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## CRIMINAL OFFENSES AGAINST SEXUAL FREEDOM - ASSESSMENT OF THE TESTI- MONY OF JUVENILE VICTIMS

*Women in general, regardless of age, are exposed to a high risk of sexual violence. This group also includes minors, i.e. children. The paper points to certain significant international regulations, as well as the most important domestic regulations that provide protection to victims of sexual violence. The question important for court proceedings is being considered - to what extent can the testimony of children or minor victims of sexual violence be believed, given the fact that these victims are usually alone against the perpetrator of the crime to their detriment, as a rule, a person older than them. Through examples from individual court cases, the importance of evaluating the testimony of that category of victims as acceptable evidence for passing a conviction is indicated.*

**Keywords:** *criminal acts, sexual violence, minor victims, powerless persons, testimony.*

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## **1. Introduction**

Violence in its various forms is a part of everyday life, both globally and in Serbia. All forms of violence are included, as reported regularly by the media, often focusing on different types of physical violence, which constitute criminal offenses. The most attention is given to homicides, robberies, rapes, and traffic accidents involving casualties. In these reports, details are provided regarding the participants and the manner in which the criminal offense was committed. Whenever possible, as many details as possible are included about the monstrosity of individual criminal acts, regardless of the victims' gender or age. Generally speaking, in these reports on harmed individuals - victims in criminal proceedings, particularly criminal proceedings in the Republic of Serbia - and the protection of their human dignity, there is still insufficient consideration given (Obrodović, 2020: 218). The dignity of every human being is a fundamental principle in the theory of human rights, the one on which all other human rights are based and through the prism of which the degree of their realization is evaluated (Vujović, 2020:78). Although there is no uniform definition of what dignity is - which leaves the concept of dignity open to interpretation - it is generally understood in legal contexts to include the right to full development of the personality and the autonomy (Stanila, 2020: 272).

An increasing number of violence cases reported in the media fall under the category of criminal offenses against sexual freedoms - such as rape, sexual assault, and unlawful sexual acts. In many of these cases, the victims are children of various ages - ranging from very young children to those up to 18 years old, encompassing all age categories considered children under the provisions of the United Nations Convention on the Rights of the Child adopted in 1989 (hereinafter: the Convention)<sup>1</sup>. This age range is also accepted in our criminal legislation - both in the Criminal Code and in the Law on Misdemeanors - as the boundary separating minors from adults. Unlike the Convention, our regulations distinguish between children, minors, and juvenile persons.

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<sup>1</sup> Zakon o ratifikacije Konvencije Ujedinjenih nacija o pravima deteta, Sl.list SFRJ - Međunarodni ugovori br. 15/90

The paper will highlight the protection of children through domestic regulations, primarily in the field of criminal law, but also in certain other areas, as well as specific accepted international treaties that have been ratified and thus become part of our domestic law. Special attention will be given to the presentation of certain legally concluded criminal proceedings for offenses against sexual freedoms where children were harmed - victims, in all cases involving female victims, and how the court assessed the testimonies of these victims. To the extent necessary, the role of experts from relevant fields who were involved in these court proceedings will be addressed, focusing on obtaining valid testimonies from child victims.

## **2. Certain Significant International and Domestic Regulations Pertinent to Child Protection**

A significant step towards more comprehensive protection of sexual freedoms, sexual integrity, and privacy of women is marked by the adoption of Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence<sup>2</sup>(hereinafter: CETS 210). The member states of the Council of Europe are mostly the signatories of CETS 210, including all members of the European Union (hereinafter: the EU), since the EU, although not a state, signed the convention to demonstrate its adherence to its standards. In fact, EU bodies continue legislative activities in order to achieve uniform and efficient implementation of CETS 210.<sup>3</sup>

The Republic of Serbia, as a candidate country for EU accession, has signed and ratified the convention<sup>4</sup>, although it has not fully implemented it. This international document, through ratification, has become part of domestic law,

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<sup>2</sup> Council of Europe, Convention on preventing and combating violence against women and domestic violence, (adopted 7 May 2011, entry into force 1 August 2014) CETS 210 (Istanbul Convention), available at <https://rm.coe.int/168008482e>.

