



Survey report

Child Victims of Crimes and the Legal Proceedings: the Case of the Republic of Moldova



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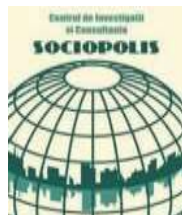
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EXECUTIVE SUMMARY

The study “**Children Victims of Crime and Legal Proceedings: Republic of Moldova Case**” had the **goal** of analyzing the situation with participation of children victims of crime in legal proceedings (*criminal prosecution, trial*) and the role of each participant (*criminal prosecution officer, prosecutor, judge, child, parent/ legal representative, tutelage authority, psychologist/educator*) in this process. In this context, experiences and opinions of children victims of crime, judges, prosecutors, criminal prosecution officers, local public administration, decision-makers were studied.

The study **objectives** focused on:

- Analyzing the legal examination system through the prism of child-friendly practices;
- Learning the respondents’ opinion on the changes in the legal examination system with regard to children victims of crime;
- Learning the respondents’ opinion on the need to accompany and provide psychological assistance to children victims of crime;
- Analyzing the expert opinion on the need, use and importance of psychological assessment reports on the child as evidence within legal proceedings;
- Examining the expert opinion on the need, use and importance of informing and psychological preparation of the child and their parent/guardian for participation in legal proceedings;
- Identifying the need in experts in law with specialized professional training in examination and presentation of cases of children victims of crime in court;
- Identifying the need to accompany and provide specialized (psychosocial) assistance to the child and family within legal examination (criminal prosecution, court);
- Formulating recommendations to make the legal examination system child-friendly.

The study is aimed at **legal experts** (criminal prosecution officers, prosecutors, judges) who examine cases of crimes against children; **psychologists** and **educators** involved in providing specialized assistance to children victims of crime, parents, children, and, not least, to decision-makers.

The legal proceedings in the Republic of Moldova are guided by the provisions of the Criminal Procedure Code regulating the status, rights and obligations, as well as protection provided to the minor victim of crime. The child victim of crime acting as the injured party in the process is heard in the conditions of hearing witnesses¹ in the criminal trial, while according to the amendments to the Criminal Procedure Code made in 2012, in case of minors under 14 years of age who are to be heard with regard to crimes of sexual nature, trafficking in children or domestic violence, the law stipulates hearing in special conditions² (arranged spaces, equipped with audio and video recorders) with the help of an educational psychologist.

The Republic of Moldova has taken a commitment to comply with the international standards in the field, having formulated relevant priorities in different policy documents in this sense. Although development of a child-friendly justice system is a priority for the Republic of Moldova reflected in the 2011-2016 Justice Sector Reform Strategy, and the

¹ See art.110 CPC, including art.111 CPC

² See art.110¹ CPC

Parliament of the Republic of Moldova has taken measures to comply with these requirements (*ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation; amendments to the Criminal Procedure Code*), the study still outlined existence of many gaps in terms of law formulation and application.

Provisions of art.109, 110¹ of the Criminal Procedure Code imply that special protection measures for the child witness refer to the criminal prosecution stage only. This aspect proceeds from art. 41 of the Criminal Procedure Code and stipulates that the instruction judge has authority only at the criminal prosecution stage. It is worth mentioning in this context that international recommendations place an emphasis on child-friendly justice not only at the criminal prosecution stage, but also at the stage of case examination in court (limitation of repeated hearings, exclusion of confrontation and face-to-face encounter with the aggressor, etc.).

The Criminal Procedure Code mentions about participation of an educator, a psychologist and an educational psychologist³ without regulating their place in the criminal trial, corresponding rights and obligations, conditions to be met to participate in procedural actions, requirements to education and professional training, etc. Thus, we attest a legal deficit, which creates confusions and difficulties in the process of carrying out procedural actions and the actual protection of the rights of the child victim or witness of crime, especially since the Classification of Occupations in the Republic of Moldova does not include the specialty of educator.

The study data reveal growing number of cases examined within the justice system that involve children as victims of crime, and mainly children aged 10-16. Two out of ten children (23.5%) victims of crime come to the criminal prosecution officers themselves to report on a crime case. Healthcare and education institutions, tutelage authorities report to representatives of law enforcement bodies on every 10th case of crime against children. Reporting on the part of community members is less frequent, even though a part of them interacts with these children daily.

In the opinion of quite a number of interviewed, the juvenile justice system has been negatively affected by introduction of integrated case management. For, this system excludes the possibility of specializing judges in child protection. 88.3% of criminal prosecution officers, 64.7% of prosecutors, and 67.3% of judges consider that their specialization on causes of crime against children is *very much* necessary.

Specialized psychological assistance services for children victims of crime are poorly developed in the Republic of Moldova. Thus, 67.3% of criminal prosecution officers, 61.2% of judges, and 52% of prosecutors have confirmed lack of specialized psychological assistance services. 72.9% of prosecutors, 74.5% of judges, and 54.9% of criminal prosecution officers have expressed an opinion, according to which a psychological assessment report on the child would be necessary in all cases.

Although provisions of art.110¹ came into force in October 2012, still no conditions have been created to implement those, and in particular rooms for hearing children have not been arranged yet. According to declarations of children, the majority of hearings take place at police stations, prosecutor's offices, courts, or in regular rooms/offices. At the

³ See art.110¹, 479, 481¹ CPC

same time, representatives of the justice system themselves claim that lack of spaces arranged for hearing children is a problem, as follows: 57.4% of criminal prosecution officers, 64% of prosecutors, 88.8% of judges.

Preparation of the child to take part in legal proceedings is performed spontaneously by people the child trusts (parents, legal representatives) and is not a responsibility of the justice system, in spite of international recommendations. There is no single vision among legal experts with regard to the minimal age, at which a child should be informed about the stages and contents of legal proceedings to take place. Instead, all the interviewed children who had benefited from assistance aimed at their psychological preparation for legal proceedings confirmed the need for such.

Areas of activity in the field of assistance to children victims of crime recommended by the study include:

- Development of the legal framework to clearly regulate the participation of a professional psychologist in hearing a child witness or injured party. The proposal to separately regulate and to provide for the role of a professional psychologist in the criminal trial is very important in order to exclude practices of their formal presence in trial.
- An express provision interdicting confrontation of the child with the abuser by amendment to the contents of article 113 par. (6) of the Criminal Procedure Code just stating that *“no minor shall be obliged to participate in confrontation with the person accused of crime against their physical and/or moral integrity”*. Such a formulation gives to understand that a minor’s confrontation is possible if the child agrees to it. However, their agreement can be based on lack of knowledge of the right to refuse participation in confrontation.
- Development of the regulatory framework and quality standards for organizing legal hearing of children. These regulatory acts would serve as methodological support for legal experts, tutelage authorities, and experts involved in the trial (psychologists, educational psychologists, interpreters, etc.) and would contribute to ensuring child-friendly conditions when hearing children in order to avoid their re-victimization.
- Creation of conditions stipulated by law and namely arrangement of specialized rooms for hearing children based on the standards approved by the Ministry of Justice. In this sense, it is recommended to improve communication and cooperation between all the actors in the justice system, local public administration, non-governmental sector, to make the efforts on arrangement and use of equipped spaces more efficient.
- Specialization of actors in the justice system (criminal prosecution officers, prosecutors, judges) on cases of children victims of crime and their training based on an adequate framework that would ensure obligatory training of professionals who due to the nature of their activity come into contact with children victims and witnesses of crime or are in charge to address the needs of children in the justice system.
- Development of preparation and legal assistance services for children in contact with the justice system based on the Law No.123 on Social Services dated 18.06.2010.

General recommendations of this study can contribute to positive change in the current child protection system – improvement of the regulatory framework, specialization of experts who

participate in legal examination of cases involving children victims of crime, development of justice system-associated services in order to prepare and accompany children victims of crime within the legal proceedings.

INTRODUCTION

During the recent years, the number of crimes against children has significantly increased. Thus, while in **2006**, the Ministry of Internal Affairs recorded **419** crimes committed against children, by **2012** this figure increased by three, amounting to **1319** recorded cases⁴. In this context, the concerns of the UN Committee for the Rights of the Child expressed in the Final Observations to the Report of the Republic of Moldova on the Implementation of UN Convention for Children's Rights, 2009 related to **child abuse and neglect remaining spread in the Republic of Moldova** is justified.

The effective protection of children is a *sine qua non* condition for all legal processes in a democratic society, where supremacy of law guides the prevention of any violations of fundamental human rights and freedoms.

By ratifying the Convention of the **Council of Europe for Protection of Children against Sexual Exploitation and Abuse**, as well as by adopting the **Strategy for Justice Sector Reform 2011-2016**, the Republic of Moldova committed to ensure a fair, accessible judiciary, guaranteeing respect and efficient implementation of all rights of children victims and witnesses, at the highest possible level. This implies implementation of a **child friendly justice system** – an accessible justice corresponding to the age, fast, adapted and focused on child's needs and rights, including the right to an equitable trial, the right to participate in court proceedings and to understand them, the right to privacy, integrity and dignity⁵.

An approach based on children's rights to care and protection requires a change of approach to respect and promotion of human dignity⁶ and physical and psychological integrity of children as holders of rights rather than perceiving the child "as a victim".⁷ Or, unfortunately, the focus is often placed on respecting children's rights when the child has already suffered or suffers as a result of omissions, inactions or inefficient actions by authorities, legal representatives or the community in general.

Although children's rights are officially recognized in the Republic of Moldova, there are obvious gaps between law and practice. Children's access to justice is often limited by many legal, social, cultural and economic gaps, not to talk about how unpleasant implementation of justice is. The **link between justice and social services for children is poorly developed**, and the number of support and reintegration services for children victims of abuse is insufficient. Most children do not have access to quality psychological services, and are accompanied in legal proceedings by pedagogues or school psychologists who do not have the necessary knowledge and practice. Although the **mandatory participation of the pedagogue/psychologist** in child hearing is a guarantee of protection of the rights and legal interests of the child, the existence of this provision fails to fully achieve its purpose, as the law does not establish the goal for the presence of the pedagogue/psychologist, his/her legal status, the requirements to be met by such person, how this person is involved in the proceedings - matters to be regulated by the laws of the Republic of Moldova.

Another challenge for justice is **lack of a clear concept of specialized training of legal professionals** managing cases involving children, which, on the one hand, results in organization of sporadic, short-term trainings, in particular initiated by civil society and on the other hand – does not ensure management of cases with children victims and/or witnesses of crimes by trained professionals. This bottleneck will not ensure the welfare and safety of children victims/witnesses, even if there are specially equipped spaces for child hearing. The **shortage of**

⁴ Source MIA.

⁵ Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice

⁶ See "Protecția drepturilor copilului", 2nd Edition, Emese Florian, C.H.Beck Printing House, Bucharest, 2007, p. 20-21.

⁷ General Comment of the Committee on the Rights of the Child no. 13 (2011) (para. 2).

child hearing rooms is another major concern for the Republic of Moldova, in particular in the context of the last amendments to the Criminal Procedure Code, according to which children under 14 years shall be heard in criminal cases related to sex crimes, trafficking in children or domestic violence in specially equipped rooms, with audio-video recording devices. According to these recommendations, children should submit their statements in the most favorable spaces, with the most favorable conditions, taking account of their age, maturity and any communication deficiencies they may have. In any circumstances, the "best interest of the child" is the starting point and the direction line for the treatment to be applied to child victim by all actors responsible for protection and safeguarding of the rights of the child.

Based on these issues, the authors of the study attempted to analyze the legal and practical context of participation of children victims of crimes in legal proceedings in the Republic of Moldova. This study is a first attempt to **assess the current situation concerning the participation of children victims/witnesses of crimes in legal proceedings and the role of each participant (criminal investigation officer, prosecutor, judge, child, legal representative) in these proceedings.**

METHODOLOGY OF RESEARCH

To achieve the goal and the objectives of research, the authors used a methodologically complex approach. The review of relevant laws was completed by primary data collected by quantitative and qualitative methods in order to obtain a broad, comprehensive and explanatory image of the current situation in the field, the views of various social actors on the needs related to specialized child and family accompanying and support throughout legal review.

Quantitative Research

The method applied in data collection was a sociological survey based on a self-filled questionnaire. The study was conducted on a representative sample of 306 representatives of law enforcement bodies involved at all stages of examination of criminal cases with child victims of crimes. **102 criminal investigation officers, 102 prosecutors and 102 judges** provided their inputs for highlighting the common points and the divergences between the three players involved in examination of cases related to crimes against children. The sample was randomized, stratified according to territorial – administrative units. The sample was representative for the professionals who have had cases where children had been victims of crimes (*Box 1*).

Box 1. Sample for quantitative research

In establishing the sample for the research, the authors relied on the number of legal professionals (1619) acting in the judiciary in the Republic of Moldova at the time when the study was initiated: 686 criminal investigation officers, 535 prosecutors and 398 judges. The following formula was used for calculation of the sample, with index of reliability of 95%:

$$n = \frac{Nt^2Pq}{N\Delta x^2 + t^2Pq}$$

$$n = \frac{1619 * 1.96^2 * 0.25}{1619 * 0.05^2 + 1.96^2 * 0.25}$$

n – Number of judiciary players to be interviewed

N – total number of players

T – Student for 95% reliability index (1.96)

Pq – 0.25,

Δx – maximum admissible error 5% (0.05).

The calculated sample was comprised of 309 legal professionals, 103 questionnaires for each category, in order to be able to conduct a comparative analysis of obtained data. Ultimately, 102 questionnaires for each category have been validated

Qualitative Research

The qualitative research comprised 11 in-depth individual interviews with representatives of central and local governments, judiciary bodies, the Institution of Ombudsman and 11 case studies with children victims of crimes (see Figure 1). Data collection period: November 12 – December 25, 2012.

Figure 1. Sample for qualitative research

SAMPLE FOR QUALITATIVE RESEARCH

- **11 individual in-depth interviews**
- **10 case studies**

Individual in-depth interviews

- **4 representatives of local governments (1 mayor, 2 representatives of Social Support and Family Protection Departments, 1 representative of Education, Youth and Sports Department)**
- **2 representatives of the judiciary**
- **4 representatives of the central government [representative of the Superior Council of Magistracy, representative of the Ministry of Internal Affairs, representative of the Ministry of Labor, Social Protection and Family]**
- **Representative of the Institution of Ombudsman (Ombudsman for Children's Rights)**

STUDY CASES

- **10 cases in which specialized assistance was offered**

Individual in-depth interviews with local government representatives were conducted in two districts of the country: one district where the National Center for Child Abuse Prevention had conducted activities to strengthen intersectoral collaboration in investigating cases of child abuse and one district where no such kind of assistance had been provided.

The case studies included various types of crimes: (i) against freedom, honor and dignity; (ii) against life and health of the person; (iii) crimes related to sexual life. Child victims of crime were selected with the support of representatives of the National Center for Child Abuse Prevention according to the following criteria:

- The child has gone through the whole legal examination process: investigation, prosecution, examination in court;
- The period within which the lower court has issued its judgment is at least 6 months;
- the age of the child is greater than 12 years;
- children received psychological services during participation in legal proceedings.

Each of the 10 children participating in the study were interviewed according to a semi-structured interview guide that included various aspects of the legal examination process: first contact with law enforcement and prosecution bodies; child's hearing conditions (place, time, duration of hearing); participants in the hearing of the child and their attitude towards the child; psychological effects of legal proceedings on the child; proposals from children to improve the legal examination process.

Particularities of Participants in Research

Law enforcement experts involved in the examination of cases of crimes against children are mostly men. Among prosecutors we find the greatest number of women involved in the examination of such cases compared with judges and investigators (*see Table 1*).

In terms of work experience in the field, we note that 74 percent of investigators and 72 percent of prosecutors have work experience of up to 9 years, compared with 50 percent of judges who have experience of 10 years and more.

Table 1. Profile of law enforcement bodies participating in research

		Criminal investigation bodies		Prosecutors		Judges	
		Number	%	Number	%	Number	%
Sex	Male	93	91.2	63	61.8	73	71.6
	Female	9	8.8	39	38.2	29	28.4
Work experience in the field	Up to 5 years	43	42.2	29	28.4	11	10.8
	5- 9 years	32	31.4	44	43.1	40	39.2
	10-14 years	17	16.7	22	21.6	18	17.6
	15 years and above	10	9.8	7	6.9	33	32.4

I. REGULATION OF PROTECTION OF CHILD VICTIMS OF CRIMES

1.1. Relevant Universal Standards

Guaranteeing universal children's rights, protection against sexual abuse and violence, against tolerance of traditional practices affecting the health of children is a globally enshrined obligation. The effective implementation of standards developed by international bodies is the task of each member state, with particular attention paid to the values, traditions and cultural realities in order to facilitate implementation of mandatory rules in each state.

In addition, recommendations, practical guides and guidelines aimed at standardizing implementation practices in all segments involving the protection of children's rights in general and, the rights of the child victim in particular, were developed.

The **Universal Declaration of Human Rights** seeks to ensure universal and effective recognition and application of the rights it enunciates⁸.

In the spirit of this document, the **International Covenant on Civil and Political Rights**⁹ has required member states to promote universal and effective respect for the rights and freedoms of all individuals under their jurisdiction, without distinction, and to adopt appropriate legislative measures and practices.

The **International Covenant on Economic, Social and Cultural Rights**¹⁰ comes to enshrine, in addition to the general obligation to protect human rights, the obligation of member states to take special measures of protection and assistance to all children and young persons without any discrimination; children and young persons should be protected against exploitation and works affecting the morality or health (art. 10 para. 3).

The **United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment**¹¹ (art. 1) and the **Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment**¹² establishes both an international inspection body – the sub-committee for the Prevention of Torture and a permanent national control body - the National Prevention Mechanism.

The **United Nations Convention on the Rights of the Child**¹³ aims to strengthen the enforcement of rights of all children in the manner prescribed in the Convention by enhancing the capacity of people empowered with adequate powers to respect, protect and fulfill the rights of children (art. 4) and the ability of rights holders to claim their rights: always guided by the rights to non-discrimination (art. 2), supremacy of the best interest of the child (art. 3 para. 1), life, survival and development (art. 6), and respect for the views of the child (art. 12).

States Parties shall take all measures to protect the child from all forms of treatment that can damage the child's condition, promoting the physical and psychological recovery and social reintegration of any child victim (art. 19, 32, 34, 39).

Optional Protocol to the Convention on the Rights of the Child against the Sale of Children, Child Prostitution and Child Pornography¹⁴, in particular art. 8, stipulates the need to protect children who are victims or survivors of such crimes. The interests of the child must be "a primary consideration" of the criminal justice system, states are to provide specialized training for those who work with child victims. There must be procedures adapted for child victims taking into account their vulnerability and special needs. Child victims should be provided with appropriate support services, they should be informed about the case and their rights, and be able to make statements, having their identity and privacy protected etc.

⁸ Adopted and proclaimed by the UN General Assembly Resolution 217 A (III) of 10 December 1948.

⁹ Adopted and opened for signature by the UN General Assembly on December 16, 1966.

¹⁰ Adopted and opened for signature by the UN General Assembly Resolution 2200 A (XXI) of 16 September 1966.

¹¹ Adopted and opened for signature by the UN General Assembly Resolution 39/46 of 10 December 1984.

¹² Adopted by UN General Assembly Resolution A / RES / 57/199 of 18 December 2002.

¹³ Adopted by the UN General Assembly on November 20, 1989

¹⁴ Adopted by UN General Assembly 54/263 of 25 May 2000.

According to the **United Nations Convention on the Rights of Persons with Disabilities**¹⁵, the participating States shall take all necessary measures to ensure the rights of children with disabilities on an equal basis with other children, as well as all human rights and fundamental freedoms by taking into account the best interests of the child and guaranteeing the right to freedom of expression (art. 7).

United Nations Standard Minimum Rules on the Administration of Juvenile Justice ("The Beijing Rules")¹⁶ focus on the welfare of the juvenile and the principle of proportionality (para. 5), paying special attention to the particular problems and needs of the juvenile during administration of juvenile justice; including when juveniles are victims of crime.

