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## EU ACCESSION NEGOTIATIONS OF SERBIA AS A FRAMEWORK FOR IMPROVING THE POSITION OF CHILD VICTIMS<sup>1</sup>

### Summary

Although the Serbian juvenile justice system used to be among the pioneers to introduce the most progressive approaches to addressing the specific needs of juveniles in contact with law 20 years ago, it hasn't been continuously improved in line with the contemporary international standards in this field, especially when it comes to the position of child victims. The reforms already implemented in the justice system showed that the process of the accession negotiations to EU appears to be the most powerful pushing mechanism for the reform processes. Considering this, this paper analyses Chapter 23 requirements as the framework for further improvement of the position of child victims in the criminal justice system. It sheds light to recent achievements, the ongoing efforts, but also the remaining challenges, both from the perspective of the legislative reform, but also in terms of the capacities for efficient implementation of the legal provisions.

**Key words:** child victims, accession negotiations, EU, Chapter 23, juvenile justice.

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## 1. INTRODUCTION: ON THE EU ACCESSION NEGOTIATIONS OR HOW THE REFORM FRAMEWORK WAS BUILT

### 1.1. The process of screening and developing the Chapter 23 Action Plan

Republic of Serbia has opened the accession negotiations with European Union (hereinafter: EU) in 2016. Anyway, the process of aligning its' legal and institutional framework with EU *acquis* and the relevant international standards had started much earlier and became very intensive since 2013 after coming-in screening phase. The Screening of Serbian normative and institutional framework with relevant *acquis* within chapters 23 and 24 started by the end of 2013 with explanatory screening (presentation of the relevant *acquis* and EU standards to the Serbian institutions). This stage has served as starting point for assessment of an alignment level of the Serbian legislative and institutional framework with the *acquis* and EU standards, during the bilateral screening in December 2013. The screening process resulted in publishing the Screening report Serbia (Chapter 23 – Judiciary and Fundamental Rights, 2014) by the European Commission (hereinafter: EC) which addresses issues related to the position of victims. Chapter 23 (hereinafter: Ch. 23) deals with the victims' issues through the organization of judiciary as well as through the protection of fundamental rights, but it also comprehensively deals with the child rights. Recommendations provided in the Screening Report obliged Serbian authorities to draft, (in inclusive and transparent process that assumes inclusion of all relevant stakeholders and CSOs) but also to adopt and implement the detailed action plan to serve as a “reform road map” and starting point for adoption and implementation of dedicated strategic documents in various fields relevant for treatment of victims in general as well as those coming from vulnerable groups (Kolaković-Bojović, 2018, 171-183). The Action Plan for Chapter 23 (hereafter: AP Ch. 23) was adopted in April 2016 to address recommendations from the Screening Report.

### 1.2. Interim Benchmarks

The negotiations in Chapter 23 officially started in July 2016 by the adoption of the Common Negotiation Position for Chapter 23 (Council of the European Union, No. 10074/16, 05.07.2016.). In addition to the breakdown of the reform processes achieved to the moment of its adoption, the Negotiation Position also sets out the comprehensive list of the so called Interim Benchmarks (hereinafter: IBMs), namely the targets to be achieved in order to prove the reform progress made, before issuing the Interim Benchmark Assessment Report (hereinafter: IBAR) which should define the list of closing benchmarks for the finalization of the accession negotiations in Ch. 23.<sup>2</sup>

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<sup>2</sup> For more information on the evolution of the methodology applicable to the accession negotiations in Ch. 23, see: Matić Bošković & Kolaković-Bojović (2022, 330-350).

In terms of the reform requirements relevant to the position of child victims, the Negotiation Position has brought, among other, two very important IBMs:

*“Serbia steps up the respect of rights of the child, with particular attention for socially vulnerable children, children with disabilities and children as victims of crime. Serbia actively works on reducing institutionalisation to the benefit of increasing family care solutions. Serbia adopts and implements a Strategy and Action Plan for preventing and protecting children from all forms of violence. Serbia establishes a child friendly justice system, including through amending and implementing the Law on juveniles, improving the work of the Juvenile Justice Council, providing training on dealing with juvenile offenders, improving alternative sanctions for juveniles and measures to reintegrate juvenile offenders back into society” (IBM No. 42), and*  
*“Serbia adopts a new Law on Legal Aid and establishes a well-resourced legal aid system. Serbia amends its legislation (including the Criminal Procedure Code, hereinafter: CPC) so as to align it with the EU acquis on procedural rights and on victim's rights” (IBM No. 44).*