<sup>3</sup> European Commission, Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, Strasbourg, 8.3.2022 COM(2022) 105 final 2022/0066 (COD), available at: [https://ec.europa.eu/info/sites/default/files/aid\\_development\\_cooperation\\_fundamental\\_rights/com\\_2022\\_105\\_1\\_en.pdf](https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/com_2022_105_1_en.pdf)

<sup>4</sup> Zakon o potvrđivanju konvencije Saveta Evrope o sprečavanju i borbi protiv nasilja nad ženama i nasilja u porodici, *Službeni glasnik RS - Međunarodni ugovori*, br. 12/2013.

protecting certain categories of victims in criminal proceedings, including children, and specifically females. In order to align with CETS 210, amendments and additions to the Criminal Code (hereinafter: CC)<sup>5</sup> were made in 2016; however, a provision defining sexual violence (including rape) as encompassing any sexual intercourse or sexual act without the woman's consent was not adopted. Paradoxically, in accordance with CETS 210, the CC of 2016 introduced other criminal offenses from the category of offenses against sexual freedoms: sexual harassment, as well as certain criminal acts from other categories of criminal offenses specified in the CC, such as female genital mutilation, stalking, and forced marriage.

Among domestic regulations, the most important is the Constitution of the Republic of Serbia (hereinafter: the Constitution)<sup>6</sup>, which guarantees fundamental human rights and freedoms, such as the right to the inviolability of physical and psychological integrity and the prohibition of torture, the right to equal legal protection without discrimination, the right to judicial protection in cases of violation or denial of human or minority rights guaranteed by the Constitution, and the right to remedy the consequences of such violations. It also guarantees the right to life, the inviolability of psychological and physical integrity, the right to a fair trial, rehabilitation and compensation for damages, the right to equal protection of rights, and legal remedies. The Constitution also guarantees the right to appeal to international institutions for the protection of freedoms and rights and to ensure respect for these rights. The Constitution also contains special provisions on the protection of children from psychological, physical, economic and any other exploitation or abuse, and prescribes that the rights of children and their protection shall be regulated by law (Constitution of the Republic of Serbia 2006, Art. 21-24, Art. 64, Art. 3 and 4 and Art. 125. par. 1 and 2) (Vujović, 2020: 81-82).

In addition to the Constitution, there is also a large number of laws and subordinate regulations, as well as strategies adopted at the state level, which indirectly relate to the protection of children.

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<sup>5</sup> Krivični zakonik "Sl. glasnik RS" 85/2005, 88/2005., 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019

<sup>6</sup> Ustav Republike Srbije "Sl. glasnik RS" br. 98/2006

Some regulations link criminal law with civil proceedings and the Family Law. Among these regulations, the Law on Prevention of Domestic Violence (hereinafter: the Law)<sup>7</sup> stands out, which has been recognized in practice and has been fully implemented throughout Serbia in protecting victims of domestic violence, regardless of age, including in cases of violence against children. In direct relation to the position of children in criminal regulations, in addition to the Criminal Code, it is important to mention two other laws: the Law on Misdemeanors (hereinafter: LOM)<sup>8</sup> and the Law on Road Traffic Safety<sup>9</sup>

It is significant to mention the National Strategy for the Implementation of Victim and Witness Rights of criminal acts in the Republic of Serbia for the period 2020-2025, adopted at the session of the Government of the Republic of Serbia on July 30, 2025.<sup>10</sup> The essence is that, in their procedural capacity as victims, individuals in the legal system of the Republic of Serbia have been entitled to a range of rights for decades. These rights are recognized and codified by Directive (2012)029 EU of the European Parliament and Council of October 25, 2012, which establishes minimum standards regarding the rights, support, and protection of victims of criminal offenses and replaces Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012). This strategy notes, among other things, that various factors such as age, health status, disability, gender, sexual orientation, ethnic, religious or social group affiliation, as well as refugee or migrant status, can influence the particular vulnerability of individuals.