United Nations Guidelines for Justice in Matters Involving Child Victims and Witnesses of Crime¹⁷ present framework guidelines useful for member states in improving the protection of child victims and witnesses of crime. The guidelines contain the principles of dignity, non-discrimination, best interests of children, protection, harmonious development and participation, presenting additional guarantees in achievement of justice (Section III, para. 8).

It is noted that child victims and witnesses need special protection, care and support appropriate to their age, level of maturity and unique needs, in order to prevent further suffering and trauma that may result from their participation in the criminal justice process (Section V). To avoid child suffering, the interviews, examinations and other forms of investigations should be performed by trained professionals in a sensitive, respectful and in-depth manner (Section V, para. 13, Section XV, para. 40).

Every child should be treated as a capable witness (Section VI, para. 18). Member States are to ensure child victims and witnesses of crime protection and fulfillment of all human rights (Sections VII-XIV).

UN Committee General Comment for Human Rights no. 17: Rights of the child (art. 24)¹⁸ recognizes the right of every child, without admitting any discrimination (para. 5), to receive from family, society and state the protection required by its status as a juvenile. States must adopt, along with special general measures for child protection (para. 1, 4), preventive measures in order for children not to be subjected to violence, cruel or inhuman treatment or exploitation etc. (para. 3, 6).

General Comment of the Child Rights Committee no. 13 (2011), "Article 19: The child's right to be free from any form of violence" reiterates that States parties should take special obligations to protect child victims and witnesses of human rights violations, the obligation to investigate and punish those responsible and the obligation to provide access to redress for human rights violations. Justice systems must address the needs and rights of children (para. 4). It is stressed that all forms of violence against children are unacceptable (para. 16). A fair trial must be respected at all stages and in all cases¹⁹. Protection and further development of the child should be the primary goal in the decision making process. The document states that the child victim must be guaranteed compliance with all procedural safeguards, intervention and protection measures based on a restorative approach (para. 50, see para. 17, 38, 45-48).

Guidance Note of the Secretary General of the United Nations: UN Approach to Justice for Children²⁰ reiterates the importance of the developed guiding principles, standards and

¹⁵ Adoptată de Adunarea Generală a O.N.U. prin Rezoluția A/RES/61/106 din 13 decembrie 2006. Deschisă spre semnătură la 30 martie 2007. Adopted by the UN General Assembly A / RES / 61/106 of 13 December 2006. Open for signature on 30 March 2007.

¹⁶ Adopted by the UN General Assembly Resolution 40/33 of 29 November 1985.

¹⁷ Adopted by the UN General Assembly Resolution 2005/20 of 22 July 2005.

¹⁸ Adopted at the 35-th Session of April 07, 1989.

¹⁹ See also: Guidelines of the Committee of Ministers of the Council of Europe relating to child-friendly justice, adopted on November 17, 2010; Guidelines on measures to protect children who are victims or witnesses of crime (ECOSOC resolution 2005/20); and Resolution of the UN Third Committee (Social, Humanitarian and Cultural) on "Human rights in the administration of justice", adopted by the General Assembly on 21 December 2010 (A / C.3 / 65 / L.35 / Rev.1).

²⁰ Dated 22 September 2008.

http://www.unrol.org/files/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf.

recommendations by insisting on proper support for children and their protection. According to UN Secretary General, the development and implementation of strategies, legislative and institutional reforms have the full respect of children's rights as its starting point as their starting point and condemn any abuses against them.

Protection of child victims of crime through the regional instruments and mechanisms

The European Union strengthens its activities in order to promote and protect children's rights by establishing appropriate and effective legal guarantees, adopting a strategic approach, given the particularities of socio-legal condition of the child.

The EU Treaty²¹ explicitly requires the EU to promote children's rights (art. 3 para. 3) and the **Charter of Fundamental Rights of the European Union**²² recognizes that children are independent and autonomous holders of rights. The welfare of children is ensured by taking into account the age and degree of maturity (art. 24 para. 1). In all actions concerning children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration (art. 24 para. 2).

The EU Agenda for the Rights of the Child²³ is geared towards the promotion, protection and implementation of children's rights in EU policies. The initiatives to be designed, implemented and monitored rely on the principle of the best interest of the child enshrined in the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child.

The act focuses on concrete actions in areas where the European Union can bring a real contribution, by establishing effective safeguards: promoting child-friendly justice, protecting children in vulnerable situations and combating violence against them.

All EU measures affecting children should be made from the "child rights perspective" (para. 1). The agenda reminds of the **Strategy of the Committee for Effective Implementation of the Charter of Fundamental Rights of the European Union**²⁴, which calls the Commission at an early stage to use the means of "fundamental rights check" in drafting legislative proposals and amendments thereto (para. 1.1). One of the cornerstones of European Union human rights agenda is to make the justice system in Europe more child friendly. Children can be involved in the justice system in a number of different ways, including when they are victims or witnesses of crime (para. 2.1).

European Parliament and Council Directive 2012/29 / EU of 25 October 2012 establishes minimum standards on the rights, support and protection of victims of crime²⁵ - a tool of major importance in the reference field. Based on the Council Resolution of 10 June 2011 on the "roadmap" (Budapest) for strengthening the rights and protection of victims, in particular in criminal proceedings, the Directive insists for action at EU level in order to strengthen and support the rights of victims of crime through measures adapted to their needs; where effective guarantee of the rights and freedoms of victims cannot be conditional. Over the years, the Council of Europe has demonstrated diligence and perseverance in strengthening children's rights, adopting a multidimensional approach: where legal instruments and components and their development were framed by specific regulations, including the situation of child victims of crime, mandating the national authorities to adopt appropriate legal framework in the light of established standards and their practical transposition.

According to the **Statute of the Council of Europe**²⁶ each member state must accept (...) the principle that every person within its jurisdiction should enjoy human rights and fundamental freedoms (art. 3).

²¹ Signed on 07 February 1992, consolidated edition after the entry into force of the Lisbon Treaty on December 01, 2009.

²² Ratified on 07 December 2000, with full legal effects after the entry into force of the Lisbon Treaty.

²³ COM(2011) 60 final, dated 15 February 2011.

²⁴ COM(2010) 573 final, dated 19 October 2010

²⁵ Dated 25 October 2012

²⁶ Adopted on May 5, 1949, ETS no. 1

The regional legal instruments with impact in the field of reference include the **European Convention on Human Rights and Fundamental Freedoms**²⁷ (with a global coverage of rights and freedoms inherent for protection of life, integrity, security and development of the child in all circumstances) and the **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**²⁸ (which prohibits any treatment or practice able to harm the physical and / or mental integrity of the child, and requires protection against such unacceptable treatment).

The **European Convention for the Exercise of Children's Rights**²⁹ aims to protect the best interests of the child. It provides for a number of procedural measures to allow children to exercise their rights. The Convention provides for measures to promote children's rights, particularly in procedures aimed at family relationships before the judicial authorities.

Under the **Revised European Social Charter**³⁰, the parties undertake to protect children and young persons against neglect, violence and exploitation (art. 17 para. 1, letter b).

Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse³¹ has been the first instrument to establish the forms of sexual abuse of children as criminal offenses, including such abuse committed in the home or family, with the use of force, coercion or threat. Preventive measures outlined in the Convention include screening, recruitment and training of persons working in contact with children, making children aware of the risks and teaching them to protect themselves. The Convention provides protection of child victims during court proceedings and includes measures to monitor offenders and potential offenders. It also establishes support programs for victims, encourages people to report suspected exploitation and sexual abuse of children; certain offenses being pursued even when they have been committed abroad (eg. child sex tourism).

Guidelines for child-friendly justice³², adopted as a practical tool, contain recommendations which help identify remedies to problems in law and practice. The Guidelines establish compliance and effective implementation of all the rights of children at the highest possible level (Section I), taking into account the best interests of the child, dignity, participation, protection against discrimination and the rule of law in all circumstances (Section III). The Guidelines contain references inherent to appropriate information and counseling of children, their safety, interdisciplinary training of professionals, multidisciplinary approach to the child's condition, monitoring the actions of the involved enforcement actions etc. (Sections IV-VI). Cases involving children must be managed in non-intimidating environments, sensitive to children (Section IV, para. 54). Interview methods, such as video or audio recordings or prior recorded hearings should be used as admissible evidence (Section IV, para. 59). Court sessions involving children must be adapted to the pace and the attention of the child and waiting and interview rooms should be arranged in a child friendly environment (Section IV, para. 61-62). Interviews should be conducted by trained professionals, preferably by the same person, and the number of interviews must be limited as much as possible, their duration being adapted to child's age and level of attention (Section IV, para. 64, 66-67). Direct contact, confrontation or interaction between the child victim or witness and the alleged perpetrators should, as far as possible, be avoided unless the child victim otherwise requests (Section IV, para. 68). Children should have the opportunity to submit evidence in criminal cases in the absence of the alleged abuser (Section IV, para. 69). Statements and evidence submitted by the child should never be considered invalid or incorrect only for reason of the child's age (Section IV, para. 73).

Resolution CM /Res/2 for Child Friendly Justice³³ contains references relevant to the study, where the best interests of the child shall be a primary consideration (para. 7, 18). Their rights must be fully respected and promoted, including through access to effective remedies and

²⁷ Adopted on 4 November 1950, ETS no. 5.

²⁸ Adopted on 26 November 1987, ETS no. 12

²⁹ Adopted on 25 January 1996, ETS no. 160.

³⁰ Adopted on 03 May 1996, ETS No. 163.

³¹ Adopted on October 25, 2007, ETS No. 201.

³² Adopted by the Committee of Ministers on November 17, 2010 at the 1098th Meeting of the Ministers' Delegations.

³³ Adopted by the 28-th Conference of the Ministers of Justice of the Council of Europe (Lanzarote, October 2007).

justice (para. 8), where the view and the child needs to be taken into account (para. 9), establishing measures and safeguards to reduce the negative impact of child interaction with the justice system (para. 10). In addition, special attention and appropriate safeguards are required for child victims or witnesses of crime in order to protect and prevent repeated victimization by inappropriate legal proceedings (para. 11).

Recommendation (2009) 10 for Policy Guidelines for integrated national strategies for the protection of children from violence³⁴ reiterates that the welfare and best interests of children are fundamental values whose protection is assigned to the states. The states are responsible for the creation and establishment of genuine protection mechanisms effective against all forms of violence and they must develop a comprehensive multilateral framework by which to prevent and respond to violence against children, a framework mainstreamed in the national planning process through a national strategy.

The **bodies of the European Convention on Human Rights and Fundamental Freedoms** granted and pay particular attention to cases that directly or implicitly target the rights and interests of children.

As for the right to life (art. 2 of the ECHR - positive obligation), in the case *Osman vs. The United Kingdom* (judgment of 28 October 1998), the Court stated that state authorities are mandated, in concrete circumstances, to take preventive measures to protect a person whose life is threatened by the criminal actions of another person (student harassed by teacher, student family complaints to the police have led to ineffective engagement, resulting in the student's father being killed and the student injured). In this case, the Court condemned the UK for the lack of a concrete involvement and ineffective investigation.

In the case *Lipencov vs. Moldova* (judgment of 25 January 2011) the Court found that the juvenile applicant aged 17 years had been exposed to inhuman and degrading treatment while he was in the police station, the applicant's complaints had not been examined. The Court found a violation of art. 3 and 5 of the ECHR, as the applicant was a victim of abuses and failure of authorities' involvement. The inaction of criminal investigators and lack of special protection for juveniles are unacceptable (*Okkali vs. Turkey* judgment of 17 October 2006, *Stoica vs. Romania* judgment of 4 March 2008). In both cases the juveniles were victims of inhuman treatment, which was not investigated at national level.

The European Court of Human Rights protects the child against the so-called "reasonable punishment" (*A. vs. The United Kingdom* judgment of 23 September 1998) and corporal punishment, admitted as a disciplinary measure in schools (*Campbell Cosans vs. the United Kingdom* judgment of 25 February 1983). As for the crime of rape, states are mandated under positive obligations imposed by art. 3 and 8 ECHR, to pursue and punish in an effective manner any non-consensual intercourse, even if the victim did not show physical resistance (rape of a 14 years old juvenile, *MC v. Bulgaria* judgment of 4 December 2003). Physical and sexual domestic violence is unacceptable and is prohibited in absolute terms. The Court found that social services were not able to protect children (from physical and sexual violence committed by the partner of children's mother), founding a violation of Article 3 and the fact that there was no effective remedy for infringement of this article (*Z. and Others v. The United Kingdom* judgment of 26 November 2002).

The European Court examined several aspects of the right to a fair trial (Art. 6 of the ECHR) in the situation when a child was involved in the justice system, including as a victim or witness. In the case *Baegen v. The Netherlands* (judgment of 27 October 1995), the Court held the need to take into account the particularities of criminal proceedings in certain sexual offenses, especially when a juvenile is involved. In such cases, special restrictions are required, designed to protect the victim, but at the same not to conflict with the defender's right to defense (in respect of the hearing, giving statements).

The Court reiterates that national courts are called upon to analyze concrete cases involving art. 8 of ECHR to prioritize the interests of the child against other rights; solutions are delivered only by finding the balance between children's rights and other rights guaranteed by the ECHR.

³⁴ Adopted by the Committee of Ministers on 18 November 2009, at the **1070bis** Meeting of the Minister's Delegates.

1.2. National Legal Framework

Substantive Law

Moldovan law enshrines the respect and protection of the person based on principles of equality and non-discrimination both in the country and abroad³⁵. At the same time, national laws contain acts governing protection of rights and interests of children and acts penalizing inappropriate and abusive behavior towards the child³⁶. The criminal law protects against crime, the person, his/her rights and freedoms³⁷ (...) and incriminates facts which affect the physical and mental integrity of the person in all complexity, by ordering sanctions under criminal law. Conventionally, for the purposes of the study, we can identify four groups of crimes whose victims are children, namely:

GROUPS OF CRIMES	CRIMES	PUNISHMENT
Crimes against life and health of a person (Chapter II, Special Part, Criminal Code of RM)	<i>Abatement to suicide</i> (art. 150 CC)	Punished by imprisonment for up to 6 years
	<i>Deliberately causing serious bodily or health injury</i> (art. 151 CC)	Punished by imprisonment for 3-12 years
	<i>Deliberately causing less severe bodily or health injury</i> (art. 152 CP)	punished by community service work from 140 to 240 hours or by imprisonment for 3 to 6 years
	<i>Threatening to kill or cause severe bodily or health injury</i> (art. 155CC)	punishable by a fine of 200 to 400 conventional units or by community service work from 180 to 240 hours or by imprisonment for up to two years
	<i>Severe or less severe bodily or health injury under affect</i> (art. 156 CC)	punishable by a fine of 200 to 500 conventional units or by community service work from 180 to 240 hours or by imprisonment for up to 3 years
	<i>Severe or less severe bodily or health injury cause by imprudence</i> (art. 157 CC)	punishable by a fine of up to 300 conventional units or by community service work from 180 to 240 hours or by imprisonment for up to 2 years
	<i>Failure to help a sick person</i> (art. 162 CC)	punishable by a fine of 200 to 500 conventional units or by community service work from 100 to 240 hours or by imprisonment for up to 5 years, with deprivation of the right to hold certain positions or to exercise a particular activity for up to 3 years
	<i>Leaving in jeopardy</i> (art. 163)	minimum fine or community service, or imprisonment for up to 2 years, maximum imprisonment for up to 4 years
Crimes against freedom, honor and dignity (Chapter III, Special Part, Criminal Code of the RM)	<i>Kidnapping a person</i> (art. 164 CC)	punishable by imprisonment from 2 to 13 years
	<i>Kidnapping a juvenile by close relatives</i> (art. 1641 CP)	punishable by a fine of up to 300 conventional units or by community service work from 100 to 240 hours or by imprisonment for up to 6 months
	<i>Trafficking in humans</i> (art. 165 CC) '	punishable by imprisonment from 5 to 20 years with deprivation of the right to hold certain positions or to perform certain activities for 2 to 5 years, while the legal entity is punishable by fine from 3000 to 9000 conventional units, with deprivation of the right to perform a certain activity, or liquidation of the legal entity
	<i>Illegal deprivation of freedom</i> (art. 166 CC)	punished by community service work 120 to 240 hours or by imprisonment from two years to 10

³⁵ Constitution of the Republic of Moldova dated 29 July 1994, art.

³⁶ Law on the Rights of the Child no. 338-XIII dated 15 December 1994, Law on prevention and combating of domestic violence no. 45-XVI of March 01, 2007; Law on prevention and combating of Human Trafficking no. 241-XVI of October 20, 2005

³⁷ Criminal Code no. 985-XV of April 18, 2002

		years
	<i>Torture, inhuman or degrading treatment</i> (art. 166 ¹ CP)	punished by imprisonment from 2 to 15 years or by fine from 800 to 1000 conventional units, in both cases with deprivation of the right to hold certain positions or to exercise an activity for 3 to 15 years
	<i>Slavery and slavery-like conditions</i> (art. 167 CC)	punished by imprisonment from 3 to 10 years with (or without) deprivation of the right to hold certain positions or to exercise an activity for up to 5 years
	<i>Forced labor</i> (art. 168 CP)	punished by imprisonment for up to 3 years
	<i>Illegal internment in a mental institution</i> (art. 169 CP)	punished with imprisonment for 3 to 7 years with deprivation of the right to hold certain positions or to practice certain activities for a term of 3 years to 5 years
Crimes related to sex life (Chapter IV, Special part, Criminal Code of RM)	<i>Rape</i> (art. 171 CC)	Punished by imprisonment from 3 to 20 years or life detention
	<i>Violent actions of sexual nature</i> (art. 172 CC)	Punished by imprisonment from 3 to 20 years or life detention
	<i>Sex harassment</i> (art. 173 CP)	punishable by a fine of 300 to 500 conventional units or by community service of 140 to 240 hours or by imprisonment for up to three years
	<i>Sexual intercourse with a person under the age of 16 years</i> (art. 174 CC)	Punishable by imprisonment from 3 to 7 years
	<i>Perverse actions</i> (art. 175 CC)	Punishable by imprisonment from 3 to 7 years
	<i>Berthing children for sexual purposes</i> (art. 175 ¹ CP)	Punishable by imprisonment from 1 to 5 years
Crimes against family and children (Chapter VII, Special Part, Criminal Code of RM)	<i>Domestic violence</i> (art. 201 ¹ CC)	punished by community service work 150 to 180 hours or by imprisonment from 2 years to 15 years
	<i>Trafficking in children</i> (art. 206 CP)	Punished by imprisonment from 8 to 20 years, with deprivation of the right to conduct an activity or hold a position for 2 to 5 years or life imprisonment, while the legal entity is punished by fine from 3000 to 9000 conventional units, with deprivation of the right to conduct an activity or liquidation of the legal entity
	<i>Illegally taking children out of the country</i> (art. 207 CC)	Punished by imprisonment from 2 to 6 years
	<i>Attracting juveniles in criminal activity or abating to commit immoral acts</i> (art. 208 CC)	punishable by a fine of 200 – 700 conventional units or by community service work from 150 to 240 hours or by imprisonment for up to 7 years
	<i>Child pornography</i> (art. 208 ¹ CC)	punished by imprisonment from 1 to 3 years with a fine, applied to a legal entity, from 2000 to 4000 conventional unit and deprivation of the right to conduct an activity
	<i>Recourse to prostitution practiced by a child</i> (art 208)	Punished by imprisonment from 3 to 7 years
	<i>Attracting juveniles in illegal use of drugs, medications and other narcotic substances</i> (art. 209 CP)	Punished by a fine from 200 to 800 conventional units or imprisonment of up to 6 years.

Procedural Law

The procedures are governed by the legal provisions in force, in particular those found in the Criminal Procedure Code that come to regulate the status, rights and obligations and the protection offered to child victim of crime³⁸.

The fact is that the work of the prosecution bodies, the judges, and other professionals who interact with the child in contact with the justice system, based on the legal norms, must be individualized³⁹, tailored for each individual, depending on personality traits the child victim has, the age, the level of maturity and understanding, activity to be organized and carried out based on the best interest of the child.

Child protection is guaranteed by the general provisions of the Criminal Procedure Code - which covers the protection against crime, guaranteeing fundamental rights and freedoms, participation, representation, compensation, repair for the damage caused, and by the special provisions, which require identifying the age of the juvenile, the peculiarities of the character and temperament, the juvenile's interests and needs⁴⁰. The examination of cases involving juveniles occurs separately and transmission to court is resolved urgently and with priority.