The process of fulfilling the requirements defined in such manner was governed by the AP Ch. 23 period until 2020 when this document was revised. The reporting on the reform achievements was also based on the (Revised) AP Ch. 23 and the monitoring mechanism established therein. However, in 2023 the EC decided to introduce a new reporting mechanism which should allow it to assess whether, and to what extent has Serbia already fulfilled the IBMs in Ch. 23, including those relevant to the position of child victims. The Negotiation Group for Chapter 23 received by mid-2023 the EC request to introduce reporting based on the assessment of the fulfilment of the requests under IBMs and based on such a request and using the templates developed by EC, the Negotiation Group had prepared and submitted the Initial Self-assessment Report by the end of 2023. Upon the analysis of the received information EC has responded to the Negotiation Group by mid-2024 providing it with the brief assessment as well as with a number of requests for each of IBMs. In addition to this the Negotiation Group submitted the updated Report by the end of 2024. The nature of the request varies to the great extent. Namely, while some of them refer to providing additional information or improving the quality of the report provided, some refer to improving reform processes, taking additional steps (short/term or long/term) or ensure continuity of the reform processes already initiated/started. Coupled with the fact that the APCh.23 has expired, this pluralism and the different nature of the request have created a sort of challenging situation as for the Ministry of Justice (hereinafter: MoJ) as an institution in charge of coordinating the Ch. 23 reform processes as for the institutions in charge of the reform implementation in terms of the need to classify the requests received and to identify the reform priorities to be implemented in the upcoming period.

### 1.3. The Growth Plan and the Reform Agenda

However, how highly rated this issue in Ch 23 reform process, it is visible from the fact that it has been recognised also as one of the indicators in the Reform Agenda (European Commission, Commission staff working document, Accompanying the document Commission Implementing

Decision approving the Reform Agendas and the multiannual work programme under the Reform and Growth Facility for the Western Balkans Brussels, SWD (2024) 241 final, 23.10.2024), adopted under the Growth Plan during the period of 2024 – 2027 adopted on 8 November 2023, where the five Western Balkans governments commit to socio-economic and fundamentals reforms they will undertake to spur growth and convergence with the EU. Based on this the Commission proceeded with signing loan and facility agreements with the beneficiaries.<sup>3</sup> Within this new context the efficiency of the reforms is not anymore just a matter of the proper protection of the child victims, but also the precondition to have the implementation of those reforms financially supported by the European Commission. Namely, the Growth Plan is supported by an increase of financial assistance through the new Reform and Growth Facility which entered into force on 25 May 2024. The Facility will complement the current financial assistance under the Instrument for Pre-accession Assistance (IPA III).<sup>4</sup>

In the Reform Agenda for Serbia, it has been provided that “it will also contribute to the reform of juvenile justice and to the protection of procedural rights of suspects, accused persons and victims” (Reform Agenda, 2024, 10).

By the adoption of the detailed Reform Agenda, Serbia has committed itself, among others:

- The amendments to the CPC planned by the Reform Agenda and address both challenges identified during the implementation of the Code, introduce important provisions of the EU acquis into the national legal framework, such as those laying down rules on the right of suspects or accused persons to be informed of their rights in criminal proceedings and the charges against them; rules relating to the right to interpretation and translation in criminal proceedings; and ensuring that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.
- To, based on the recommendations received from the European Commission and the work on amendments to the Criminal Code and the CPC, draft and adopt of a completely new Law on Juveniles, which will enable harmonisation with several laws that have been adapted in the meantime, with international and EU standards, in order to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.
- To amend to the Family Law which will include a ban on child marriage and more effective protection against domestic violence by introducing several new types of offences relating to children and persons with disabilities.
- To establish 20 services for supporting victims and witnesses of criminal offences in the Republic of Serbia, systematize support officers through a systematization act in each higher court, and make these services functional in 20 higher courts (Government of the Republic

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<sup>3</sup> The full text of the Facility agreement between the European Union and the Republic of Serbia can be accessed here: [http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/14\\_saziv/337-2784\\_24.pdf](http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/14_saziv/337-2784_24.pdf), (3.4.2025.).

<sup>4</sup> See more at: European Commission (Commission approves Reform Agendas of Albania, Kosovo, Montenegro, North Macedonia and Serbia, paving way for payments under the Reform and Growth Facility, 23.10.2024).

of Serbia, Growth Plan for the Western Balkans: Reform Agenda of the Republic of Serbia, 2024).