The focus of this paper is on criminal offenses against sexual freedoms committed against children, and thus, the paper will not provide a detailed review of other regulations that also mention and emphasize the protection of children.

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<sup>7</sup> Zakon o sprečavanju nasilja u porodici “Sl. glasnik RS” br. 94/2016

<sup>8</sup> Zakon o prekršajima “Sl.glasnik RS” 65/2013, 13/2016, 98/2016, 91/2019 i 91/2019

<sup>9</sup> Zakon o bezbednosti saobraćaja na putevima “Sl. glasnik RS” br.41/09 od 2.6.2009. godine, stupio na snagu 10.6.2009.godine, počeo sa primenom 11.12.2009. godine, 53/2010, 101/2011, 32/2013, 55/2014, 96/2015, 9/2016, 24/2018, 41/2018, 87/2918, 23/2019, 128/2020 i 76/2023

<sup>10</sup> Nacionalna strategija za ostvarivanje prava žrtava i svedoka krivičnih dela u Republici Srbiji za period 2020-2025.godine, usvojena na sednici Vlade RS 30.7.2020.godine

### 3. Brief Overview of Child Protection in Serbian Criminal Legislation

In the Republic of Serbia, children receive criminal protection through provisions in two general legal acts - the Criminal Procedure Code (hereinafter: the Code)<sup>11</sup> and the Criminal Code (CC) - as well as through provisions in two special laws: the Law on Juvenile Offenders and the Criminal Protection of Juvenile Persons (hereinafter: JL)<sup>12</sup> and the Law on Special Measures for the Prevention of Criminal Offenses Against Sexual Freedoms Committed Against Juvenile Persons (hereinafter: the Law).<sup>13</sup>

In the CC the provisions defining terms are as follows: “A **child** is considered to be a person who has not reached the age of fourteen; a **minor** is considered to be a person who has reached the age of fourteen but not yet eighteen; a **juvenile** is considered to be a person who has not reached the age of eighteen.”<sup>14</sup> In the LOM, a distinction is made between a **child** - defined as a person under the age of fourteen, who is considered legally irresponsible for misdemeanors - and a **minor** - defined as a person aged fourteen to eighteen, who is considered legally responsible for misdemeanors<sup>15</sup>.

The age-related distinction regarding criminal (in)responsibility has also been adopted in the provisions of the JL, which contains provisions primarily applicable to juvenile offenders but also to certain categories of adults - namely younger adults.<sup>16</sup> This law comprehensively regulates issues related to substantive criminal law, the organs applying it, criminal proceedings, and the execution of criminal sanctions for these offenders. It also includes special provisions on

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<sup>11</sup> Zakonik o krivičnom postupku, “Sl.glasnik RS” br.72/2011,101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/19, 27/21, 62/21.

<sup>12</sup> Zakon o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica, “Sl. glasnik RS” br.85/05

<sup>13</sup> Zakon o posebnim merama za sprečavanje vršenja krivičnih dela protiv polne slobode prema maloletnim licima, “Sl. glasnik RS” br.32/13

<sup>14</sup> Čl.112 tač. 8, 9 i 10 Krivičnog zakonika (art. 112 item 8,9 and 10 CC)

<sup>15</sup> Čl. 71 Zakona o prekršajima (art.71 LOM)

<sup>16</sup> Čl. 1 i 2 Zakona o maloletnim učiniocima krivičnih dela i krivičnopravnoj zaštiti maloletnih lica (art.1 and 2 JL)

the protection of children and minors (hereinafter: juvenile persons) as victims in criminal proceedings.

#### **4. Protection of Children through General and Special Criminal Regulations**

##### ***4.1. General Criminal Regulations***

###### ***4.1.1. Protection of Children in the Criminal Code***

Juvenile persons, potential victims in criminal offenses with elements of violence, are recognized in the provisions of the CC, whether they are minors or children, and they are explicitly afforded enhanced criminal protection. The CC includes certain categories of criminal offenses that involve violence, as indicated in their titles - such as offenses against life and body (one of the prescribed forms of a serious criminal offense is the murder of a child); and offenses against sexual freedom (criminal offenses specifically mentioned in the provisions of the third part of JL).