Child victims of crime under the law of criminal procedure may have different status in trial: **victim, injured party or witness**.

The concept of protection of victims of crime is satisfied in procedural law by giving these children a special status and position in implementation of procedural actions. Regardless of his or her status in the proceedings, the juvenile must be **informed** of his/her rights and obligations⁴¹. At the same time, the juvenile shall be explained the procedural actions to which he/she will be a party (for the entire duration of criminal proceedings), the consequences of his/her participation, guarantees and safeguards etc., with guarantee of his/her representation and legal representation of his/her interests.

The legal provisions draw attention to the place, time, duration and special mode of hearing children in criminal proceedings. Child victim of crime, in his/her capacity of the injured party is heard according to the procedures for hearing of witnesses⁴², and if the juvenile under the age of 14 years is to be heard in relation to sexual offenses, child trafficking or domestic violence, the law provides for hearing under special conditions⁴³ in dedicated facilities equipped with audio-video recording equipment via a pedagogue.

The juvenile witness and the educational psychologist should be placed in a room separate from the judge and other parties involved in the proceedings. The juvenile witness is asked questions through the educational psychologist, who reserves the right to rephrase questions if they are traumatic, in order to avoid any negative effect on the child's mental state.

When there are reasonable grounds to believe that the life, physical integrity or freedom of the child are at risk, the hearing can be made at the whereabouts of the witness, including if the child is unable to be present at the hearing by reason of illness or leaving abroad.

Hearing of children is usually conducted during the day (06.00-22.00 hours) and cannot last more than two hours without a break, and in total no more than four hours a day (the child may request rest, depending on his/her needs) .

When interviewing children, presence of their legal representative and of educational psychologist⁴⁴ is mandatory⁴⁴. The criminal procedure law also states about participation of

³⁸ Criminal Procedure Code no. 122 of March 14, 2003

³⁹ See Children's Rights Protection, 2nd Edition (Protectia Drepturilor copilului, Ediția a 2-a, Emese Florian, Editura C.H.Beck, București, 2007, p. 18-20.

⁴⁰ Art. 475 CPC

⁴¹ Art. 58-60, 90 CPC.

⁴² See art. 110 CPC, including art. 111 CPC.

⁴³ See art. 110¹ CPC.

⁴⁴ Ibidem

the pedagogue or psychologist⁴⁵, which creates a confusing situation as regards the training and the capacity of these professionals.

At the same time, the child is entitled to qualified assistance of a lawyer.

Where the juvenile is a victim or witness, the court will hear his/her statements in a closed meeting⁴⁶. At the stage of judicial investigation, the victim or, where appropriate, the injured party, at his/her request or at the request of the prosecutor, may be heard in absence of the defendant, enabling the latter to make informed statements and to ask the heard person questions⁴⁷.

If there are discrepancies between the statements of people interviewed in the same case, in order to find the truth and remove differences, the **confrontation**⁴⁸ of the persons making such statements is held. The hearing of confronted persons is conducted according to the provisions for examination of witnesses or the accused, which are applied properly, depending on the capacity of confronted persons. No juvenile shall be required to participate in the confrontation with the accused of offenses against his/her physical and/or moral integrity⁴⁹.

Participants (for the purposes of the study - legal representatives, representatives, pedagogue, psychologist, educational psychologist) - legal representatives⁵⁰ of the victim/the injured party are parents, adoptive parents, guardians or tutors who represent in the criminal trial the interests of juvenile or irresponsible participants in the proceedings. If there are no legal representatives among the persons mentioned above, the criminal prosecution body or the court appoints ex officio the guardianship authority as legal representative. No person accused of causing, by an offence, a moral, physical or material damage to the injured party can become the legal representative of the latter. If the legal representative acts to the detriment of the interests of the injured party, this quality is withdrawn. The legal representative of the victim/injured party, during the trial, exercises his/her rights under the provisions of the law⁵¹. The interests of the victim/the injured party may be represented throughout the process in the criminal case by lawyers or other *persons entrusted* with such powers by power of attorney⁵². If the victim does not have the financial means required for this purpose, she is entitled to be assisted by a lawyer who provides legal assistance guaranteed by the state.

The Criminal Procedure Code refers to participation of the pedagogue, psychologist and educational psychologist⁵³ without regulating their place in the criminal proceedings, the rights and obligations, the conditions to be met in order to participate, the professional training etc. Thus, there is a legal gap, which creates confusion and difficulties in achieving effective procedural actions and defense of the rights of child victims and witnesses of crime.

Factual findings are allowed as evidence in criminal proceedings, including through the following means: testimonies/statements of victims, witnesses; expertise report; audio or video recordings⁵⁴.

The statements made during the hearing shall be recorded by technical video means and recorded in full in the minutes⁵⁵. Video support, on which the statement has been recorded, sealed with the seal of the court, shall be kept by the court in original; with the copy of the minutes of the statement⁵⁶. These statements can be used as evidence only if they are confirmed by other evidence.

⁴⁵ Art. 481 1 CPC; also see art. 479 CPC

⁴⁶ Para. 21 art. 18 CPC

⁴⁷ Para. 1 art. 369 CPC.

⁴⁸ Art. 113 CPC.

⁴⁹ Para. 6 art. 113 CPC.

⁵⁰ Art. 77 CPC.

⁵¹ Art. 78 CPC

⁵² Art. 79 CPC; the rights and obligations in art. 80 CPC.

⁵³ See art. 110¹, 479, 481¹ CPC.

⁵⁴ For details see art. 93 CPC; for the study inly the listed means have been developed.

⁵⁵ According to art. 110-110¹, 260-261 CPC. Also see para. 3 art. 113 CPC.

⁵⁶ Art. 115 CPC.

The forensic or psychiatric *expertise*⁵⁷, through the developed reports, notes, clarifies or assesses, inter alia, the circumstances related to the existence, nature, extent of injuries, and the inability of the person (either because of the age, as a result of mental illness, a temporary mental disorder, other disorders of health or frailty). Regarding the reports of psychologists, note that there is no legal norm that directly regulates their status. In practice, the psychologists' reports are treated as findings combining expert opinions, and not expertise⁵⁸. Accordingly, the reports developed by psychologists require a legal framing.

The **audio or video recordings**, acquired under the Criminal Procedure Code, are evidence if they contain data or indices on preparation or commission of an offense and if their content helps find the truth in the case⁵⁹. The Criminal Procedure Code governs the keeping and, respectively, ensuring of keeping of material evidence and other objects in the criminal trial⁶⁰. Keeping of or the manner of ensuring safety of audio or video recordings is not provided expressly. There are some legal references on keeping the statement of the witness or of the juvenile witness, which are also applicable to statements of the victim⁶¹. In our opinion this is insufficient and leaves room for omissions, especially in ensuring information / data contained in interviews with the child victim by psychologist and duly recorded. Unfortunately, the Criminal Procedure Code does not contain any references to persons with disabilities (there is only the provision on participation of the interpreter to interpret signs for deaf or mute) or their protection is a sensitive segment that requires a comprehensive approach by taking into account the physical and mental peculiarities of these individuals, and their corresponding needs (especially if it is a child victim).

⁵⁷ para. 5¹ art. 58, para. 1¹ art. 60, art. 97 CPC; Title IV, Chapter III, Section 7, CPC.

⁵⁸ See art. 87 CPC, governing the status of the professional.

⁵⁹ Art. 164 CPC.

⁶⁰ See art. 159-160 CPC.

⁶¹ See art. 110-111 CPC.

1.3. Assessment of the Justice Related to Child Victims of Crimes

According to the interviewed experts, in recent years, the juvenile justice system has been subject to changes aimed to ensure child rights. There has also been a tendency to improve the situation of child victims of crime. As a result, as experts say, these crimes are not hidden as in previous years when *"they were neither declared, nor recorded"*, *"were not reaching the court."* In addition, experts have highlighted the increasing number of crimes in which children are victims - *"In recent years we have more and more cases, especially regarding sexual offenses. Mothers are abroad and children are abused by fathers"* (IIA_6_Judge). Most attention was focused on the hearing of children, including child victims and witnesses of crime. The strengths of the current system of justice concerning child victims of offenses reported by law professionals include the fact that the criminal proceedings for juveniles are different from those applied to adults and require authorities' engagement in ensuring child protection, in particular pedagogues and psychologists, and the presence of the legal representative.

However, the conditions for implementation of legal provisions are not ready, and the legal part on victims is *"somewhat ignored"*: *"If a law has been passed, its financial implementation must be ensured too. According to Article 39 of the UN Convention on children's rights, the State must provide recovery services to a child, which it fails to do. Parents pay for the expertise, for recovery services"* (IIA 11 Ombudsman). Law enforcement officials reported that there are criminal proceedings, with their complications, but the general trend is to keep them without too many deviations.

The juvenile justice system has been adversely affected, according to many interviewees, by the introduction of the integrated case management program. However, this system does not provide judges specializing in children's issues.

The problems faced by legal professionals who examine cases of crimes against children are related to:

- Lack of conditions for hearing of juveniles. Article 110¹ of the Criminal Procedure Code does not work because of lack of child hearing rooms. Currently, there are only 4 hearing rooms in Moldova, 2 in NGOs and 2 in courts (in Balti and Hâncești). It is expected that in 2013 juvenile hearing rooms will be established in other 7 localities in the country, law enforcement officials reported.

- Lack of space for judges is a problem, especially for mun. Chisinau *"organizing meetings with child victims requires organizational effort even for legal experts from Chisinau, and transportation is an issue too"* (IIA 7 Magistrate).

- Ensuring participation of pedagogues and psychologists at all stages of legal examination of cases of child victims of crime. Normative acts provide the need for these professionals to be present⁶², but does not specify how. The courts do not have pedagogues or psychologists among their staff, although they noted the need for such specialists, perhaps even part-time. The lack of such specialists in staff structures delays the process of hearing of child victims of crime - *"the staff structures in courts are not confirmed by the department, nor by the State Chancellery. We need at least a pedagogue in the staff structure, let alone the psychologist"* (IIA 6 Judge) *"Hiring a teacher working in an educational institution is rather difficult. The teacher has a fixed schedule and we must conform to it. However, scheduling the meetings with children for afternoon only would be difficult. In addition, a serious crime is examined by a panel of judges. The agenda is very busy and we have to choose so that all are available - 3 judges, prosecutor, lawyer, defendant, etc."* (IIA 5 Judge).

- Lack of effective collaboration between the criminal investigation and prosecution and between the criminal investigation bodies and the court.

- Large number of files, which is ultimately reflected in the quality of file preparation.

- Some ways to ensure the presence of specialists are not always legal - *"we solve the problem by having 2 staff members with pedagogical education degree, who are involved in the examination of cases where children are victims of crime."* The lack of pedagogues or psychologists frequently causes postponement of trials in which children are victims of crime - *"we generalize the work of the prosecution quarterly and annually in terms of ensuring children's rights in criminal investigation. The prosecutors inform us that about 30% of criminal investigation actions are deferred because of the lack of psychologists and pedagogues, as if these*

⁶² Criminal Procedure Code, art. 110¹

specialists are not present, the criminal prosecution action has no probative value because it violates procedural rules" (IIA 8 Prosecutor).

-The institute of psychological expertise must be developed too, in order to be used in the prosecution in cases where children are victims of crime - psychological evaluation reports - *"the law states, but we do not have such specialists. The register of the Ministry of Justice contains the name of only one officially registered psychologist expert"* (IIA 8 Prosecutor).

- A particular problem is the discussion on the need of the child presence before the defendant. Legal representatives have said that the judge must assure the defendant's constitutional right to defense by asking questions. Some judges consult the child's opinion regarding his/her hearing before the defendant - *"We ask the child if he wants that man to be present in the room. If the child does not want the abuser to be present, he is not. Even if the legal representative refuses to assist, we remove him too. We create conditions so that only the pedagogue stays there"* (IIA 5 Judge).

Providing a lawyer ex officio in cases of crimes against children is not a mandatory procedure. National legislation stipulates that only if the victim's family does not have the necessary financial sources, the child-victim has the right to lawyer guaranteed by the state - *"the child in conflict with the law is provided a lawyer ex officio, but the same guarantees are not available for the child victim ... the child victim is more innocent of what happened in comparison with the child in conflict with the law"* (IIA 8 Prosecutor).

The justice system tends to provide a child-friendly environment, reported representatives of the judiciary. However, so far it failed to provide it in full - *"participation in criminal prosecution of untrained specialists reveals that the system is not friendly because children do not feel free, they do not enjoy a friendly environment"* (IIA 8 Prosecutor) *"We do not have a friendly justice as Europe recommended us. Children are taken out of school and heard without the presence of the parents or psychologist"* (IIA 11 Ombudsman); *"There is a procedure established, but we lack friendly skills, we must implement and create a friendly attitude towards the child"* (Representative of MIA), *"The behavior and attitude of some judges to the victims is poor, treating the victim as if the victim was a murderer"* (IIA 11 Ombudsman).

This does not mean that Moldova is not trying to implement in practice the principles of child-friendly justice: *"We met in a round table at the court. The judge was not seating at a separate desk. There was a friendly environment. The judge was smiling and began with questions that children could answer"* (IIA 2 DASPF).

According to interviewed experts, the following actions are required in order to ensure a child friendly environment:

- solving the problem of space, including opening juvenile hearing rooms;
- providing specialized training to psychologists and teachers who would provide assistance and counseling to child victims of crime and their families.

II. INSTRUMENTATION OF CASES RELATED TO CRIMES AGAINST CHILDREN: PRACTICAL ISSUES

2.1. Conditions for Conducting Legal Hearings

The collected data show that the vast majority of professionals in the justice system in the last three years have reviewed more than a case with children victims of crime. (see Table 2)

The minimum age of child victims of crime whose cases were examined by study participants is 1 year and a maximum of 18 years. Most frequently, however, child victims of crime were aged 10-16 years.

Table 2. Number of cases with children victims of crimes during the recent 3 years by categories of respondents, %

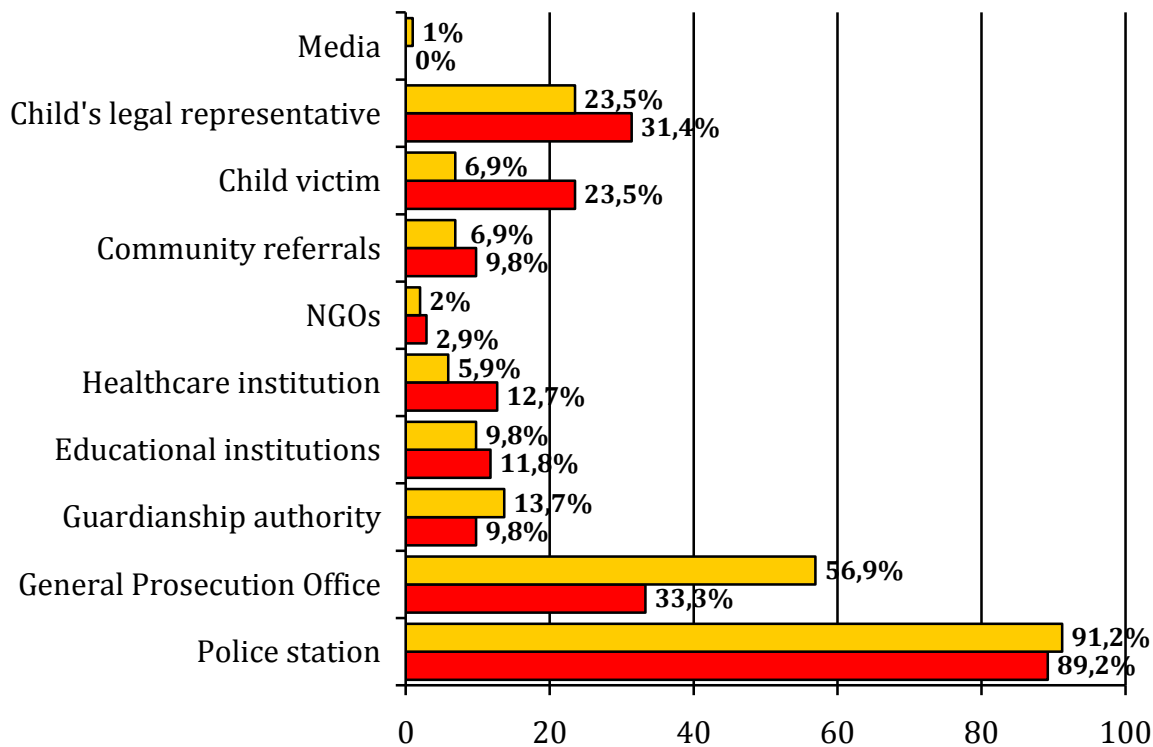
No. cases	1	2	3	4	5	6	7	8	9	10 and above	Don't remember
Criminal prosecution officers	10,8	2,9	7,8	8,8	8,8	1,0	1,0	1,0	1,0	3,9	52,9
Prosecutors	8,9	14,9	9,9	6,9	6,9	3,0	2,0	2,0	0	4,0	41,6
Judges	12,7	13,7	2,0	8,8	2,9	1,0	1,0	12,7	13,7	4,0	53,9

Cases in which children are victims of crime are most frequently reported by police departments, prosecutors, legal representatives of children. It is noteworthy that 23.5% of child victims of offenses go to police on their own. Healthcare and education institutions and guardianship authorities turn to law enforcement representatives in order to notify each of the 10 cases of crimes against children. The number of complaints files by community members are rare, even if some of them interact with these children daily. At the same time, the role of NGOs in this process is reduced, which is explained by the absence of such organizations in the regions of the country (see Figure 2).

The problems faced by investigators, prosecutors and judges in documenting and managing cases where children are victims of crime are generally the same, but their weight varies depending on the category of specialists.

Thus, while documenting and managing cases where children are victims of crime, investigators have most commonly mentioned the following types of problems: lack of specialized psychological assistance services (67.3%), lack of specialized hearing rooms for children (57.4%), limited capacities of children (40.6%), change in child statements during the examination of the case (33.7%), low cooperation with guardianship authorities (28.7%), low cooperation with local authorities (18.8%), lack of evidence (16.8%), low cooperation with educational institutions (15.8%), lack of psychological expertise, low cooperation with health care institutions (6.9%), insufficient collaboration with the legal expertise (forensic) service (5.0%) etc.

Figure 2. Institutions reporting cases where children are victim offences, %



The prosecutors reported the following problems: lack of specialized rooms for hearing children (64.0%), lack of specialized psychological support services (52.0%), limited capacities of children (46.0%), changes in statements made by children during examination of the case (43.0%), lack of evidence (25.0%), low cooperation with guardianship authorities (15.0%), lack of psychological expertise (15.0%), low cooperation with educational institutions (10.0%), low cooperation between legal professionals (7.0%), low collaboration with local public administration (6.0%), low cooperation with health facilities (5.0%) etc.

Judges reported mainly issues related to lack of child hearing rooms (88.8%), lack of specialized psychological assistance services (61.2%), lack of works aimed to ensure the child is ready for the trial (58.2%), limited capacity of children because of age (54.1%), changes in statements made by the child during the examination of the case (19.4%).

The analysis of problems faced by representatives of the legal system in documenting and managing cases involving child victims of crime shows that there are objective problems (lack of hearing rooms, lack of specialized psychological services for children, low cooperation with representatives of other social bodies etc.) and psychological problems of children victims of specific crimes, such as their limited capacities due to the age and development to express their views and support statements regarding the offense.

We would like to note here that there are indeed limits in children's mental capacities, which sometimes complicates the process of revocation, exposure and support for the child's testimony. For example: volume, duration of storage and accuracy of memory of the children are smaller than those of adults; the vocabulary of preschoolers and young school children is poor in adjectives and adverbs, moreover, the language of every child is different and requires an individual approach. However, research in this field shows that the recall of traumatic events in children often is as accurate as that of adults and compared with details, circumstances of the offense, they more accurately retain the essence of the traumatic event⁶³. Similarly, it was found that the imagination of a child over 6-7 years is basically the same as the imagination of an adult and when a child report an abuse or neglect, these facts are proven to be true.