## 2. ONGOING EFFORTS AND THE REMAINING CHALLENGES WITH REGARDS THE IMPROVEMENT OF THE POSITION OF CHILD VICTIMS

As part of the implementation of the National Strategy on the Rights of Victims and Witnesses of Crime 2020-2025, accompanying Action Plan and IBM No. 44, comprehensive amendments to the CPC have been drafted to align Serbian legislation with relevant acquis.<sup>5</sup> The working group for drafting the amendments to the CPC have prepared the draft amendments in 2024 and MoJ have organised and conducted a comprehensive public debate on it. Although a number of the proposed amendments are tackling the position of child victims, they have been just rarely tackled by those taking part in the debate, despite their importance not only in the context of the CPC amendments, but also from the point of view of the future (multiple times postponed) development and the adoption of a new Law on Juvenile Offenders and the Criminal Law Protection of Juveniles (hereinafter: The La on Juveniles).

### 2.1. Draft amendments to the CPC

#### 2.1.1. Definition of victim

Access to the essential right of victims to participate in criminal proceedings is directly preconditioned by how national legislation defines the notion of a victim. The CPC amendments, among others, expand the existing definition of a victim. In addition to the current CPC formulation (2021, Article 2, paragraph 11), which refers to an “injured party” as a person who’s personal or property rights have been violated or threatened by a criminal act, the proposed amendments also include indirect victims. Specifically, the revised definition recognises a child as an indirect victim if the child, as a family member of a person whose death was directly caused by a criminal offense, has suffered harm as a result of that person’s death. This definition reduces the discretion of authorities in determining victim status and ensures victims access to an expanded range of procedural rights, including the explicit right of child victims to be heard as witnesses. Furthermore, the new definition of a victim in the draft of the CPC (2024) is fully aligned with Directive 2012/29/EU (Article 2), with

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<sup>5</sup> The main focus of the amendments when it comes to the right of crime victims was on the alignment with the following directives: Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA; Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2004/68/JHA; Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA.

only a terminological distinction, as the term “injured party” is used instead of “victim” (Kolaković-Bojović, 2020a, 41-54).

This reform addresses previously identified gaps, particularly in cases involving children whose mothers were murder victims, where children were deprived of the injured party status, adequate legal aid and other protective measures (Ignjatović & Macanović, 2018). For successful implementation of these amendments, it is crucial to provide adequate training for judges, prosecutors and attorneys who act as legal representatives or proxies of victims, emphasising the expanded definition of victims and protective measures specific to child victims.

#### 2.1.2. Victims and the status of especially sensitive witnesses in criminal proceedings

The recently proposed amendments to the CPC (Article 103) explicitly regulate the awarding of the status of an especially sensitive witness to be based on the individual assessment conducted with the support of the victim support services. However, a future effective implementation of such provisions requires clearly defined competent authorities responsible for conducting individual assessments of a victim prior to the court’s decision on awarding the status of an especially sensitive witness (e.g. what kind of victim support services can assist the courts). Moreover, planned exclusion of the defendant’s right to appeal such a decision would be justified, as awarding this status does not affect the procedural rights of the accused, but rather provides additional protection to vulnerable witnesses.

#### 2.1.3. Presence of psychologist and/or a trusted person

In addition to already regulated role of the psychologist to accompany a child victim (2021, CPC, Article 104), recent amendments to the CPC (2024, Article 50, points 2 and 7) explicitly allow victims to be accompanied by a trusted person during procedural actions, if this does not conflict with the interests of the proceedings. However, the absence of explicit provisions for the presence of victim support professionals in hearings creates ambiguity.<sup>6</sup> Importantly, the role of a trusted person under Article 50 is passive and supportive, whereas professionals under Article 104 of the CPC, such as psychologists, pedagogues or other qualified experts, actively participate in proceedings by transmitting and moderating questions in a protective manner. Additionally, the Law on Juveniles (2005, Article 152) requires juvenile victims to be questioned with the assistance of psychologists, pedagogues or other professionals.

In practice of the Serbian courts, the real struggle is around the limited availability of psycho-social support professionals in the Serbian judicial system. Addressing this gap requires employing more specialists and formally defining the role of NGO representatives in criminal proceedings under the CPC (Serbia report submitted in accordance with Article 68, paragraph 1 of the Council of Europe

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<sup>6</sup> For more on the establishing the victim support services in Serbia see: Kolaković-Bojović (2016, 355-366).

Convention on Prevention and Fighting Violence against Women and Domestic Violence, 2018, 81-82).

Finally, the lack of a centralised register of juvenile victims significantly undermines the capacity for systematic protection and effective victim support planning. Developing victim-centered databases, improving coordination and ensuring adequate protection mechanisms are essential, especially for juveniles involved in multiple proceedings.

