapy) may develop high levels of post-abuse psychopathology and present with low levels of educational, social and family adjustment.

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