⁶³ Myers, J.E.B. Evidence in Child Abuse and Neglect Cases. USA, 1997, vol.I, pag.19

Only 2 percent of the statements of abused children are false statements⁶⁴. However, some of the data that are available nowadays show that children, just like adults, are more suggestive in relation to peripheral information, which is meaningless to them. Sex abuse is a very prominent event in the life of the person charged with negative emotional states, therefore, the children will be less suggestive in relation to these actions⁶⁵.

In this context we support the idea that child victims / witnesses of crime are equally able to provide testimony as adults, but they require a special approach.

Non-governmental organizations working to prevent child abuse, provide psychological support to them and their family members are mostly located in Chisinau and Balti, and are virtually non-existent in other regions of the country.

The survey data outline several categories of problems in documentation and examination of cases of crimes against children: **(i) lack of child hearing rooms; (ii) lack of specialized psychological support services; (iii) limited capacity of children to testify by virtue of age, development, etc., (iv) lack of psychological preparation of the child for trial; (v) changes in the statements of the child during the examination of the case; (vi) low cooperation with various authorities (guardianship authorities or other local governments etc.).**

Legal hearings, according to research participant responses are made most often in the offices of the service (in the case of judges - in courtrooms) and rarely in other institutions - National Center for Child Abuse Prevention ("Amicul" Center), educational institutions, etc. (see Table 3)

Table 3. The place for conducting hearings in cases with child victims of crimes, %

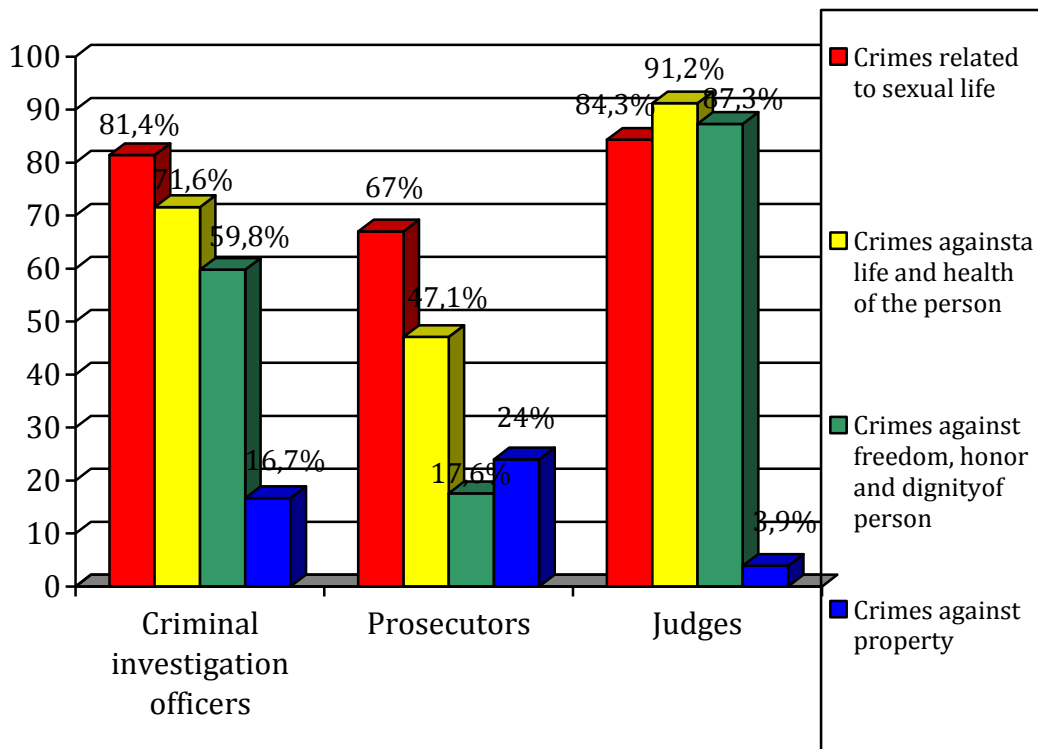
	Service room/meeting room	NCCAP and other NGOs	Education institutions	Prosecutor's office	Hearing room	At home
Criminal investigation officers	97.7	6.0	2.0	1.0	0	1.0
Prosecutors	96.7	2.2	0	0	1.1	0
Judges	97.6	1.2	0	0	1.2	0

The most common cases of crimes against children examined by the respondents are those related to sexual life, followed by those against life and health of the person, property, honor of the person etc. (see Figure 3) Data analysis by gender reveals that the vast majority of cases where children are victims of sexual offenses are examined by criminal investigators - women, a situation that is not observed for other specialists.

⁶⁴ Соонетс, Р и др. Недостойное обращение с детьми. Тарту, 2007, стр.146

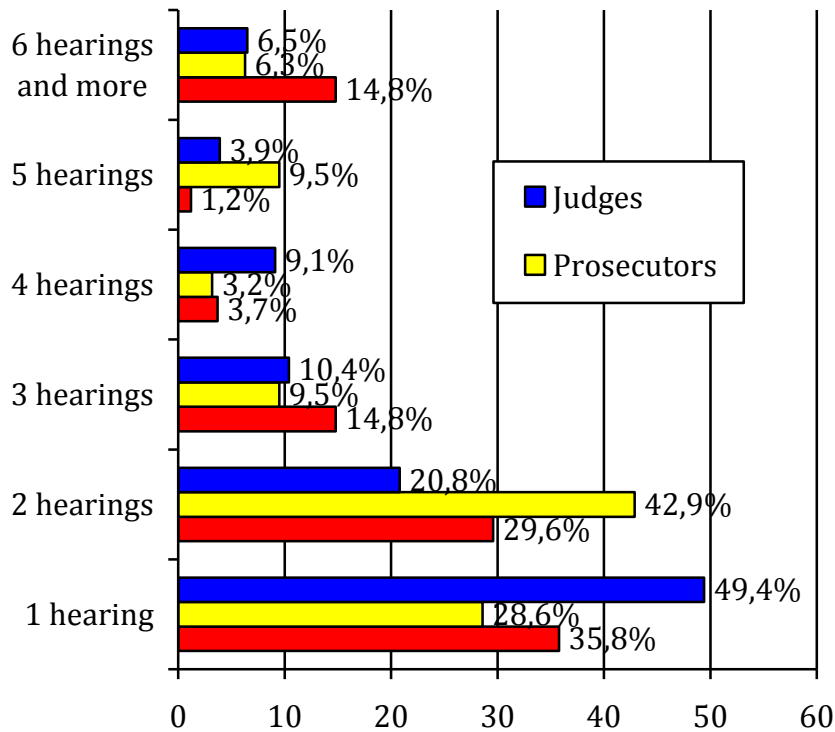
⁶⁵ Goodman, G.S. & Saywitz, K.J. Memories of Abuse; Interviewing Children When Sexual Victimization Is Suspected. 3 Child & Adolescent Psychiatric Clinics of North America 645, at 548 (1994)

Figure 3. Types of crimes where children are involved, by categories of respondents, %



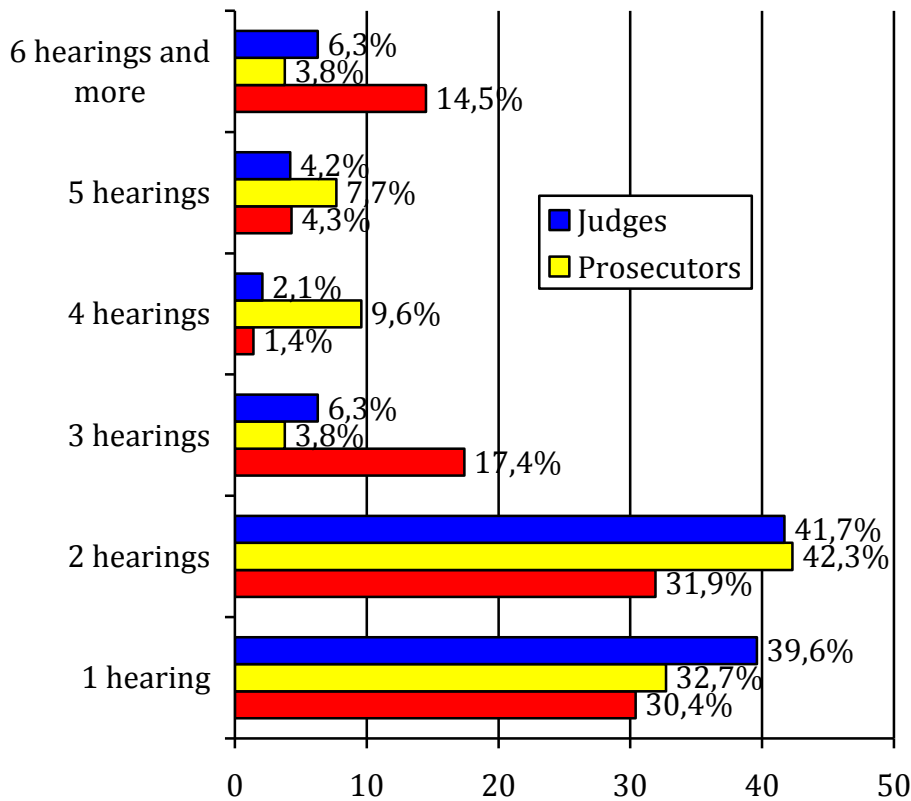
19 per cent of criminal investigation officers, 33 per cent of prosecutors and 16 per cent of judges said they had not examined cases of sexual crimes against children. Among those who had such cases, the number of hearings in most cases was 1-2, though in 35 per cent of criminal investigation officers, 29 per cent of prosecutors and 30 per cent of judges more hearings had been held (see *Figure 4*). It has been noted that the largest number of hearings were held in examination of cases with children victims of crimes related to sexual life.

Figure 4. Average number of hearings in examination of cases of sex crimes against the child, %



Regarding the child victims of crimes against life and health, 28 per cent of criminal investigator officers, 53 per cent of prosecutors and 9 per cent of judges reported they had not had such cases under examination. According to those who have had such cases, examination of this type of crimes most often implies two legal hearings (see Figure 5)

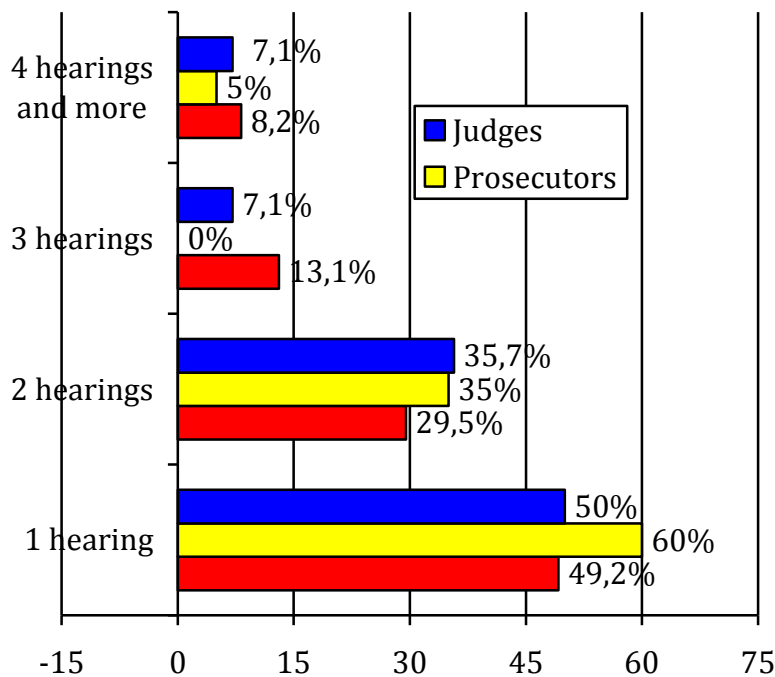
Figure 5. Average number of legal hearings in examination of crimes against the life and health of the child, %



Crimes against freedom, honor and dignity of the child are reviewed by legal professionals much less frequently than the first two. 40 percent of investigators, 82 per cent of the prosecutors and 13 percent of the judges said they had no such cases. The examination of this type of crime, most often, is performed on the basis of a single hearing. (see Figure 6)

Law professionals reported efforts to reduce the number of hearings with the participation of children - "we try as much as possible for the child to not be interviewed several times, as each hearing means re-victimization" (IIA 9 MIA).

Figure 6. Average number of legal hearings in examination of cases of crimes against freedom, honor and dignity of a child, %



According to information presented by children, the average number of hearings was 6 – 8: during the criminal investigation by investigators: 1-2 times, prosecutors: 2-3 times and during court examination: 1-2 times, at the Court of Appeal: *once*, the Supreme Court: *once*.

Case Study no. 1 Luminița

Luminita is 11 years old and she was sexually abused by their neighbor (30 years old male, from a religious family, married, with children) when she went to give them some products at her mother's request. The child did not tell anyone about what had happened to her, and the abuse happened again after several days.

Ultimately, the child's father found out about this and went to the police. He also requested the involvement of the National Center for Child Abuse Prevention, where the child received psychological, social and legal support (lawyer's services). The legal in justice lasted three years. Given the fact that the defendant was not imprisoned, had a higher social position than the girl's parents, and she was experiencing guilt and shame, the guardianship authority decided to place the child in temporary placement center for children.

During the criminal investigation the child was interviewed by:

- investigator - 2 times, the reason for the repeated hearing being the concern about any potential mistakes, as the suspect was the son of an important person in the village;
- prosecutor - once;
- Judge (first court) - once;
- judges (Court of Appeal) - present 2 times, heard - 1 time (when she went to court for the first time she was asked to wait (6 hours) to finally find out that the hearing was postponed for another time.

The sentence delivered by the first court was 3 years of probation. The Court of Appeal kept the decision of the lower court. Currently, the case is pending re-examination by the first court, after the girl's parents challenged the last judgment before the Supreme Court. Luminita continues to live far away from her home.

At each hearing the number of participants increases. Thus, at the first hearing, in addition to child and investigator, the legal representative of the child, which is most often one of the parents, is usually present. During the hearing at the prosecutor's office, the child tells what happened in front of several people: usually the psychologist /pedagogue and the lawyer (in some cases). At the hearing in court, the child must repeat what has been previously told for 6-7 times, but this time in person, and in front of a larger group of people: three judges, a clerk, two lawyers (personal and defendant's), a psychologist / pedagogue, sometimes the legal representative and the defendant. (see Case study no. 2)

Case study no2. Maricica

Maricica and her brother were living with their father after their mother had left to work abroad. The father was leaving for work in the morning, and the children had to do all household work. For disobedience, bad grades, failed assignments or simply for a careless move the children were physically punished by their father.

At her 10 years of age, Maricica knew how to cook food, to wash, to clean, i.e. she was doing all chores that are usually done by the adult in the household. Each year, the relationship between the father and mother increasingly worsened. At a point, the father forbid children to talk with their mother on the phone. After a while, being frequently drunk, he started to use the girl for sexual purposes, forcing her into sexual intercourses.

Using the phone of her friend, Maricica told her mother about the ordeal she was going through. The mother alerted their relatives in Moldova, asking them to intervene until she manages to get into the country.

At the first legal hearing conducted inside the Police Station, Maricica was assisted by her grandmother, i.e. she had to speak in front of two people. By the time the case was transferred to the prosecution office, the girl's mother had arrived to the country, taking over the role of the child's legal representative. Two prosecutors dealt with this case: the first was removed from examination because of his insinuation that the child was telling lies, under the influence of her mother. Accordingly, the child had to repeat again what had happened to her in front of other three people (two prosecutors and the mother). In court, the number of persons attending the hearing increased to nine: the judge (usually the must be three judges, but in Maricica's case there was only one), the clerk, the prosecutor, the child's lawyer, the legal representative, the teacher, psychologist, the defendant and the defendant's lawyer.

Exposure to a large number of people has a negative influence on children, making the traumatic symptoms more acute, as it is difficult in a large auditorium to create favorable conditions to support the child emotionally, in order to foster focus on the addressed topic (the traumatic event) and verbal expression of details⁶⁶. Research shows that multiple hearings, with questions formulated incorrectly and severe intonations have severe negative impact on the psycho-emotional recovery of many children⁶⁷.

In this context the presence of a psychologist can reduce the negative impact of these conditions on the examination of the case both at the stage of prosecution and in court.

In addition, at the prosecution stage, most of the interviewed children are examined by the psychiatric-psychological commission, which usually issues its conclusion based on the review

⁶⁶ Murray, K. Live Television Link: An Evaluation of Its Use by Child Witnesses in Scottish Criminal Trials. at 104 (1995).

⁶⁷ Lipovsky, J.A. The Impact of Court on Children: Research Findings and Practical Recommendations. 9 Journal of Interpersonal Violence, 238-57, at 246 (1994).

of the child within 2 sessions: the first session is conducted by psychiatrists, who usually ask questions about what happened (the children recalling the trauma again); the second meeting - is conducted by a psychologist who, in addition to questions about what happened also conducts the study of the child's psychological particularities, applying various psycho-diagnostic techniques. *"I did not understand why they were asking me to tell what was so clearly written in the file they had on their desk. I felt that no one was listening to what I was saying."*

At the same time, there are cases when the members of the examination committee think the child should be placed in a psychiatric clinic for evaluation purposes and issuance of expertise report, for a period of at least 14 days (see case study no. 3) .

Case study no. 3. Victoria

When Victoria turned 10, her father started to use her for sexual purposes. Victoria's behavior became increasingly strange - there were times of lack of self-confidence, anger, sadness and periods when she became uncontrollable, brutal or rebel. Victoria's grandmother began to suspect that something strange was happening between the father (her son) and the daughter, but instead of supporting Victoria, she began to suspect her of amoral behavior.

The sexual abuse Victoria had been exposed to for 5 years was discovered only when a new person became member of their family - the father's spouse. One day when the father was away at work, Victoria, feeling sick (a stomach ache) and, believing that the pain may be caused by unprotected sex, told her father's spouse about what had happened.

During the legal examination there was a psycho-psychiatric expertise requested and carried out under conditions of hospitalization in a psychiatric clinic in the capital city for 2 weeks. Victoria was not ready to speak in front of strangers. She generally did not want to discuss this topic - she was afraid of her father (he used to beat her and call her words, especially he liked to call her "crazy"). This inability to talk freely about sexual abuse incurred over several years cost her two weeks of interrogation - *"It was like a prison. I felt that I had done something wrong, that I slept with my dad and then I betrayed and for that reason I was tormented in this prison. I could not speak - they thought I was crazy!"*

The conclusion of the forensic psychiatric expertise was the following: mild mental debility with retention of ability to be aware of experienced real facts.

When reviewing cases of crimes against children, the investigators noted following the following steps (*open question*): establishing psychological contact with the child, free discussion or inviting the legal representative to the hearing, followed by the hearing and drafting of the minutes (95% of cases).

Prosecutors said the examination of cases with child victims implied the following steps (*open question*): establishing psychological contact with the child, hearing and ensuring the presence of the psychologist at the hearing, free discussion with the child and drafting the minutes (88% cases).

Judges, in turn, make the following steps (*open question*): establishing psychological contact with the child, hearing and ensuring the presence of the required specialists, free discussion with the child and drafting the minutes (96% of cases). We find that legal experts pay special attention to establishing psychological contact with the child, trying to talk freely with them.

80 percent of investigators consult the child's opinion regarding where the child wants to be heard: 28 percent always do it, 19 percent often, 33 percent sometimes. Some 20 percent of investigators reported they never consulted the children's opinion about the place of hearing. Responses collected from respondents reveal that most often the child's opinion regarding the place of hearing is consulted by investigators with a larger experience. (see Table 4).

Table 4. Consulting the child's opinion about the place of hearing by the investigators, %

		Yes, always	Yes, often	Yes, sometimes	No, never
Total		28,0	19,0	33,0	20,0
Work experience	Under 5 years	26,2	21,4	33,3	19,0
	5-9 years	25,8	12,9	38,7	22,6
	10-14 years	35,3	23,5	17,6	23,5
	15 years and more	30,0	20,0	40,0	10,0
Sex	Male	27,5	17,6	35,2	19,8
	Female	33,3	33,3	11,1	22,2

Compared with investigators, prosecutors consult the child's opinion on this subject -in proportion less than 65 percent. Accordingly, 17 percent always consult the child's opinion, 15 percent – often, 33 percent - sometimes. Similarly to investigators, child's opinion is most often consulted by more experienced prosecutors. (see Table 5).