#### 2.1.4. Multiple interrogation and the forbidden or inappropriate interrogation techniques

EU legislation clearly emphasises that the number of interviews with child victims should be strictly limited and conducted only when absolutely necessary for the purposes of criminal investigations and proceedings, but it also calls for the limiting number of interviews in order to avoid the negative consequences of both. Together with the challenges in practice, this was the reason behind the legislator to address both in the draft amendments to CPC.

Namely, draft amendments to the CPC (2024, Article 50, point 15) align with this standard, explicitly providing those victims, including children, should be heard as witnesses without unnecessary delay, with the minimum number of interrogations and only when essential for conducting the proceedings. This provision reflects the Directive's aim of safeguarding child victims from secondary victimisation caused by unnecessary or repeated interrogations. A similar principle has been part of the Law on Juveniles (2005, Article 152), providing that the questioning of a minor victim of crime may be conducted a maximum of two times. Additional questioning is permitted only when necessary to achieve the purpose of criminal proceedings, and in such cases, the judge is required to take special care to protect the character and development of the minor.<sup>7</sup>

This repetition significantly increases the risk of re-traumatisation and secondary victimisation while negatively impacting the quality of testimony, the reliability of evidence and the ability to clarify the circumstances of the crime. Unfortunately, courts frequently disregard the fundamental causes of these changes, such as fear of intimidation, revenge or the passage of time. It is essential to identify such factors with greater attention and ensure the involvement of professionals to support the child victims throughout the legal process.

When it comes to forbidden and/or inappropriate interrogation techniques, the proposed amendments to the CPC (2024, Article 104) address previous criticisms by explicitly prohibiting leading questions or those based on unsubstantiated assumptions during the cross-examination of minors or especially sensitive witnesses. These amendments strengthen existing protections, including prohibitions on direct confrontation with the defendant, the allowance for remote testimony, the requirement that questions be posed through judicial authorities and the involvement of psychologists, social workers

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<sup>7</sup> However, the monitoring of court practice on the position of juvenile victims of crime before the courts in the Republic of Serbia in 2020 (Kolaković-Bojović, 2022a) indicated that 34% of juvenile victims were questioned multiple times: 75% twice, 8% three times and 17% four or more times. The same monitoring revealed that 12.5% of victims changed their statements during re-examination, predominantly in cases involving Article 190 of the Criminal Code, although none were the aforementioned victims of serious crimes of sexual violence.

or other experts to ensure that witnesses are treated with special care to protect them from harmful consequences.

The Law on Juveniles (2005, Article 153) defines that if a juvenile witness is especially sensitive, due to the nature of the crime, its consequences or other circumstances, confrontation with the defendant is forbidden. However, under the current legal framework, which does not recognise all juveniles as particularly sensitive witnesses, confrontation with the accused remains possible. This legislative gap underscores the need for a revised Law on Juveniles with more precise and comprehensive provisions on interviewing juvenile victims.

## 2.2. Other challenges related to the position of child victims in criminal proceedings

In addition to challenges arising from the need to improve the relevant CPC provisions, the child victims in Serbia are struggling with a number of challenges in terms of the practices applied on them, even regarding the issues already properly governed by the relevant legislation:

### 2.2.1. Access to legal aid and representation

Ensuring access to legal aid or legal representation for especially sensitive victims, including child victims, is recognised in key international and regional human rights instruments and reflected in Serbia's normative framework. Accordingly, the CPC (2021, Article 103, paragraph 3) defines the conditions for granting a victim the status of an especially sensitive witness but does not automatically guarantee access to free legal aid or legal representation. Instead, it allows the prosecutor or the court to appoint a proxy "if deemed necessary for the purpose of protecting the interests of an especially vulnerable witness". However, the majority of child victims give their testimony without being granted the status of especially sensitive victims<sup>8</sup> and therefore rely on the protective measures provided under the Law on Juveniles (if underaged) or the Law on Free Legal Aid. In first case, as previously mentioned, the Law on Juveniles (2005, Article 154) mandates that a juvenile, as an injured party, must have legal representation from the first hearing of the accused. If the juvenile does not have a lawyer, the president of the court shall appoint one from the list of attorneys with specialised knowledge in child rights and juvenile criminal protection, with costs covered by the court budget. On the other hand, the Law on Free Legal Aid (2018, Article 4) recognises only a limited category of victims of criminal offenses, such as victims of domestic

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<sup>8</sup> The findings from the monitoring of the position of juvenile victims in criminal proceedings in the Republic of Serbia in 2020 demonstrated that the formal status of an especially sensitive witness was granted to juvenile victims in only three out of 58 cases (involving a total of 70 victims). In two of these cases, the status was awarded by a prosecutor's decision, specifically in proceedings related to human trafficking (one injured party) and sexual intercourse with a child (two injured parties). One possible explanation for such a low share can be explained through the indirect awarding of the status through the application of the Law on Juveniles (2005, Articles 150-154). See: Kolaković-Bojović (2022a; 2022b, 55-77).



violence, human trafficking and victims of torture, inhuman or degrading treatment, without explicitly mentioning child victims.