Juvenile persons can also appear as victims within other categories of criminal offenses in the CC, especially those criminal offenses involving violence where children may be the victims - for example, in the category of offenses against property, offenses against marriage and family, as well as in other categories of criminal offenses listed in the CC.

In this paper, we had to mention certain other categories of criminal offenses, but the focus is on the category of offenses against sexual freedoms involving violence against juvenile persons and the assessment of their testimonies, which are crucial for decision-making in criminal proceedings.

###### ***4.1.2. Protection of Children in the Criminal Procedure Code***

In the Code, persons who are victims of criminal offenses, including children, are entitled to certain rights when they appear as private prosecutors, as victims who are prosecutors, or as victims and witnesses. The Code defines a victim as a person whose personal or property rights have been violated or endangered by a criminal offense (Article 2, paragraph 1, item 11). Children most commonly appear in criminal proceedings as victims or as witnesses who are vic-

tims. The Code contains several provisions of significance for children who appear as victims in criminal proceedings. Primarily, this includes the provision related to particularly vulnerable witnesses according to Article 103 of the Code. This provision prevents the direct presence of the offender in the room where any of these individuals are present, thereby preventing secondary victimization of the affected persons. And every state is obliged to protect the victim from secondary victimization and the discrediting of their identity during the cross-examination stage.<sup>17</sup> The Code also includes provisions for child witnesses in criminal proceedings, allowing them to be questioned in their own home if they are unable to respond to a summons (Article 108), as well as a provision allowing for the reading of the testimony of witnesses who are unable to attend court due to their age or if their attendance is significantly impeded (Article 337).

In relation to criminal offenses committed against children, there is also the need for their expert evaluation in judicial proceedings, typically conducted by a panel of experts from medical and psychological fields. The expert assessment is determined based on various factors - such as whether the children are capable of participating in legal proceedings and providing their testimonies, whether their testimonies can be trusted, and whether they are prone to falsehoods, confabulations, etc.

#### ***4.2. Special Criminal Regulations***

The third part of the JL titled “Special Provisions on the Protection of Juvenile Persons as Victims in Criminal Proceedings,” contains specific rules for handling cases where the victims are juvenile persons (Articles 150-157 of ZM). Article 150, paragraph 1 of JL explicitly lists 27 criminal offenses in which protection is provided to juvenile persons in criminal proceedings, including certain offenses from the category of sexual offenses committed against juvenile persons (minors or children). These are 8 criminal offenses prescribed in the CC: Rape

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<sup>17</sup> In the case of *Y. v. Slovenia* (Application no. 41107/10, judgment of 28 May 2015), the ECHR held Slovenia responsible for violating Article 8 of the ECHR as during the cross-examination of the plaintiff in the course of a trial for sexual abuse, the court had failed to prevent the accused from making degrading and insulting remarks against the plaintiff. The court warned that cross-examination should not be used as a means of intimidating and humiliating witnesses (para. 108), as additional prohibitions would not unduly restrict the right to defend the plaintiffs who have been allowed detailed cross-examination but would certainly reduce the plaintiff’s anxiety (para. 109).



(art. 178); Sexual Intercourse with a Helpless Person (art. 179); Sexual Intercourse with a Child (art. 180); Sexual Intercourse through Abuse of Position (art. 181); Prohibited Sexual Acts (art. 182); Pimping and Procuring (art. 183); Mediation in Prostitution (art. 184) i Showing, Procuring and Possessing Pornographic Material and Minor Person Pornography (art. 185).

Additional protection for juvenile persons is provided by the provisions of the Law whose purpose is to prevent adult offenders from committing criminal offenses against sexual freedoms against juvenile persons (Article 2). This law addresses a total of 10 criminal offenses from the category of sexual offenses, in addition to the 8 previously mentioned offenses, including yet two additional offenses: Inducing a Child to Attend Sexual Acts (art. 185a CC); Abuse of Computer Networks or other Technical Means of Communication for Committing Criminal Offences against Sexual Freedom of the Minor (art. 185b CC).