Table 5. Consulting child's opinion about the place of hearing by prosecutors, %

		Yes, always	Yes, often	Yes, sometimes	No, never
Total		16,7	14,7	33,3	35,3
Work experience	Under 5 years	20,7	13,8	24,1	41,4
	5-9 years	13,6	11,4	40,9	34,1
	10-14 years	13,6	18,2	36,4	31,8
	15 years and more	28,6	28,6	14,3	28,6
Sex	Male	17,5	15,9	36,5	30,2
	Female	15,4	12,8	28,2	43,6

The data reveal that 65 percent of judges consult the child's opinion on the venue for hearing: 44 percent always consult the child's opinion, 6 percent – often, 15 percent - sometimes. 35 percent of judges reported that they did not consult the child's opinion about where the child wants to be heard. Most often, the failure to consult the child's opinion on the venue for hearing is recorded among judges with experience up to five years - more than half of them reported not consulting the child (see Table 6). Judges who said they never or rarely consult the child's opinion about the place of the hearing have motivated this by the lack of necessity for such action, more rarely by lack of special premises for hearing the child, lack of time or the young age of the child.

Table 6. Consulting the child's opinion on the place for hearing by judges, %

		Yes, always	Yes, often	Yes, sometimes	No, never
Total		44,1	5,9	14,7	35,3
Work experience	Under 5 years	45,5	0	0	54,5
	5-9 years	50,0	7,5	20,0	22,5
	10-14 years	33,3	5,6	16,7	44,4
	15 years and more	42,4	6,1	12,1	39,4
Sex	Male	46,6	5,5	12,3	35,6
	Female	37,9	6,9	20,7	34,5

According to the statements of children, most hearings are conducted in the premises of the police stations, prosecutors or courts, in ordinary halls / offices. The interviewed children said they encountered more difficulties in hearings inside police sectors: joint rooms, presence of others, disruption of child statements for many reasons, etc. (see *Case study no. 4*)

Case study no. 4. Ana

Ana graduated from 10 grades school and decided to continue her studies in Chisinau, but was not admitted and decided to stay in the capital city, to work and to try again next year. The girl was hired to work in a bar at night as a waitress. She used to come home late at nights and went to bed immediately. She rented an apartment together with the home owners - a family without children. One day a relative came to visit the hosts and stayed with them overnight. In the morning the hosts went to work and the guest barged into Anna's room and raped her. Ana was shocked, it was the first time she had seen what real fear meant. About the first hearing which took place at the Police Station in the sector, Ana says: *"I went to police alone. I was very ashamed to talk about what had happened in the presence of several people (there were several gentlemen and two ladies in the room). Therefore I said that I had been raped, thinking that they would immediately become serious and suggest we should talk in private. But it was not like that! They said loudly that another "rape" had come and that the time of sexual abuse had come, as if all rapists became crazy in September, seeing the children go to school. I was sitting in front of them, catching evaluative looks, full of doubt, as if I was not a victim of rape, but a prostitute. They had bickered for a while until they decided who would take the case. Then I went with a lady to the office where I had to tell everything that happened. There was also one of her colleagues present in the room. We were constantly interrupted while I was talking, different people were entering the office with questions on other topics or simply listening to what I say. "*

According to children, offices of prosecutors and judges are better equipped in this regard. However, some courtrooms are not meeting the psycho-emotional needs of children: they are too large, which arouses anxiety and insecurity; many strangers are present (even if the meeting is closed), which is not conducive to confession, especially if the defendant or witnesses have a negative attitude toward the child. Some rooms need repair, the children are freezing and distracted by the sound of creaking floor etc.

When hearing children victims of crime, 10 percent of investigators regularly use hearing record, 50 percent do it periodically, and 40 percent – do not use recording means. The hearing is recorded due to the following reasons: strengthening statements, excluding the change in statements, veracity of evidence, documentation, demonstrating that the juvenile was not influenced by anyone etc. The survey data reveal that female officers with more work experience and female investigators record the hearing of child victims more often (see Table 7)

Table 7. Use of recorded hearings by criminal investigation officers, %

		Yes	No	From case to case
Total		9,8	40,2	50,0
Work experience	Under 5 years	9,3	55,8	34,9
	5-9 years	3,1	34,4	62,5
	10-14 years	23,5	17,6	58,8
	15 years and more	10,0	30,0	60,0
Sex	Male	8,6	41,9	49,5
	Female	22,2	22,2	55,6

Prosecutors rarely practice hearings' recording: 7 percent - regularly, 28 percent - from case to case, 65 percent - never. The reasons mentioned by prosecutors to record hearings include excluding repeated hearing of the child, excluding child trauma, obtaining reliable information,

complying with the law, providing the possibility for the psychologist to make an assessment of the child, to analyze the behavior of the juvenile etc. (see Table 8)

Table 8. Use of recorded hearings by prosecutors, %

		Yes	No	From case to case
Total		6,9	64,7	28,4
Work experience	Under 5 years	3,4	69,0	27,6
	5-9 years	9,1	68,2	22,7
	10-14 years	4,5	50,0	45,5
	15 years and more	14,3	71,4	14,3
Sex	Male	9,5	55,6	34,9
	Female	2,6	79,5	17,9

Use of records of hearings of child victims of crimes is rarest among judges: 75.6% - never do it, 17.6% - watch videos depending on the case, and 5.9% - always do it. (see Table 9) Women judges use the recorded interviews of child victims rarer than men judges.

The reasons for which judges do not use recorded interviews of child victims include lack of necessary equipment for recording the hearing (81.3%), lack of mechanisms to ensure confidentiality of records (28.6%) and lack of need to listen to the recording (18.7%).

Table 9. Use of recorded hearings by judges, %

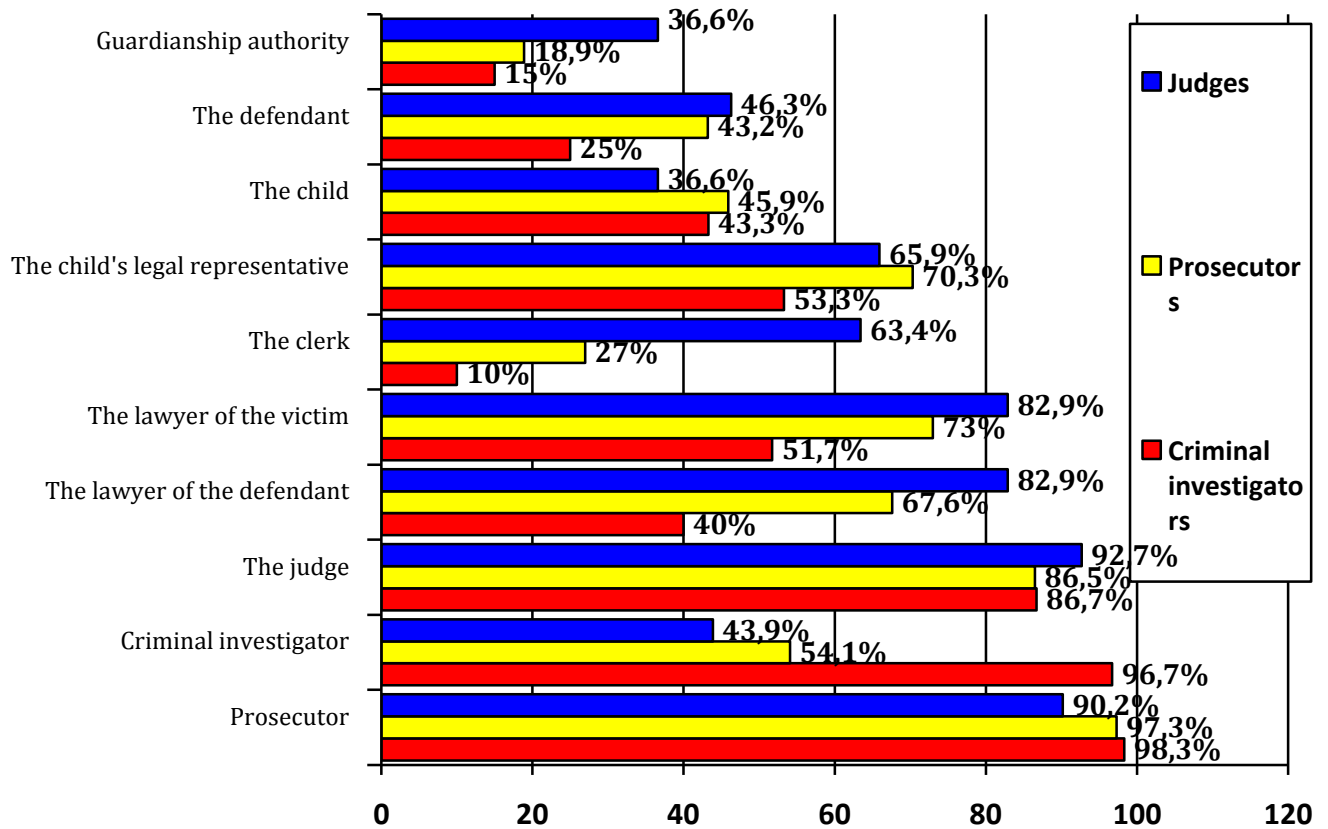
		Yes	No	From case to case
Total		5,9	76,5	17,6
Work experience	Under 5 years	0	72,7	27,3
	5-9 years	7,5	75,0	17,5
	10-14 years	5,6	88,9	5,6
	15 years and more	6,1	72,7	21,2
Sex	Male	8,2	72,6	19,2
	Female	0	86,2	13,8

The research reveals that several people have access to video recordings. Criminal investigators have reported that the video recordings are accessed by the prosecutor in 98.5% of cases, the police investigator in 96.7% of cases, the judge in 86.7% of cases, the legal representative in 53.3% of cases, the lawyer of the victim in 51.7% of cases, the child in 43.3% of cases defendant's lawyer in 40.0% of cases, the defendant in 25.0% of cases, representatives of guardianship authority in 15.0% of cases, the clerk – in 10.0% of cases.

According to prosecutors, the same people have access to the videos, but in a different order: the prosecutor in 97.3% of cases, the judge in 86.5% of cases, the lawyer of the victim in 73.0% of cases, the legal representative in 70.3% of cases, the defendant's lawyer in 67.6% of cases, the police investigator in 54.1% of cases, the child in 45.9% of cases, the defendant in 43.2% of cases, the Registrar in 27.0% of cases and guardianship authority representatives in 18.9% of cases.

The judges also mentioned basically the same people who have access to videos, recounting greater access for judges, prosecutors, lawyers of the victim, the defendant's lawyers, legal representatives, clerks and less often the defendant, the investigator, and child protection authority. (see Figure 7)

Figure 7. Access to video recordings according to participants in research, %



The place for keeping the video records differs to some extent between the investigators, prosecutors and judges. 91 percent of investigators reported that the videos were attached to the file, 5 percent said they were in a personal safe and 4 percent said the records were kept in the room for real evidence storage, compared to 86 percent of prosecutors who revealed that the video records were attached to the file and 14 percent that they were kept in a personal safe. 81 percent of judges said the videos were attached to the file, 13 percent – that they were kept in safes and 6 percent - in the evidence room.

How privacy of records is kept also differs between investigators, prosecutors and judges. Thus, the investigators have shown that most often the records are packed and sealed, limiting access to that evidence, prosecutors said the records were kept in sealed envelopes, judges - the access was limited. We note, however, that practically each of the 10 judges believes the privacy of video records is not ensured. (see Table 10)

Table 10. Ensuring privacy of video records (open question), %

	In sealed envelopes	Limiting access to evidence	According to CPC	In personal safe	In special rooms	Privacy is not ensured
Criminal investigation officers	46.7	33.3	17.8	0	0	0
Prosecutors	52.2	13.0	13.0	13.0	13.0	0
Judges	10.0	40.0	20.0	20.0	0	10.0

2.2. Preparing the Child for Participation in Legal Proceedings

Not all investigators and prosecutors inform the child victim about the legal steps and procedures to be carried out. The survey data reveal that 58 percent of investigators and 61 percent of prosecutors always inform the child about the hearing process, another 5 percent of investigators and 10 percent of prosecutors never inform the child. (see Table 11)

Table 11. Informing the child victim about the stage and the contents of legal proceedings, %

	Yes, always	Yes, but not always	No. never
Criminal investigation officers	57,8	37,3	4,9
Prosecutors	60,8	29,4	9,8

There is no unique vision among legal experts regarding the minimum age of a child who must be informed about the stages and content of the legal procedures to be performed. Most argue that this could be achieved after 13 years of age, although some experts have mentioned even the age of 3-4 years.

In terms of informing the child about his/her rights in the trial, it should be noted that this function is performed by 89 percent of judges, 83 percent of prosecutors and 53 percent of investigators. (see Table 12)

Criminal investigators informing child victims of their rights, do it for the following reasons: because children have a right to know (49.3%), that these are the requirements of the procedure (25.3%), for a better development of the process (16.0%), in order to obtain more complex information from the juvenile (6.7%) etc. The 5 percent of officers who do not inform children about their rights said they did this because of the young ages of the child, the child's health, physical condition of the child, but they argue that they inform the legal representative about these rights.

Prosecutors inform children about their rights because this is a requirement provided by the Criminal Procedure Code and they comply with the procedure (28.8%), because children need to know their rights (28.7%), in order to establish psychological contact (9.6%), to avoid filing a false accusation (3.2%). Prosecutors who reported that they did not inform children about the rights failed to provide such information because of the state of development of the child, where the offenses are not serious, and in situations where parties reconciled or in order not to traumatize the child.

In 63 percent of cases, judges inform children about their rights during the course of the trial, in 24 percent of cases before trial and in 13 percent of cases in the hearing process itself.

Judges who inform children about their rights do it not only because of the legal obligation established by the Criminal Procedure Code (77.4%), but also for the child to be safer and more protected (17.7%) and know what can happen (9.7%).

Table 12. Informing the child victim of crime about his/her rights in court, %

	Yes, always	Yes, but not always	No. never
Criminal investigation officers	52,9	21,6	25,5
Prosecutors	83,3	8,8	7,8
Judges	89,2	5,9	4,9

The child's legal representative is informed more often. Judges always inform the legal representatives of children about their rights, prosecutors provide such information in 99 percent of cases, and investigators in 97 percent of cases inform both about the steps, procedures, and rights they have in the trial (see Table 13).

Table 13. Informing the child’s legal representative about the stages, procedures and rights in court, %

	Yes, always	Yes, but not always	No. never
Criminal investigation officers	97,1	1,0	2,0
Prosecutors	99,0	1,0	0
Judges	100,	0	0

None of the representatives of law enforcement bodies mentioned performing the preparatory phase of the legal proceedings. This operation is often performed spontaneously by the trustees of the child (parents, legal representatives in the absence of parents).

The interviewed children reported having been prepared for legal proceedings by parents, lawyers (who had them), but especially by psychologists from NGOs. Children have highlighted the positive role of the psychologist in preparation for legal hearings and statements before the court.

Parents discuss the process at home, but because they show anxiety, tension, all their training was reduced to encouraging children «to hope that everything will be fine» or requests *"to say nothing but the truth"*.

The lawyers inform the family about the conduct of the process most frequently by phone or sometimes directly before entering the hearing room. Preparation includes disclosure of information to children about their rights and about the expectations of a number of subjects - trial participants (parents, prosecutor, judges, etc.). The interviewed children said they usually understood that they are expected to tell the truth, the real facts.

During the interviews the children told that the psychologist was planning the preparation for the hearing in advance, telling about what the process of hearing was (in general), who the participants in the proceedings were; explaining the roles of each of the participants and the rights and obligations of the child. This preparation was held in the Office of Psychological Center "Amicul." The remaining preparations were initiated by the psychologist immediately before the hearing at the prosecutor’s office or in court. In these circumstances the psychologist rather provided emotional support, due to which the child became more confident.

All interviewed children who received psychological assistance targeting the child’s preparation for legal proceedings confirmed that they became more self-confident and confident in the successful completion of the examination process. For example they were going to the judges thinking: *"I will tell them everything and they will believe me,"* along with this thought there might be the feeling that *"it became easier to go down this road."* And another child said: *"Without the support provided by the psychologist before the hearing I would have probably not talked to them"*.

Practice shows that in some cases special preparation and emotional support are required not only before but also during legal hearing, especially when the child's hearing involves the participation of persons (witnesses, defendant) directed against children. In such situations, the child needs additional psycho-emotional support to overcome the complicated situation and complete this process.

In other situations children face emotional problems that make them unable to give statements, and in such cases the psychological intervention has proven to be one of the most suitable means, when psychologist basically performs the legal hearing of children (see case study no. 5).

Case study no. 5 Elena

Since the father had left the family, Elena has had several events: scary (conflict and physical violence between the mother and her partner), ugly (the mother and her partner were drinking and holding sex orgies) and dangerous (sent to the street to buy drink at night) etc.

When he came to visit the child, the father began to notice alarming signs in child's appearance and visible behavior changes. Helped by the child's grandmother (former mother-in-law), he started to warn various agencies about the need to assess the condition of the child, following which the request came to „Amicul” Center.

The first evaluation of the child revealed signs of emotional abuse and neglect of the needs of the child, which over half a year was followed by very elusive first statements of the girl about some bad things that her mother's partner does to her. Even if Elena did not say clearly what was happening in the family, at the insistence of the psychologist in Amicul Center, the child was removed from the family and placed in her grandmother's family. Only after three months of accommodation to new living conditions and interaction with the psychologist, the child gave the first statements about molestation and sexual abuse she had been subject to since his mother had started living with her partner.

During the court examination, the child refused to talk about the subject of sexual abuse. Thus, judges have delegated the interviewing to the psychologist at Amicul Center and the hearing of the child was held in specially arranged conditions (with CCTV equipment), without presence of other people in the same room. Only after the changes in the hearing procedure, the child declared sexual abuse by the partner and provided additional details that she had not reported at the prosecution stage.

The court decision - 12 years imprisonment. Judgment of the Court of Appeal - to support the first decision

In Moldova there is no universally accepted opinion among different actors involved in the examination of cases of crimes against children on the procedure of child confrontation with the accused. The confrontation procedure is used by 49 percent of investigators: 38.2% use it sometimes, 6.9% often and 3.9% - always. This procedure is not used by female criminal investigators and is used sometimes by those with an experience of over 15 years (see Table 14). Criminal investigators who use this procedure said it allowed them clarify differences in the parties' statements (72.0%), find the truth (24.0%) or identify the consequences of the case (8.0%).

Table 14. Use of child confrontation with the accused, by criminal investigators, %

		Yes, always	Yes, often	Yes, sometimes	No. never
Total		3,9	6,9	38,2	51,0
Work experience	Under 5 years	2,3	4,7	37,2	55,8
	5-9 years	3,1	9,4	46,9	40,6
	10-14 years	11,8	11,8	17,6	58,8
	15 years and more	0	0	50,0	50,0
Gender	Male	4,3	7,5	41,9	46,2
	Female	0	0	0	100,0

47.1% of prosecutors use the confrontation procedure: 35.3% - sometimes, 8.8% - often and 2.9% - rarely. It is also noted that the procedure is used less frequently by women, and by prosecutors with an experience of over 15 years (see Table 15).

Prosecutors using the procedure mentioned the following reasons for it: clarifying the discrepancies (54.2%), establishing the circumstances of the offense (27.1%), establishing the veracity of statements (14.6%), recognition of the defendant (4.2%).

Table 15. Use of child confrontation with the accused, by prosecutors, %

		Yes, always	Yes, often	Yes, sometimes	No. never
Total		2,9	8,8	35,3	52,9
Work experience	Under 5 years	6,9	6,9	51,7	34,5
	5-9 years	0	6,8	36,4	56,8
	10-14 years	4,5	13,6	22,7	59,1
	15 years and more	0	14,3	0	85,7
Gender	Male	3,2	7,9	39,7	49,2
	Female	2,6	10,3	28,2	59,0

The presence of the defendant at the legal hearing of the child has become a controversial topic. On the one hand the judges, in a formal approach, listen to the child's wish to testify in the absence of the defendant, but on the other hand, do not always satisfy this wish, arguing that the law in force protects the defendant's right to hear all the statements of the victim and to address its questions. (see case study no. 6).

Case study no. 6. Valeria

Valeria (15) comes from a vulnerable family. Her parents frequently consume alcohol. While in a visit to her elder sister, Valeria was raped by a young man, the sister's neighbor.

The girl's mother and sister were against involving police in solving this case. And when the police and prosecutors have opened a criminal investigation, both the mother and older sister were against hearing the child.

Therefore, the child has changed his statements for three times, and the prosecutor decided to request temporary removal of the child from the family. Only after Valeria had been placed in a specialized center for child victims of violence, Valeria told what happened. However, she needed the presence and encouragement of a psychologist and specialists in the orphanage because she was pressed both by her own mother and her sister and acquaintances of the defendant, who were trying to influence the child's position.

During the court hearing, the child was heard in the presence of the defendant, which was justified by the fact that the law provides for the right of the defendant to be present at the victim's testimony and also the age of the child ought to allow statements in her presence. The child got this condition, but over time has experienced strong negative emotions, crying which caused difficulties in hearing and required changing the conditions of the hearing (they found a place where the defendant was not in the child's presence, offering emotional support by a legal representative). The court delivered the following sentence - 6 years imprisonment.

The quantitative survey data reveal that 1/3 of the judges never hear the child in the presence of the defendant. Other 38 percent use this procedure only sometimes, 16 percent – often and 13 percent - always (see Table 16). The reasons for them to hear the child in the presence of the defendant (open question) were explained by judges most frequently by existing legal provisions, the need for clarification of existing divergences and less by the wish of the child, lack of specialized spaces for children, defendant's right to ask questions to the child.

Table 16. Hearing the child in the presence of the defender, by judges, %

		Yes, always	Yes, often	Yes, sometimes	No. never
Total		12,7	15,7	38,3	33,3
Work experience	Under 5 years	9,1	0	54,5	36,4
	5-9 years	7,5	17,5	42,5	32,5
	10-14 years	22,2	0	33,3	44,5
	15 years and more	15,2	27,3	30,3	27,3
Gender	Male	11,0	13,7	39,7	35,6
	Female	17,2	20,7	34,5	27,6

III. PSYCHOLOGICAL ASSISTANCE IN LEGAL PROCEEDINGS: CHILD AND FAMILY SUPPORT PRACTICE

The law of the Republic of Moldova implies the possibility of involving pedagogues, psychologists⁶⁸ and educational psychologists⁶⁹ in the legal examination of cases involving children. At the same time, the law specifies neither the role nor the position of the psychologist, pedagogue or educational psychologist, nor the conditions under which these professionals can be requested by law enforcement officials.

To clarify the distinction between the concepts of the three specialists involved in the legal examination of children: psychologist, pedagogue and educational psychologist we use the definitions found in the Classification of Occupations of the Republic of Moldova and the international scientific sources. Based on description of profession in the Classification of Occupations in Moldova, psychologists conduct research on mental processes, study human, individual and collective behavior, and apply the knowledge gained in promotion of adaptation of human beings in the professional, social, educational, mental context, test and identify the features and skills and provide consultations, analyze the influence of heredity, social and occupational factors on attitudes and behavior of the individual⁷⁰. At the same time, according to scientific sources, this profession implies conductive therapy and prevention of emotional and personality disorders⁷¹ and specialization in applied fields, including child exploitation, sexual abuse and ill-treatment⁷².

In Classification of Occupations in Moldova, there is no significant difference between a psychologist and an educational psychologist. The educational psychologist is part of the same core group 2445 - psychologists, trainee researcher in psychological sciences, psychological sciences scientific collaborator, psychologist⁷³. At the same time, the scientific literature mentions the following: educational psychologist works at the intersection of two fields, psychology and pedagogy, performing the following tasks: a) study of training and development of the personality of the child placed in the educational process and environment, based on the needs of the society; b) study of the aspects of development in students of those skills, abilities and capacities, which will allow training and personality development of the child in accordance with the needs of the society. The scope - general education institutions⁷⁴. Thus, the content of the educational psychologist's professional activity is geared primarily towards the educational area and overlaps with the scope of the teacher's activity.

It should be noted that the Classification of Occupations in Moldova does not list the specialty of the pedagogue, but only a teacher. The teacher is engaged in teaching - learning according to curriculum. The tasks are focused on planning, organization, evaluation of the educational process and its participants⁷⁵.

The fact that the Classification of Occupations in Moldova does not nominate the profession of pedagogues is contrary to their involvement in legal proceedings related to the hearing of child victims of crime. Also, given the scope of activity of the nominated experts, we believe that the psychologist, to a greater extent, fulfills several tasks that arise in the process of legal examination: knows the age peculiarities and specific features of abused, exploited children etc .; presents psycho-behavioral profile of the child; recommends conditions for effective hearing

⁶⁸ Criminal Procedure Code of the Republic of Moldova, art. 479, para. (2), al. (3)

⁶⁹ Criminal Procedure Code of the Republic of Moldova, art. 110 ¹, para. (1)

⁷⁰ Classification of Occupations in Moldova (CRM 006-97), approved by Moldovastandard Decision no. 336-ST on 20 January 1998 amended and supplemented by the Moldovastandard decision no. 964-ST on 27 July 2001, effective since 1 August 2001.

⁷¹ Zlate, M. Introducere în psihologie. Iași: Polirom, 2000, p.62

⁷² Zlate, M. Introducere în psihologie. Iași: Polirom, 2000, p.69

⁷³ Classification of Occupations in Moldova (CRM 006-97), approved by Moldovastandard Decision no. 336-ST on 20 January 1998 amended and supplemented by the Moldovastandard decision no. 964-ST on 27 July 2001, effective since 1 August 2001.

⁷⁴ Фридман, Л. Психопедагогика общего образования. Москва: Институт Практической психологии, 1997. 288 с.

⁷⁵ <http://consiliere.mmssf.ro/po.war/pdf/profesor.pdf>

of the child; provides informational and emotional support for both the child and the legal representative etc.

Based on the mentioned definition and the tasks of psychologist we decided to prepare a description of the capacities and functions of the psychologist specializing in psychological assistance in the legal examination of child victims of offenses: (i) studying the behavior of children, developing and applying tests to measure mental processes and other characteristics (affective processes, attitudes, motivation, etc.) to measure the impact of crime (violence, exploitation, trafficking, etc.) on their development; (ii) conducting research and recommending conditions and manner of interaction with these children in the legal examination process; (iii) performing psychological examination of children in the legal examination process, including in legal hearings.

In Moldova, as practice shows, the players involved in the justice system seek the assistance of a psychologist mainly based on personal representation and experience of interaction with psychologists. The research data reveal that 17.6% of investigators, 9.8% of prosecutors and 8.8% of judges have had cases where the psychologist had not participated in the hearing of the child (*see Table 17*).

The involvement of pedagogues and psychologists in examining cases of crimes against children by justice system actors is different. The data collected in this study reveal that pedagogues, compared to psychologists, frequently participate in legal examination of such cases. According to the answers provided by the judges we find that there are no legal hearings of child victims of offenses without participation of the pedagogue. However, almost every 10th case of legal hearing of the child victim of a crime made by a prosecutor or judge and almost every fourth hearing of criminal investigators are carried out without the participation of psychologists (*see Table 17*).

Table 17. Participation of professionals in juvenile legal hearing, %

	Yes, always	Yes, often	Yes, sometimes No. never	
	Pedagogue			
Criminal investigation officers	58,8	22,5	9,8	8,8
Prosecutors	69,6	12,7	10,8	6,9
Judges	79,4	13,7	6,9	0
	Psychologist			
Criminal investigation officers	38,2	27,5	16,7	17,6
Prosecutors	43,1	22,5	24,5	9,8
Judges	56,9	14,7	19,6	8,8

The examination of cases where victims of crimes are children with special needs is even more difficult. 16.7% of criminal investigators said they had reviewed such cases. The data show that such cases have been reviewed to a great extent by female criminal investigators and specialists with experience over 10 years (*see Table 18*).

The following specialists were involved in examination of these cases: educational psychologists (almost half of the cases examined), specialists from the association of deaf people (1/4 of cases examined), social workers (almost 1/5 of the cases), psychiatrists (in each 10th case), doctors etc. In 6 percent of cases other specialists were not involved.

Table 18. Examination of cases with children with special needs by investigators, %

		Yes	No
Total		16,7	83,3
Work experience	Under 5 years	11,6	88,4
	5-9 years	18,8	81,3
	10-14 years	23,5	76,5
	15 years and more	20,0	80,0
Gender	Male	15,1	84,9
	Female	33,3	66,7

The number of prosecutors who examined cases in which victims of crime were children with special needs was very small in the sample of the research - only 4 percent.

14.7% of judges have examined such cases (see Table 19). Most often, the following specialists were involved in examination of such cases- psychologists (over half of the cases), pedagogues (1/3 of cases), psychiatrists (1/5 of cases), translators, speech doctors etc. In 13 percent of these cases no specialists were involved.

Table 19. Examination by judges of cases where children with special needs were victims of crimes, %

		Yes	NO
Total		14,7	85,3
Work experience	Under 5 years	18,2	81,8
	5-9 years	12,5	87,5
	10-14 years	22,2	77,8
	15 years and more	12,1	87,9
Gender	Male	16,4	83,6
	Female	10,3	89,7

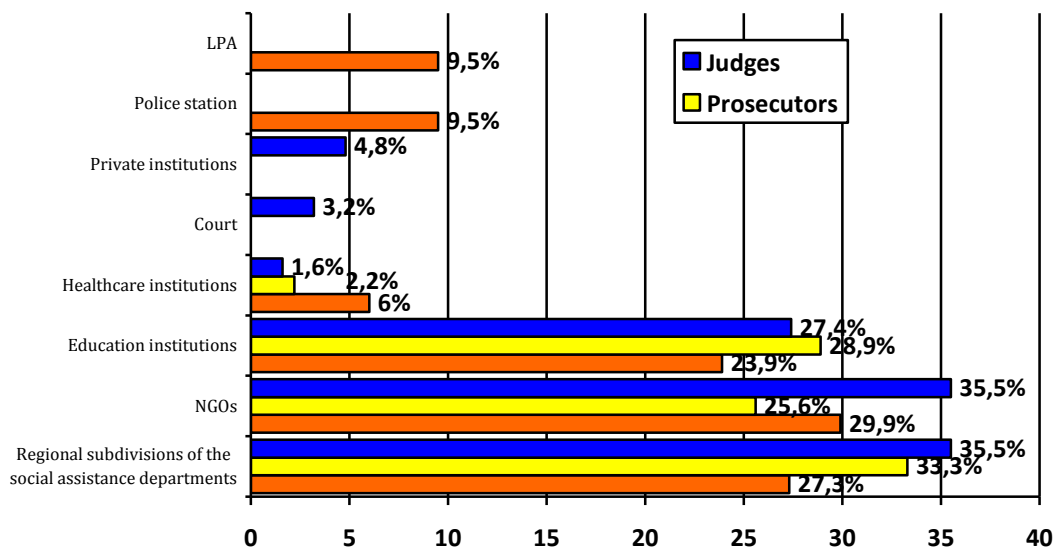
Criminal investigation officers reported having sought the assistance of the following organizations for the purposes of psychologist's participation in hearing the child victims of crimes: nongovernmental organizations (29.9%, including 14.3% - the National Center for Child Abuse Prevention), the regional subdivisions for social support and family protection (27.3%), education institutions, including the District Education Department (23.9%), Police Station (9.5%), local governments (9.5%), health care institutions (6.0%) etc.

Prosecutors have asked a psychologist to participate in interviews with the child from the territorial structures of social assistance and family protection department (33.3%), educational institutions (28.9%), NGOs (25.6%, including 16.7 % from the National Center for Child Abuse Prevention and 6.7% from the International Centre "La Strada") etc.

The judges said they had requested the presence of the psychologist at interviews of child victims of offenses from territorial structures of social assistance and child protection department (35.5%), NGOs (35.5%, including 22.6% from the National Center for Child Abuse Prevention and 12.9% from the International Center "La Strada"), educational institutions (27.4%), private institutions providing psychological services (4.8%), from the court (3.2 %), etc. (see Figure 8)

The data reveal that legal experts most frequently turn to psychologists from within the territorial units of the social assistance departments, those from the NGO sector or educational institutions, but they noted the need for their institutionalization and specialization - "to set up such a service and train specialists for them to engage effectively in the process "(HA 8 Prosecutor).

Figure 8. Institutions from which a psychologist was requested to participate in interview with the child, %



The non-governmental sector in the field works with government institutions, but it cannot assume all the responsibilities, as mentioned by the interviewed law professionals. The role of NGOs should be directed particularly towards public awareness, but also focused on prevention and preventive action, while other actions in this sector should be assumed by the state.

The comparative analysis of the extent to which the pedagogue and the psychologist helped conduct the legal hearing reveals that legal experts believe these specialists help to a large and very large extent (opinion of 47 percent of investigators, 54 prosecutors and 79 percent of judges about the pedagogue and 58 percent of investigators, 57 percent of prosecutors and 87 percent of judges about the psychologist).

At the same time, the data show that there is scope for improvement of the involvement of pedagogues and psychologists in legal hearings. Or, some investigators, prosecutors and judges believe that involvement helped to a small and very small extent. Thus, 24 percent of the officers mentioned that the pedagogue's assistance and 17 percent that the psychological support helped to a small and very small extent; the same opinion being shared by 34 and 18 percent of prosecutors, 15 and 7 percent of the judges respectively. (see Table 20)

Table 20. The extent to which involvement of professionals helped in conducting the hearing⁷⁶, %

	To a very large extent	To large extent	To small extent	Very small extent	From case to case - sometimes useful, sometimes not
Pedagogue					
Criminal investigation officers	9,7	37,6	13,4	10,8	22,6
Prosecutors	16,8	36,8	17,9	15,8	12,6
Judges	38,2	41,2	11,8	3,0	5,9
Psychologist					
Criminal investigation officers	15,5	42,8	7,1	9,6	25,0
Prosecutors	27,8	28,9	14,4	3,3	25,6
Judges	53,8	33,3	4,3	2,3	6,5

⁷⁶ The opinion of legal experts who have used the services of psychologist for child legal hearing: 84 criminal investigation officers, 92 prosecutors and 93 judges

The specialists participating in the study believe that the involvement of pedagogue is necessary at the stage of criminal prosecution in examination of cases of crimes against children. This need is particularly felt by judges, less by criminal investigators and prosecutors. Of those who reviewed cases of different types of crimes against children, less than 7 percent of legal professionals do not consider the presence of the pedagogue necessary. (see Table 21)

Table 21. Need for involvement of pedagogue the stage of investigation of crimes, %

	Is necessary	Sometimes necessary	Not necessary	I haven't had such cases
Crimes related to sexual life				
Criminal investigation officers	57,8	16,7	6,9	18,6
Prosecutors	50,4	11,7	4,9	33,0
Judges	65,1	14,3	4,9	15,7
Crimes against life and health				
Criminal investigation officers	47,1	17,6	6,9	28,4
Prosecutors	34,3	5,9	6,9	52,9
Judges	63,8	24,5	2,9	8,8
Crimes against freedom, honor and dignity				
Criminal investigation officers	40,2	15,7	3,9	40,2
Prosecutors	14,6	2,0	1,0	82,4
Judges	61,9	22,5	2,9	12,7

The survey data show that legal experts considered necessary to involve a psychologist at the stage of investigation in cases of child victims of crime, regardless of the type of offense. Presence of hearing rooms demonstrates the need for the presence of a psychologist who can formulate and reformulate questions asked to the child (see Table 22). The number of legal experts who denied the need for these specialists is very small. Judges are those who believe the most that these specialists are necessary, among others for the simple reason that the vast majority of those who participated in the research had different cases, including different types of crimes in which children were victims. However, in some situations presence of a psychologist is not necessary - as mentioned by less than 2 percent of investigators, prosecutors and judges. Less necessary is the involvement of the psychologist in cases of crimes against life and health of the person, or for crimes against freedom, honor and dignity.

The experts interviewed in the qualitative study reported the need for development of psychological support service in general and psychological support to child victims of crime, in particular - *"psychological services should be provided to the whole team - criminal investigators, prosecutors, judges, children, families ... We need to create a system of psychological evaluation of any person, including psychological rehabilitation of the victim"* (IIA MIA).

However, the participation of the pedagogue and of the psychologist in the hearing of child victims of crimes does not mean mere presence, but also helping a child, including the law enforcement agencies - *"very often everything is limited to simple support - the pedagogue sits on a chair and thinks about leaving as soon as you possible because he/she has his/her problems and that he/she is not paid for coming to the hearing"* (IIA 8 Prosecutor); *"The pedagogues, psychologists, educational psychologists are often engaged very little because they are not trained in this area. Therefore, a well trained psychologist or pedagogue is needed, employed by the court, This professional must speak to the child and its parents. The child victim is not that simple"* (IIA 7 Judge). The study identified situations when the trial had been postponed because the pedagogue could not deal with the situation *„the prosecutor has recently assumed responsibility to ensure presence of a psychologist for hearing the victim, as it did not go well with the pedagogue"* (IIA 6 Judge).

Table 22. Need for involvement of psychologist at the stage of investigation of crimes, %

	Is necessary	Sometimes necessary	Not necessary	I haven't had such cases
Crimes related to sexual life				
Criminal investigation officers	76,5	3,9	1,0	18,6
Prosecutors	64,0	2,0	1,0	33,0
Judges	78,4	5,9	0	15,7
Crimes against life and health				
Criminal investigation officers	53,9	16,7	1,0	28,4
Prosecutors	40,2	5,9	1,0	52,9
Judges	72,5	16,7	2,0	8,8
Crimes against freedom, honor and dignity				
Criminal investigation officers	48,0	11,8	0	40,2
Prosecutors	17,6	0	0	82,4
Judges	70,6	14,7	2,0	12,7

The study allowed consulting legal experts' opinion regarding the prosecution stage, at which they believe the pedagogue and the psychologist should be involved (open question).

Thus, 61.5% of investigators believe that the pedagogue should be involved at all stages of criminal prosecution of cases of crime against children (including at referral of the case), 21.8% believe it is necessary only at the hearing, 10.3% as needed, depending on the situation of each child, others think it depends on the type of offense. Regarding psychologists, 69.0% of investigators believe they should be involved in all stages of criminal prosecution of cases of crime against children (including the referral of the case), 28.7% only at the hearing, other 3.3% mentioned that the psychologist should be involved until the prosecution has been initiated or as required. It is noted that officers with a work experience of over 10 years most frequently reported the need for psychologist involvement in all stages of prosecution.

The opinions of the prosecutors do not differ greatly from those of criminal investigators. 52.9% of prosecutors reported that the pedagogue should be involved at all stages of criminal prosecution, 37.1% believe the presence of such specialist is required at the hearing, while others think it depends on the case. Thus, 61.0% believe the psychologist should be involved at all stages of criminal proceedings, 31.2% - only at hearings, 7.8% - at the stage of confrontation, others have pointed directly at the prosecution stage, submitting of files, at the time of developing the psychologist's report. For prosecutors, it has been noted that those with experience of up to 15 years more frequently mentioned the need for psychologist involvement at all stages of prosecution, and those with work experience of over 15 years - only at the stage of hearing.

The visions of judges differ from those of other legal professionals to a greater extent. 53.1% of judges believe that the pedagogue should be involved only at the stage of hearing, 37.5% - at all stages, 3.1% - at the stage of confrontation, 3.1% - that the pedagogue is necessary if there is no psychologist. The same results are recorded for the psychologist - in the view of 47.9% of judges a psychologist is needed for the hearing only, 36.6% of judges think the presence of such specialist is required at all stages of prosecution, while others think it is required in order to establish contact with the child, for confrontation, for forensic expertise, in serious offenses. Regarding these specialists it is noted that judges with an experience of over 15 years mentioned the need for pedagogical and psychological involvement at all stages more often, while those with 10-14 years experience consider this specialist is required at the hearing only.