This Law, like the JL, stipulates that for all matters not regulated by its provisions, the provisions of the CC and the Code shall apply accordingly.

### **5. Specific Issues in Judicial Proceedings Involving Juvenile Victims of Sexual Offenses**

After the discovery of a criminal offense from the category of sexual offenses, it is essential to involve medical experts - psychiatrists and/or specialists in medical psychology - at the earliest possible stage of the criminal proceedings, during the investigation or preparatory phase. This is crucial depending on whether the perpetrator of the criminal offense against the child is an adult or a juvenile, as seen in judicial practice. Ideally, specialists in child psychiatry or child psychology should be involved. Unfortunately, there are few such experts in our country, which is why public prosecutors and judges typically engage experts from their local areas. In exceptional cases, especially severe cases, experts from specific clinics and institutes are engaged early in the process.

In the court practice of the Higher Court in Valjevo children were most often the victims of the most serious crimes from the group against sexual freedom - Sexual Intercourse with a Helpless Person (art. 179 CC); Sexual Intercourse with a Child (art. 180 CC); Sexual Intercourse through Abuse of Position (art. 181 CC); Prohibited Sexual Acts (art. 182 CC); that is, criminal acts from

the group against life and limb - murder or attempted murder; as well as from the group of crimes against property - robbery. that is, criminal acts from the group against life and limb - murder or attempted murder; as well as from the group of crimes against property - robbery.

This paper focuses exclusively on specific cases where minor girls of various ages were victims of different criminal offenses from the category of sexual offenses and the role of experts in these cases. The common denominator in all the cases discussed is as follows: all minor victims were granted the status of particularly vulnerable witnesses, witnesses to critical events for which there was no confirmation of the victims' testimony in any of the cases. In all instances, close associates of the minor victims subsequently learned about events that, by their nature, constitute a criminal offense, and these individuals later reported the crimes to the relevant police authorities. Expert evaluations of the accused and minor victims - i.e., the victims during the investigation - were conducted by panels of experts consisting of neuropsychiatrists and specialists in medical psychology. In all these cases, after receiving written reports and opinions from the expert panels, indictments were filed, and following the examination of the expert panel representatives at the main hearing, convictions were rendered, which became final.

In addition to all these characteristics that pertain to each individual case, there are always specificities that pose additional problems.

In one practical example from the court practice of the Higher Court in Valjevo,<sup>18</sup> there were several aggravating circumstances during the questioning of a minor victim of the criminal offense of sexual intercourse with an incapacitated person. The victim was born with cerebral palsy and hemiparesis of the right side, as a result of which she suffered an impairment of her psychomotor skills. She was diagnosed with mental retardation at the age of one and a half, needing psychiatric treatment since childhood. She attended a school for children with special needs. A 53-year-old accused man exploited his friendship with the mother of the plaintiff, then an under-aged girl (16 years old) with intellectual disabilities and forced intercourse on her while her mother slept in the same room,

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<sup>18</sup> Pravosnažno presuđen predmet br. K 17/18, pravna kvalifikacija: obljava nad nemoćnim licem iz čl. 179 st. 2 u vezi st. 1 KZ, iz lične arhive sudije Dragana Obradovića.

being under the influence of opiates and alcohol. Due to combined disability, the victim was not able to offer adequate defiance. The defendant first touched the victim on the chest and body, and then had sex with her. The gynecological examination of the victim determined that she had had sexual intercourse during the previous 72 hours. What was crucial to the outcome of the proceedings was that the victim immediately informed her father, who filed a criminal complaint on her behalf, and a criminal proceeding was initiated relatively quickly and the necessary evidence was established. The circumstances related to the committing of the crime were determined on the basis of the victim's testimony. She was questioned as a witness by a speech therapist or a court deaf interpreter and in the presence of an expert in the medical profession - a neuro-psychiatrist and a specialist of medical psychology. In the mentioned case, the key problem was to establish contact with the victimized minor, as she was mentally retarded and deaf and dumb. This was why she was questioned during the investigation and at the main trial via a speech therapist - a court deaf interpreter. (Mrvić Petrović, Obradović, 2022).