The advantages of pedagogue participation in the examination of cases of crimes against children referred to by specialists participating in the study are: establishing psychological contact (42.6% of investigators, 46.3% of the prosecutors and 31.7% of judges), respect for children's rights (7.4% of criminal investigators, 11.1% prosecutors and 29.3% of judges), obtaining more information (35.2% of investigators, 17.1% of judges), explaining the condition of the child (7.4% of investigators, 9.3% of prosecutors), observing the legal procedures (7.4% of investigators, 7.3% of judges). Other advantages mentioned by some legal experts were enhancing the discipline of participants in the proceedings, psychological rehabilitation, knowledge of how to communicate with the child, replacing the psychologist. However, some participants reported that teacher involvement does not bring any benefits and is a mere formality (7.4% of criminal investigators, 14.9% of prosecutors and of 2.4% of judges).

The qualitative study reveals that the lack of well-trained pedagogues in this area is a problem - *"We had a good pedagogue, but the pay was very low and she left"* (HA 6 Judge) *"I attended meetings as a pedagogue. The purpose of our presence there was just to see if children are not affected by too many questions. But it's not enough, the meetings should be attended by trained pedagogues and psychologist. Not everyone can do it"* (HA 2 DASPF). Today, the *"people from the Social Assistance and Family Protection Department" cannot handle and fail to meet the demands of court trials* (HA 6 judge) and those from the educational institutions " are not professional enough" (IIA 5 Judge).

The main advantages of psychologist participation in the examination of cases at the prosecution stage as mentioned by legal experts (open question) include: establishing psychological contact with the child (66.7% of investigators, 55.7% prosecutors and 42.6% of judges), avoiding child trauma (20.8% of investigators, 41.0% of prosecutors and 27.8% of judges), obtaining more complex information from children (33.3% of investigating officers, 26.2% of prosecutors and 38.9% of judges). Other benefits specified to a lesser extent included: obtaining truthful statements, explaining procedures, ensuring rehabilitation of the child, showing respect for the rights of the child, preparing the child's psychological report etc. At the same time, according to 1.4% of criminal investigators, 3.3% of prosecutors and 3.7% of judges, the psychologist did not meet any requirement for participation in the examination of criminal cases against children.

During the in-depth individual interviews, representatives of justice institutions mentioned the need for changes in the legislation in order to introduce clarity in terms of skilled pedagogues and psychologists involved in the legal examination of child victims of crime and institutional level in terms of their participation - *"the very foundations must be revised. We, the law professionals, do not really see the difference between a pedagogue, a psychologist and the educational psychologist ... It would be good to meet together and decide what each of them does in order to understand what specialist we need... Currently we have to apply the law that is adopted"* (HA 8 Prosecutor). In turn, non-participation of pedagogues and psychologists causes postponement of hearing sessions, in violation of another important principle in examining criminal cases involving children - resolving the case as quickly as possible. The fact that representatives of the justice institutions are confused in attracting psycho-pedagogical specialists results in involvement of unqualified specialists..

Psychological assistance is greatly needed for children and parents / guardians. Psychological assistance helps them resist negative thoughts and feelings that occur during prolonged legal examination and get confidence and courage to testify before both suspects / defendants, their lawyers and the prosecutors, judges or other professionals (see case study no. 7).

Case study no. 7. Veronica

Veronica was 13 years old when she was sexually abused by two teenagers in the village. It took place in the house of one of them, when the girl came to return some things she had borrowed. When the girl told about the incident, her father could not restrain anger and attacked the father of one of the two abusers. This is how the case became known by the local police officer, who came to their place at midnight asking for explanations about the dramatic incident. Veronica had to recall the rape committed several months ago in some stressful conditions (at night, without the presence of the mother (in order not to be influenced)).

The prosecution and examination in court lasted almost two years, during which Veronica participated in about 8 legal hearings and 2 confrontations with abusers. "If the psychologist was not there to support me, I do not know if I would have been able to go through the whole process. It took so long because every time I said I could not bear it any longer, I did not want to go through all those experiences again. "

In the court examination Veronica was assisted by the psychologist from Amicul Center (NCCAP). "The way I felt with the psychologist was totally different. Although I told the same things painful for me, I came out much more relieved from Amicul Center, as if I had my old wound treated, when there was no hope any more. "

The first court issued the decision - imprisonment for a term of 5 years. The sentence was challenged with the Court of Appeal (decision - acquittal) and the Supreme Court (judgment - 5 years imprisonment). So far the abusers have not served their punishment, as they left abroad.

In turn, investigators, prosecutors, judges need the involvement of psychologists in documenting and examining cases of crimes against children, which involves several tasks: psychological care of children examined in order to facilitate the establishment of contact with children, to obtain necessary information; informing the law professionals about the individual characteristics of children, the ability to provide testimonials etc. (See case study no. 8)

Case study no. 8. Andreea

Andreea is 11 years old and is a victim of sexual abuse committed by her mother's partner, who had to take care of her and her little brother while the mother was abroad.

It took a lot of time before Andreea was able to talk about perverse sexual actions which she had been exposed to for a year and she did so only after the mother had returned home.

In Andreea's case, the district prosecutor's office requested the hearing of the child in special conditions at Amicul Center, with participation of a psychologist, arguing that choice by psychological difficulties (negative emotions, refusal to talk, crying, poor language) occurring in the process of interaction with the child.

When the case reached the court, the same problems occurred - the child refused to talk in front of strangers, even if they were in a specially equipped room (equipped with video recording equipment without contact with the defendant and other participants in the process) inside the court. The prosecutor requested the involvement of the same specialist (psychologist) who managed to make the child speak at the stage of criminal investigation.

In the presence of the invited psychologist the child was able to master her fears and talk, supported by psychologists, especially at moments of greatest tension, when she was describing the sexual actions. For this purpose the psychologist has used certain techniques - demonstration of actions on toys, using special words when referring to intimate parts of the body etc. The decision issued by the first court was 12 years imprisonment.

At every stage of the legal examination, the child was asked to tell again what she had already told at the first hearing. To answer the questions asked by all participants in the trial, the child had to recall scenes from her life that affected her deeply, revictimizing her. On the eve of each hearing, all interviewed children undergo enormous psycho-emotional tensions, fear of the unknown. And if the hearing is not for the first time, the feelings described above are also accompanied by the feeling that *"he/she is not heard, not understood by anyone"* - feeling caused by because of multiple repetitions.

In such situations, each child tries to find ways to minimize his/her suffering. *"Sometimes I tried not to say anything more and just cried. Sometimes I imagined that the autumn came and the leaves had fallen and buried me completely and everything would disappear"*.

Some of the interviewed children said the repeated interviews caused emotional crisis, aggression, as result of which they opposed hearings without realizing why they did this. Consequently, the child does not want to communicate, does not respond to messages or reacts aggressively, which makes the interview process difficult, requiring the child's emotional stabilization.

Other children, on the contrary, thinking that they have to tell what happened, say *"I will say everything and it will be over."* But each time the hope that *"it will be over"* decreases.

When asked about the need for the child's psychological evaluation report, 64.5% of investigators have noted that it is necessary in all cases, 11.8% said that such a report was required in reviewing sexual offenses, 5.3% - in severe cases, 3.9% - for crimes of domestic violence, 3.9% - in case of lack of other evidence, 3.9% - the child does not perceive what is happening and so on and only 5.2% think such report is not necessary at all. Data indicates that only investigators with a work experience of up to five years believe that this report is not necessary at all.

72.9% of prosecutors expressed their view that the child's psychological evaluation report would be necessary in all cases, 12.9% - in some cases, in particular 5.9% - in examination of sexual offenses and only 7.1% think it is never necessary. Similarly to prosecutors, the opinion that these reports are not needed is more frequent among prosecutor with work experience of up to 10 years.

According to 74.5% of the judges, the psychological assessment reports are always necessary, 10.8% - in some cases, especially when there are some dubious allegations of the child, in cases related to sexual offenses etc. 3.9% said the reports were not necessary.

The rationale for psychological evaluation reports was emphasized within in-depth individual interviews - *"the actions of criminals often depend on the victim's behavior and in lack of psychological assessment sometimes it is sometimes perceived that the victim acted consciously and agreed with the actions"* (HA 8 Prosecutor).

54.9% of criminal investigators said they used psychological assessment reports as evidence in their professional experience. More commonly psychological assessment reports are used by female investigators and experts in this field with an experience of over 10 years (see Table 23). The usefulness of this evidence was assessed by 41 percent of investigators as major, 34 percent - as average and 11 percent - as low, other 14 percent have not commented on the usefulness of such evidence.

Table 23. Use of child's psychological assessment reports as evidence by investigation officers, %

		Yes	No
Total		54,9	45,1
Work experience	Under 5 years	46,5	53,5
	5-9 years	59,4	40,6
	10-14 years	64,7	35,3
	15 years and more	60,0	40,0
Gender	Male	52,7	47,3
	Female	77,8	22,2

The 45.1% of investigators who have not used psychological assessment reports as evidence in their professional experience to date have motivated this by: no need, the impossibility to consider them effective evidence, lack of specialists to prepare such reports, the presence of expert reports etc.

74.5% of prosecutors reported that they had experience using psychological evaluation reports of children in the cases they examined. There are no significant differences in this case depending on work experience, although there is a tendency of prosecutors with over 10 years experience of using less psychological assessment reports as evidence.

The usefulness of such reports was greatly appreciated by prosecutors - 41 per cent said the psychological assessment reports were very useful, 45 per cent mentioned a medium importance and 1 a small importance, while other 13 percent refrained from saying their opinion (see Table 24).

Table 24. Use of child's psychological assessment reports as evidence by prosecutors, %

		Yes	NO
Total		74,5	25,5
Work experience	Under 5 years	79,3	20,7
	5-9 years	77,3	22,7
	10-14 years	63,6	36,4
	15 years and more	71,4	28,6
Gender	Male	73,0	27,0
	Female	76,9	23,1

The ¼ of the prosecutors who have not used such psychological assessment reports as evidence in their experience so far in examination of cases of offences against children explained it by the consultative nature of such reports, lack of specialists to prepare the reports, lack of need for reports, including lack of such provisions in the Criminal Procedure Code.

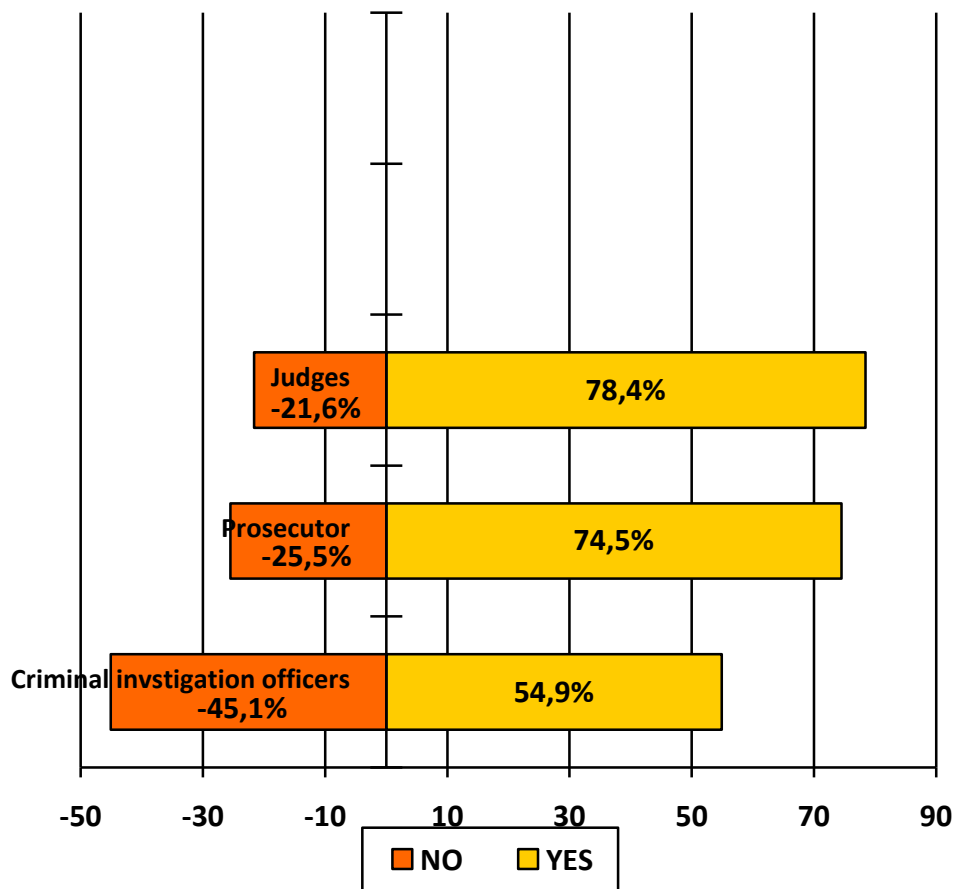
78 percent of the judges have experience in the use of psychological assessment reports as evidence in investigating cases of crimes against children (see Table 25). Accordingly, 60 percent believe that psychological evaluation reports as evidence are of major utility, 23 percent – average, 1 percent – reduced, 9 percent - from case to case and 4 percent refrained from answering this question.

Table 25. Use of child's psychological assessment reports as evidence by judges, %

		Yes	No
Total		78,4	21,6
Work experience	Under 5 years	63,6	36,4
	5-9 years	90,0	10,0
	10-14 years	72,2	27,8
	15 years and more	72,7	27,3
Gender	Male	76,7	23,3
	Female	78,4	17,2

The 21.6% of judges who have no experience in the use of psychological assessment reports as evidence explained it by the lack of professionals who prepare these reports, including the lack of such reports in the file, lack of confidence in these evaluation reports, and their low quality. We found that judges and prosecutors frequently used psychological evaluation reports of children as evidence in examination of cases of child victims of crime (see Figure 9).

Figure 9. Use of psychological assessment reports as evidence by law professionals



Analyzing the cases of child victims of crime, we consider it necessary to note some aspects of functioning of the Courts of Appeal in the country's districts. The practice shows that while in Chisinau the examination of child sexual abuse cases is "closed", in some districts the child's lawyer and the psychologist had to intervene in order to exercise the right of the child to be heard in closed form. The very process of requesting the exercise of this right exposed the child to negative emotional states, which implied the need for further psychotherapeutic intervention.

Psychotherapeutic intervention is required after completion of legal examination. This is done with the purpose of prevention and / or rehabilitation of psychological consequences incurred in the process. It should be mentioned that the time when this process is completed, the child's awareness of the fact that he/she will not have to tell the bad things that happened has a psychotherapeutic effect on the child, which can be easily understood from the statements of an interviewed child *"the is time of freedom has finally come. Now I can leave everything behind and look to the future"*.

In several cases with interviewed children there have been similarities identified in their representations about the roles that participants were exercising in the criminal examination process. First, it should be noted that from the perspective of children, participants in the legal examination process position themselves as interrogators, and the process was perceived as questioning.

Exceptions were the pedagogues, whom the children have described in the following way - *"just standing there."* Many children, in general, after completing the whole process of legal examination, could not remember if the pedagogue was present with them. Others who have kept the memory of the pedagogue were unable to describe its role, or to answer the question *"where and why the pedagogue came"* Accordingly, most child victims of crime have not reported any feelings (neither positive nor negative) with respect to the presence of the pedagogue in legal hearings.

Based on the data reported by children it was found that the most unpleasant emotional states experienced by children were in interaction with law enforcement and public order officers - the police, including local police officers. In most cases, during the first hearing conducted by a police officer, children experience a heightened state of insecurity. The intonation of questions asked by policeman, such as: *"Maybe you were the one who wanted this? We know many cases*

when girls were those who seduced men and then declared that they were raped, in order to gain money," causing states of humiliation, guilt, desire to hide, to escape from the police room, to refuse legal examination. "I wanted to find any reason, just to get rid of such questions." Some policemen become quite irritated during the interview, yell, and, from the perspective of children, try to stay away from them, do not show affection.

The manner of communication and interaction with prosecutors was perceived and appreciated by children as *"more emphatic", "more psychologized"* compared to police-investigators. In describing the role of the prosecutor, children victims of crime mentioned their two roles: of the interrogator (and investigator) and of the defender (not all children have confirmed this role). In the context of analysis of the examined cases it can be found that children show more trust to the prosecutor and are more likely to tell them about what happened. Based on the descriptions made by the interviewed children, prosecutors showed friendly and supportive attitude towards children more often than the police. They stimulated sincere statements at difficult moments for the child, which included shameful details. At the same time, among prosecutors, in the words of children, there are people who do not give credence a priori to their words, creating the sensation that they are directed against children (in 10 cases - 3 have reported this). This is manifested by intonation, by how the questions are formulated and asked, as well as by questioning the veracity of the statements of the child. In response to this, the child experiences a state of helplessness, hopelessness, believing that the abuser *"bribed the prosecutor"* and that *"if the prosecutor so behave, then there is justice in judgment."*

Communication and interaction with judges was regarded generally as positive. The main role of judges, from the perspective of children, is to ask for the last time about the circumstances of the offense. In relation to the hearing in court, the children are looking forward to it, believing that they will no longer need to remember and tell anyone about the most unpleasant moments in their lives. For some children of those interviewed this expectation was not fulfilled, as they had to make statements again as victim in court of IId and IIIrd level (6 cases out of 10).

In most cases the judges have a positive attitude toward children, offering emotional support - *„Judges are very friendly and flexible. And their voice is as it should be. The children are not afraid of the judges' robe ... "(IIA 3 DASPF), and including (in the words of the child) the judge tries to protect them from attacks from the defendant's lawyer (see case study no. 9)*

Case study no. 9. Nadejda

Nadejda was used for sexual purposes by her stepfather for several years (from the age of 11 years - sexual molestation, from 14 years - forced sex). He also liked taking pictures or recording his perverse actions. When she was 16, when she learned that her mother wanted to divorce and believing that there would be only the two of them from then on, without his presence, the girl decided to reveal the "secret". The mother immediately took an active position in defense of her daughter. The case was taken over by the prosecutor's office and the prosecution did not last long.

During the court examination, seeing the emotional state of the child (pale, tears, chills), the judge decided to hear the child in the absence of the defendant, without accepting the defendant's lawyer position. The judge suggested that the child should not tell again what happened, deciding instead to listen to her statements made at the prosecutor's office and confirm or refute her claims. Gradually the girl calmed down and in addition to confirming her words, she was also able to give and explain some of the details. Nadejda had the courage to ask the defendant's questions even after the latter came back into the room

After 6 months the judgment of the court was delivered: 12 years of imprisonment.

However there are also cases when judges were perceived by the child as "*bored, as if they did not care about my thoughts and feelings, as if they were sleeping.*" Some judges even used harsh phrases, said loudly, to show irritability, to impose their tempo precipitating the speed of the child's verbal expression. As a consequence, the child had a feeling of disgust, helplessness, lack of sense of protection and justice triumph. All these experiences have contributed to an attitude of distrust not only toward specific people, but also towards the entire justice system. "*I felt humiliated and since then I do not believe in justice.*"

The children's relationships with lawyers varied. In 5 cases of 10 there were lawyers from both sides participating in the trial – both the child's and the defendant's lawyers. In 3 of 5 cases, the child's lawyer was contracted by NCCAP. Children who received the service identified the positive character of this communication and interaction. For a child the lawyer has become "*an angel that was sent in a hard moment in my life to protect me.*" With the lawyer children feel protected, defended, in security, with hope that justice will prevail. This state gave them greater confidence in the ability to overcome these difficult times and become bolder in giving testimony. Likewise, children have noted that the lawyer supported not only them, but also their parents, who, just like the juveniles, had very deep negative emotional feelings related to the conduct of legal examination at all stages. According to the children, the lawyer supported the parents, and at key moments mobilized the parents' capacities to fight for the interests of their child.

At the same time, the relationship with the defendant's lawyer was perceived as a tense one, and in some cases, even hostile. What is important is that the attitude and condition of the child was directly dependent on its behavior during the examination in court. Thus, in only one case the child said: "*He (the defendant's lawyer) did not do anything wrong. I understand that this is his job - to defend ...*" In this case, the child does not show any negative attitude, state, because the lawyer's behavior was correct in relation to the child.