In the criminal proceedings in other countries, it is common that victims with intellectual disabilities have significant difficulties in communicating with state authorities during the reporting of criminal offenses and testifying in criminal proceedings.<sup>19</sup>

A particular problem faced by the procedural authorities (prosecutors and police during the investigation and pre-trial phase, and judges during the main trial phase) is the elapsed time between the commission of the criminal offense and its reporting. Sometimes, this period extends over several years, during which there are often no witnesses. Even if some witnesses were available, after such a

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<sup>19</sup> Researchers from Spain, Northern Ireland and Switzerland, independently of each other, agreed that people with intellectual disabilities have an unequal position in criminal proceedings compared to other participants. They have episodic memory and memory gaps, especially concerning details (time, place), they are suggestive and compliant, and as they fail to understand the legal terminology, they refute their earlier statements or arbitrarily leave the impression that they understood the question to avoid shame or embarrassment (Jacobo Cendra López *et al.*, 'Victims with Intellectual Disabilities through the Spanish Criminal Justice System,' *New Journal of European Criminal Law*, vol. 7, no. 1, 2016, 92-93, 96; Alan Cusack, 435, 436, Sussana Niehaus *et al.*, 'Intellectually Disabled Victims of Sexual Abuse in the Criminal Justice System,' *Psychology*, vol. 4, no. 3A, 2013, 377).

long time their whereabouts are often unknown, reducing the case to an assessment of the testimony of the accused and the victim, who may have reached adulthood in the meantime, and whom the court will choose to believe in this situation.

In one practical example from the court practice of the Higher Court in Valjevo,<sup>20</sup> there were several aggravating circumstances during the questioning of a minor victim of the prolonged criminal offense of Sexual intercourse through Abuse of Position. The criminal act was committed from an unspecified date in the year 2000 to August 10, 2008. year, in Trebinje and Valjevo. The perpetrator of the crime was the stepfather to the detriment of his stepdaughter - then a minor child born on August 10, 1994. At that time, the perpetrator of the criminal act lived with the mother of the victim in the family house in Trebinje and Valjevo, and he committed the criminal act in various ways to the detriment of the minor victim, which is precisely stated in the indictment.

Before the criminal offense was discovered, the victim attempted suicide by swallowing tablets on one occasion, but fortunately, her attempt was discovered and prevented in time. After the criminal offense was discovered and reported to the police during 2017, procedural issues began, which the accused tried to address in various ways. In addition to denying the commission of the offense, the accused invoked post-traumatic stress disorder as a result of participation in the war in the former Bosnia and Herzegovina.

Given the elapsed time since the commission of the criminal offense against her, which occurred over a period of 8 years while the victim was still a child, the key evidence that assisted the court in reaching its verdict was the expert evaluation of the victim and the accused conducted by a panel of experts from the Institute of Mental Health in Belgrade, Adult Clinic, Forensic Psychiatry Department, during the investigation in 2018.

Based on the results obtained from the psychiatric and psychological examination, the opinion concluded that the victim currently shows no signs of permanent or temporary mental illness, temporary mental disorder, delayed mental development, or severe mental disorder. In its conclusion, the panel of experts

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<sup>20</sup> Pravosnažno presuđen predmet br. K 16/18, pravna kvalifikacija: produženo krivično delo obljuba zloupotrebom položaja iz čl. 181 st. 3 u vezi st. 2 KZ u vezi sa čl.61 KZ, iz lične arhive sudije Dragana Obradovića.