In other cases the lawyers' behavior was rude, even aggressive, using words that children do not understand, asking improper questions and using phrases that demean or humiliate children. In response to this behavior, children felt shame, powerlessness, and enormous wish to terminate the process. In other cases interaction with the defendant's lawyer has strengthened the state of distrust in the legal system in the country.

The perception of parent/legal representative of the child is mostly positive, except for three where the girls did not have the support of the parent (the parent's lack of interest, believing that at the age of 17 years the child no longer needs the help from parents; parent's absence from the country, the attitude of the parent concerned about stopping the legal examination) (see case study no. 10).

Case study no. 10. Nina

Nina was sexually abused by the mother's spouse. The first time it was only an attempted rape (the abuser was scared when Nina's brother (5 years younger) woke up and started to pull the handle of the locked door). Even if Nina told her mother about what had happened, after a while the mother went for work abroad, leaving her under the supervision of the spouse. When the little brother was away from home, the abuser forced the girl into sexual intercourse with him. Over time these actions have become more frequent.

The sexual abuse case was referred by the director of the school attended by Nina. The investigation and prosecution started immediately. Learning about her daughter's living conditions, the mother decided to defense her partner, blaming her child of sexually provocative behavior (at the age of only 11 years).

The mother was deprived of the role of legal representative, priority being given to maternal grandmother, who took the child from her.

Court judgment - 12 years imprisonment.

In two of the 10 examined cases, the child has developed an unexpected feeling for those present - the desire to protect parents, because she felt they were discouraged, helpless and humiliated by how the legal examination process was conducted. *"Do not get mad, calm down, everything's going to be okay ..."* Usually, the concern for the spiritual welfare of their parents is present in children who get along well with parents, who are constantly *"next to them"*.

The psychologist was described by children by emphasizing the aspect of "protection, support, encouragement." Similar feelings were recorded among children for psychologists who interfered at different stages in examining the case: either in the role of evaluator, educational psycho-diagnoser and person responsible for preparing the report on psychological evaluation of the child, often recognizing the psychologist's value in court. The psychologist also asked questions, but other than other participants: *"The lady was able to listen so that I do not feel guilty about what happened. She was the first person who had not accused me, had not made me feel nauseous."* In addition to properly formulating the questions, the psychologist provided support during strong emotional feelings, did not allow hope to disappear in moments when *"everything I wanted to leave and run away from this place!"* At the same time, the psychologist from NCCAP for most children served as a real model of professional intervention in crisis situations, children coming to the conclusion that *"if something goes wrong, you do not understand what is happening, you are afraid and cannot ask help from the psychologist"*. Children have said that the psychologist's activity has a positive impact on the physical and mental state of both them and their parents.

During the interview we asked the children about their opinion in relation to any changes that should be undertaken in the process of examination and legal hearing, so that the way they have to go is easier, and participants in the process to be more friendly.

First, they expect ***"justice to be made from the first session"***, in order not to go through the same situations of confrontation with the perpetrator and with the hearing procedure itself again.

Secondly, **children are ready to talk about what happened to them, including the details, even if it is very difficult to talk about it, but to do it just once. To this end, children expect specialists to make the necessary preparations so that they can ask all the questions they would be interested of in order to avoid repeated calls.** Children accept the audio-visual recordings of these help avoid repeated hearings.

Regarding the questions asked to children, **they want to hear simple questions, that anyone can understand and what is the most important, the way these questions to be asked or the comments made by the professionals (investigators, prosecutors, judges, lawyers) so as not to raise the feeling of humiliation or hazard.**

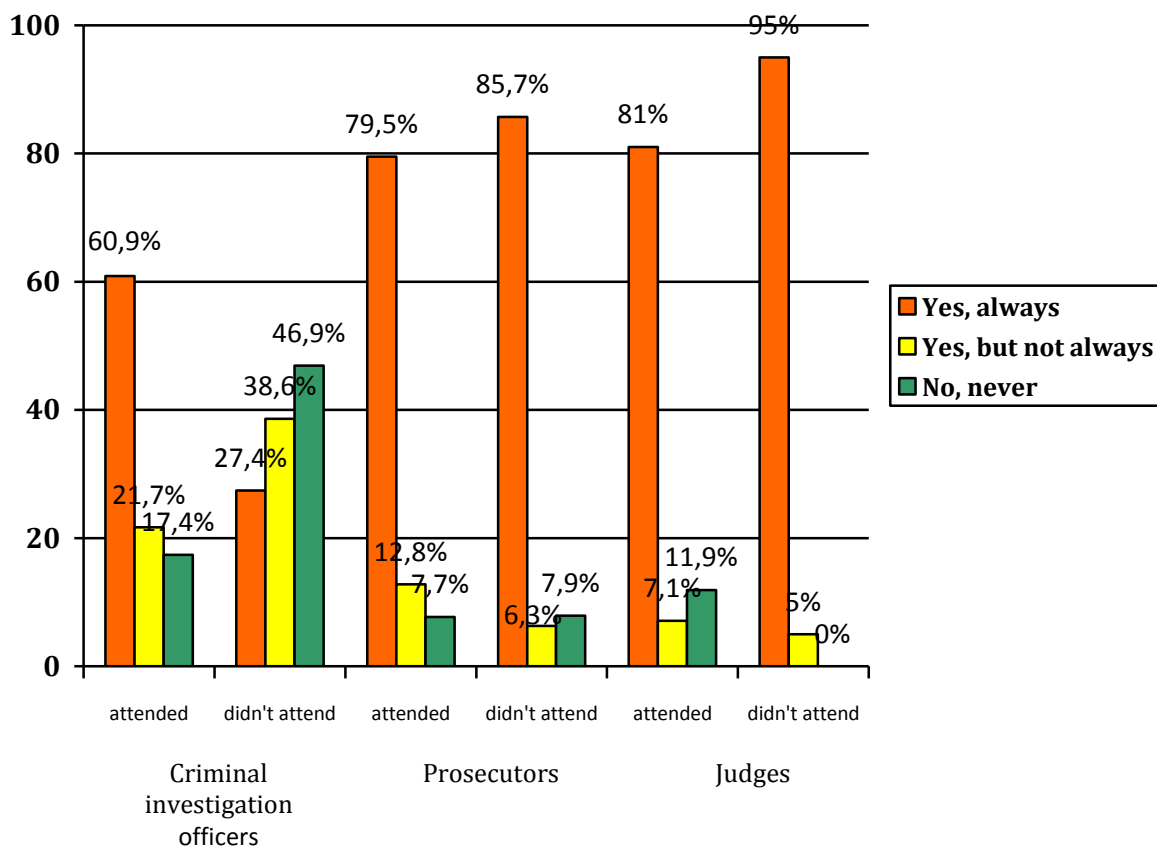
In the opinion of the interviewed children, **preparations for legal proceedings are mandatory.** Preparations should be made by both parents and professionals. For children it is important to be explained what will happen to them further, what their rights and obligations are.

IV. PROFESSIONAL TRAINING OF LEGAL PROFESSIONALS IN EXAMINATION AND PRESENTATION OF CASES OF CHILDREN VICTIMS OF CRIMES IN COURTS

The training aimed at a better legal instrumentation of cases of child victims of crime was attended by 22.5% of investigators, 38.2% of prosecutors and 41.2% of judges.

The survey data reveals some differences in terms of informing the child-victim about his/her rights depending on participation or non-participation in training courses. Thus, 61 percent of investigators who have received training always inform children about the rights they have as compared to only 51 percent of those who received no training. The number of trained criminal investigators who do not inform children about their rights is only 17 percent compared to 28 percent of those who did not receive training (see Figure 10). For prosecutors there are no significant differences in terms of informing children about their rights depending on attendance of training on legal instrumentation of cases related to child victims of crime. An interesting situation was found among judges. Or, 12 percent of those who received training in this area never inform the child victim about its rights.

Figure 10. Informing the child victim of rights about the rights, depending on participation or non-participation of professional in training courses,



We also note a trend according to which the professionals who attended the training conduct a smaller number of hearings examining cases of crimes against children. Criminal investigators, prosecutors and judges who participated in training more frequently perform 1-2 hearings in cases of crimes against children.

At the same time, the survey revealed no significant differences in the answers provided by law enforcement professionals beneficiaries and non-beneficiaries of training regarding the need to involve a psychologist in cases of different types of offenses against children. The number of those who believe that psychologists should not be involved in the examination of any type of crime against children is very low (below 5%). Also, there are large differences in the views of those interviewed regarding the usefulness of psychological evaluation report as evidence - 5.9% of investigators beneficiaries of training courses argue that it is not necessary compared to 5.1% officers who did not participate in training or 5.7% of prosecutors who have received training to 8.0% who did not benefit, 2.4% of trained judges to 5.0% of the untrained.

The trainings were organized by various institutions (open question). In the case of criminal investigators these institutions are (in order of importance): management of the Prosecution Department, General Directorate of Criminal Investigation, International Center "La Strada", National Center for Child Abuse Prevention, Prosecutor's Office, Police Academy. Institutions that have provided training to prosecutors are: National Institute of Justice, the General Prosecutor's Office, National Center for Child Abuse Prevention , International Center "La Strada", the Institute of Criminal Reform. Judges have received training from the National Institute of Justice, National Center for Child Abuse Prevention, International Center "La Strada", Institute of Criminal Reform.

Most legal experts have received 1-2 trainings on "Child victims of crime," there are few who have attended 3-5 trainings on these issues. The courses were considered effective by the vast majority of beneficiaries because they allowed a better understanding of the procedure, of the tactics to address cases and provide useful materials. At the same time, some participants said there should be more seminars on the issue to increase efficiency and that more practical discussions were necessary. 88.3% of investigators, 64.7% of prosecutors and 67.3% of judges believe that specialization of criminal investigators, prosecutors and judges in the cases of crimes against children is needed to a great and very great extent (see Table 26).

Table 26. The extent to which the specialization of participants in crimes against children is deemed necessary, %

	To a very large extent	To large extent	To small extent	Very small extent	From case to case - sometimes useful, sometimes not
Criminal investigation officers	45,3	43,0	4,7	1,2	5,8
Prosecutors	28,4	36,3	2,0	3,0	30,4
Judges	38,6	28,7	4,0	7,0	21,7

For the legal system to become child friendly (open question) all specialists mentioned, first of all, creation of the conditions prescribed by law, namely the establishment of specialized rooms for hearing children and providing specialists. According to criminal investigators, there should be: presence of psychologists and educators ensured (48.0%), child hearing rooms equipped (44.0%), specialization of criminal investigators on cases of children (10.0 %), etc.

Prosecutors highlighted the need for the following changes for the same purpose: equipping hearing rooms for children (53.5%), ensuring the presence of psychologists and pedagogues at the trial (25.6%), the need for training for criminal investigators (20.9%), involvement of social workers (11.6%), better cooperation between specialized institutions (7.0%) etc.

The judges referred to the following necessary changes: establishing special child hearing rooms (39.5%), providing specialists (34.2%), specialization of all participants in the process in child problems (18.4%), provision of equipment (10.5%), establishment of new strategies (7.9%), improved measures to protect trial participants (5.3%), limiting the number of hearings of the juvenile (5.3%) etc.

Legal experts mentioned the need to ensure basic conditions for hearing child victims - *"if there are no specially equipped places, no qualified specialists, how can we talk about changes? We bring to the trial the teachers and psychologists that we can find ..."* (IIA 5 Judge).

The vast majority of legal representatives have called for opening of juvenile hearings rooms in all districts of the country, motivating this by loaded agendas and the difficulties in providing transport to other places - *"it is very difficult for the whole team to come from Balti to Edinet. Everyone has her/his agenda."*

Specialized juvenile hearing rooms do not always solve all issues, the judges said - *"It depends on the child. I had a little girl who had been abused by her father and she was shy even in the juvenile hearing room ... The children are innocent. She said that after all he had done to her she still loved her. Children get attached to those who are close to them. If mom was always gone, the girl attached to her father. There are some very sensitive moments here"* (HA 6 Judge).

Some mentioned earlier experiences when there were judges specializing in juvenile cases in courts- *"we have a judge who is 25 years old. What can she do? She is a child herself. She does not know what to do. As she often has to address some sensitive issues"* (IIA 6 Judge).

The need for specialization of judges in juvenile cases is perceived - *"We want to do a specialization for judges who will handle juvenile cases - one judge in each court and three judges at the Court of Appeal"* (IIA 7 Magistrate).

Trainings in the field must continue for all professionals: investigators, prosecutors, judges, including educators and psychologists – the experts interviewed in the study reported.

CONCLUSIONS

The research "**Child Victims of Crimes and the Legal Proceedings: the Case of the Republic of Moldova**" presents findings concerning the legal provisions on participation of child victims of crime in legal proceedings, and practices related to the response of the authorities of the Republic of Moldova to the problem of abuse committed against children.

The survey data reveal an increased number of cases examined by the justice system, in which children are victims of crime, mainly children aged 10-16 years. Two in ten children (23.5%) victims of crime seek the help of criminal investigators on their own, in order to refer a case of crime. The healthcare and education institutions, as well as guardianship authorities turn to law enforcement representatives to refer every 10th case of crime against children. Referrals by community members are rare, even if some of them interact daily with these children.

The legal proceedings in Moldova are governed by the provisions of the Criminal Procedure Code, which comes to govern the status, rights and obligations and the protection provided to juvenile victims of crime. The child victim of crime in its capacity of the injured party is heard according to the witness hearing procedures, and in accordance with the 2012 amendments to the Criminal Procedure Code, juveniles under the age of 14 years to be heard in relation to offenses sexual nature, on child trafficking or domestic violence, must be heard under special conditions, in dedicated facilities equipped with audio-video recording equipment via an educational psychologist.

Moldova has committed to comply with international standards, formulating relevant priorities in different policy documents. Although developing a child friendly justice system is a priority for Moldova, which is found in Justice Sector Reform Strategy 2011-2016, and, in this context, the Moldovan Parliament has taken steps to adjust these requirements (Ratification of the Council of Europe Convention for the Protection of Children against Sexual Exploitation; amendment of the Criminal Procedure Code), the study revealed the existence of several gaps in both the formulation and enforcement of the law.

Legal Framework

- According to art. 109, 110 of the Criminal Procedure Code, **special measures to protect the child witness only refer to the stage of prosecution**. This is also deduced from art. 41 of the Criminal Procedure Code, which provides that the investigation judge shall have jurisdiction only at the stage of prosecution. We note in this context that international recommendations focus on child friendly justice not only at the prosecution stage, but also at the stage of examination in court (limiting repeated hearings, exclusion of confrontation with the abuser, etc.). The Criminal Procedure Code states on participation of the pedagogue, psychologist and educational psychologist, without regulating their place in the criminal proceedings, the rights and obligations and the conditions to be met to participate, the professional training etc. Thus, there is a gap, which creates confusion and difficulties in achieving effective procedural actions and defense of the rights of child victims or witnesses of crimes. Moreover, the Classification of Occupations in Moldova is **does not include the specialty of pedagogue**.
- **Lack of express provisions prohibiting using confrontation of child victims of crime** with their aggressors, despite recommendation of international laws on protection of children involved in the justice system to avoid putting child victims in front of their abuser.

Institutional Framework

- According to many of those have been interviewed, the juvenile justice system has been adversely affected by the introduction of integrated case management program. Or, the system excludes the possibility of specialization of judges in protecting children. 88.3% of investigators, 64.7% of prosecutors and 67.3% of judges believe that specialization of

criminal investigators, prosecutors and judges in the cases of crimes against children is required to a large and very large extent.

- **Lack of effective collaboration** between the criminal investigation and prosecution, between the prosecution and the court, as well as between the justice system actors and guardianship authorities and social services. Administration of justice in respect of child victims of crime is divided between several administrative and legal bodies.
- **Lack of specialized psychological support services for child victims** of crime. Thus, 67.3% of investigators, 61.2% of judges and 52% of prosecutors reported lack the specialized psychological support services. 72.9% of prosecutors, 74.5% of judges and 54.9% of investigators expressed their view that the child's psychological evaluation report would be necessary in all cases.

Application of legal proceedings in cases related to child victims of crimes

- Ensuring the participation of teachers and psychologists at all stages of legal examination of cases involving child victims of crime is a challenge for all actors in the justice system. The lack of pedagogues or psychologists frequently causes postponement of trials (30% of actions are deferred prosecution due to lack of psychologists and pedagogues).
- Although art. 110¹ came into force in October 2012, the conditions to implement its provisions have not been prepared yet. This refers particularly to lack of hearing rooms for children. According to the statements of children, most hearings are conducted in ordinary rooms / offices inside police stations, prosecutor's offices or courts. At the same time, the representatives of the justice system report lack of such spaces designed for hearing children: 57.4% of investigators, 64% of prosecutors and 88.8% of judges.
- Children are prepared for participation in legal proceedings spontaneously by the trustees of the child (parents, legal guardians) and such preparation is not the responsibility of the justice system, although it is recommended by international bodies. There is no single vision among legal professionals regarding the minimum age of a child who must be informed about the stages and content of the legal procedures to be performed. Instead, all interviewed children who received psychological assistance focused on preparation for legal proceedings confirmed the need for this activity.
- The procedure of confrontation of the accused child with the defendant is used quite frequently at the prosecution stage. Thus 49% of investigators and 47.1% of prosecutors use this procedure in practice.
- Three in ten (28.6%) judges do not use video recordings of interviews with children due to lack of levers to ensure confidentiality of the records. Basically each 10 judge said the **confidentiality of records was not ensured**.

The most spread and frequent difficulties reported by children are:

- repeated hearings;
- hearings conducted under adverse conditions;
- insufficient training of specialists involved in legal hearing, which is reflected on the quality (accuracy) of questions asked to the child and the quality of interaction between the professional and the child;
- lack of preparation for legal proceedings: the child does not know the meaning and content of procedures to deal with;
- passive role of the teacher invited to the children's legal hearings.

GENERAL RECOMMENDATIONS

Based on the findings, the study suggests the following general recommendations:

- **Development of the clear legal framework to regulate the participation of psychologists in the hearing of child witness or victim.** The proposal to regulate separately and to consider the role of psychologists in criminal proceedings is very important to exclude practices of his/her formal presence at trial.

- **Express provision prohibiting confrontation of the child with the abuser** by changing the content of Article 113 para. (6) of the Criminal Procedure Code which states only that "*no juvenile will be required to participate in the confrontation with the accused of offenses against his/her physical and / or moral integrity.*" Provision in such format suggests that the confrontation of the child, however, is possible in cases where the child so agrees. However, the child's consent can be influenced by the lack of knowledge about the right to refuse participation in the confrontation.

- **Improvement of the Criminal Procedure Code** so as to ensure child-friendly procedures both at the stage of prosecution and in court. It is necessary to review the roles of participants, including at the hearing at the stage of prosecution. To exclude confusing situation in the training and capacity of the pedagogue, psychologist or educational psychologist, the status and participation of these specialists in criminal proceedings should be regulated. Legal provisions on reports prepared by psychologists must also be established. Regulation of reports that are prepared by psychologists by law is also necessary.

- **Development of regulatory framework and quality standards** for organizing legal hearings of children. These laws would provide a valuable methodological support for legal professionals, guardianship authorities, specialists trained in performing the procedure (psychologists, educational psychologists, interpreters, etc.) and help ensure conducting the hearing of the child in friendly conditions in order to avoid their re-victimization.

- **Creation of conditions prescribed by law, namely the establishment of specialized rooms for hearing children,** based on standards approved by the Ministry of Justice. In this regard, it is recommended to improve communication and collaboration between all the structures of the judiciary, local governments, non-governmental sector to streamline efforts for adapting and using these spaces.

- **Specialization of the justice system actors** (criminal investigators, prosecutors, judges) in cases of child victims of crime and their training, under an appropriate framework that would ensure mandatory training of professionals who by virtue of their work get in contact with children victims and witnesses of crimes or are responsible for addressing the needs of children in the justice system.

- **Development of service for preparing and accompanying children who come into contact with the justice system,** pursuant to Law no. 123 of 18.06.2010 on social services.

- **Strengthening partnerships between prosecution, courts, guardianship authorities, social services** and creating this intersectoral cooperation mechanisms, including funding mechanisms.

- **Organizing public awareness activities and empowering professionals to report to competent authorities all cases of crimes against children.**

- **Increasing government funding and efforts to ensure a child-friendly justice.**

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