stated that the victim has preserved reality testing, shows no indicators of compromised memory and reproduction of experienced content, and there is no evidence of tendencies toward simulation or fabrication of content. Based on the results obtained from the psychiatric and psychological evaluation of the accused, the panel of experts determined that the accused was assessed as suffering from chronic post-traumatic stress disorder, with moderate to severe depressive mood. The conclusion stated that the accused currently exhibits a persistent personality change (F62) (chronic post-traumatic stress disorder) and a depressive disorder. It was noted that there is no current alcohol abuse, reality testing is preserved, and the attitude towards the past and the current situation is sadistic, morbid, and cynical, imbued with a sense of helplessness. There are no test indicators of compromised memory and reproduction of experienced content. At the stage of the main trial, after a re-evaluation of the accused, it was concluded that the accused has the preserved ability to understand the nature and purpose of the criminal proceedings, comprehend procedural actions and their consequences, and is capable of defending himself or herself either independently or with the assistance of a defense attorney. Therefore, the accused was deemed processually competent. A representative of the expert panel remained present during the main trial for this finding and opinion.

There are many more examples like these in the case law of the Higher Court in Valjevo, as well as in other courts across the Republic of Serbia, undoubtedly. All these examples share similar characteristics. They are all marked by the fact that minor victims were alone at the time the criminal acts were committed against them and that they must appear before the competent state authorities - police, public prosecution, and the court - and provide their statements.

One of the important steps that the state has taken towards protecting victims in criminal proceedings before regular courts is the establishment of the Witness and Victim Support Service in higher courts, as well as in other courts designated by the High Council of the Judiciary, during 2016 through amendments to the Court Rules (Obradović, 2020:228).<sup>21</sup> This is a significant step towards protecting victims in criminal proceedings, especially in cases involving

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<sup>21</sup> Dragan Obradović, 'Respect for the right to human dignity of victims of criminal offenses during criminal proceedings in Serbia', in Zoran Pavlović (ed), *Yearbook Human right protection the*

offenses against sexual freedom. However, the establishment of the Service alone is not sufficient given certain specific situations, one of which is highlighted in this paper - the case where the victim was a person with a disability who was also mentally retarded. In such cases, representatives of this Service are powerless to provide support to such victims. Therefore, it is necessary to consider international experiences, and in each such case, in addition to the expert committee, it is essential to include a sign language interpreter at the appropriate stage of the procedure. If necessary, in the initial phase of taking the victim's testimony during the investigation, it should also be considered to involve a person close to the victim who communicates well with the victim and who is not directly involved in any capacity in the criminal proceedings. In this way, additional assistance would be provided to the procedural authorities to help the victim feel more at ease and, in the presence of a familiar person, give their statement in the criminal proceedings in their own manner through the interpreter.

## **6. Conclusion**

The protection of the best interests of the child in criminal proceedings is the obligation of all procedural authorities in the Republic of Serbia, regardless of the capacity in which minor persons (children or juveniles) appear in the criminal proceedings.

In these criminal proceedings, and especially in criminal cases involving offenses against sexual freedom where the victims are minors, experts from the medical field, primarily neuropsychiatrists and specialists in medical psychology, provide significant assistance to the procedural authorities (police, public prosecutors, and judges) in assessing the credibility of the testimonies of minor witnesses. They express their opinions on specific important facts relevant to evaluating the testimonies of minors in the proceedings.

Through specific criminal cases from judicial practice that have been definitively concluded, which related to certain offenses against sexual freedom, the

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*right to human dignity*, Number 3, Provincial Protector of Citizens - Ombudsman, Institute of Criminological and Sociological Research, Novi Sad - Beograd, 2020, 228.

role of experts in protecting the best interests of minor victims (children) in these criminal proceedings has been highlighted.

When it comes to special categories of minor victims who are disabled, it is essential to provide systematic and comprehensive support and assistance to such victims through proactive engagement, primarily by social services but also by the non-governmental sector, to the extent that representatives of that sector show interest in such engagement.

In relation to persons with disabilities in general, and especially concerning minor victims of criminal offenses, particularly offenses against sexual freedom, it is necessary to organize appropriate training for police officers and members of the judiciary (public prosecutors and judges) to increase their knowledge about the causes and consequences of disability and to mitigate the potential harmful impact of prejudices and stereotypes about women with (intellectual) disabilities as victims of sexual crimes, regardless of the age of these victims.

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