In addition, concerns exist regarding the quality of legal representation, as many lawyers, despite their formal qualifications, lack the specialised knowledge required to effectively support child victims. To prevent secondary victimisation and to ensure that child victims' specific needs are adequately addressed, it is essential to develop sustainable training programmes aimed at improving the competencies of legal professionals involved in their representation.

#### 2.2.2. Use of video link and the court infrastructure as mechanisms to protect especially vulnerable victims and witnesses

Directive 2012/29/EU (Article 23 (3)(a)) and Directive 2011/93/EU (Article 20) emphasise the importance of using AV communication technologies as effective mechanisms to protect child victims in giving their testimonies, particularly by preventing visual contact with offenders. Similarly, the CPC (2021, Article 104) and the Law on Juveniles (2005, Article 152, paragraph 3), provide that, considering the characteristics of the offense and the personality of the juvenile, the court may order the hearing of a juvenile via AV technology, without the presence of parties and other participants in the proceedings.

Research on Serbian court practices (Kolaković-Bojović, 2022a; Stevanović & Marković, 2024) indicates that judicial professionals demonstrate a willingness to use AV technology for interviewing especially sensitive victims. For instance, in a review of court practices involving juvenile victims in the Republic of Serbia in 2020, AV technology was successfully used in cases where victims were granted the status of especially sensitive victims. Nevertheless, despite such positive examples, the availability of adequate technical equipment and trained professionals remains limited. Courts without permanent AV facilities often depend on temporary assistive devices, borrow equipment from prosecutor's offices or implement alternative protective measures. (Stevanović & Marković, 2024, 165-182).

Currently, the system cannot benefit anymore from the mobile teams, the mobile teams of trained psychologists from public institutions who used to be operational some years ago conducting interviews with minors outside court premises, primarily in victims' homes. These teams, between March 2015 and September 2017, conducted 158 interviews with juvenile victims. However, the lack of standardised monitoring sheets during these interviews limited the collection of detailed victim and case data. Unfortunately, after the project expired without integration into institutional practice, this protective measure is no longer available (Kolaković-Bojović, 2018, 171-183).

Additional challenges arise from inadequate infrastructural conditions in court buildings, including limited spaces, overcrowding and inadequate separation between victims, witnesses and defendants. Moreover, the lack of suitable rooms for the Service for Assistance and Support to Victims and Witnesses contributes to potential confrontations that increase victim distress. To effectively address these challenges, it is essential to continue the process of acquiring AV rooms and equipment for courts and prosecutors' offices. This process should be complemented by

infrastructural adaptations that prioritise the specific needs of victims, along with comprehensive training programs aimed at enabling judicial professionals to fully utilise available protective mechanisms.

### 2.2.3. Protection of the victim's privacy and media coverage of trials

Despite the proper legal regime provided by the Constitution of the Republic of Serbia, (Article 32), which permit exceptions to public trials to protect the best interests of minors and the rules provided by the CPC (2021, Article 363-364), as well as the detailed rules of media legislation, but also the rulebooks governing the communication between the judiciary and media a privacy and the dignity of child victims is frequently jeopardized by improper practices in terms of the publicity of hearings and information leakage from the criminal proceedings, followed with the sensationalistic reporting of media, which contributes to the secondary victimisation, additional traumatisation and stigmatisations. Self-regulatory bodies do not establish competence over all media and do not duly monitor and punish practices that breaching the media legislation and the Code of Conduct for journalists. Addressing these challenges requires coordinated training for journalists, judges, prosecutors, police and lawyers on privacy protection and media ethics. It also demands the strengthening of self-regulatory media mechanisms to ensure accountability and the enhancement of internal disciplinary processes within the judiciary to effectively prevent harmful practices against victims (Kolaković-Bojović & Grujić, 2020, 239-269; Kolaković-Bojović, 2020b, 402-420).

### 2.2.4. Compensation claims and the protection of victims

Even the provisions of the currently applicable CPC (2021, Articles 252-260) that oblige courts and prosecutors to proactively collect evidence relevant for compensation claims, even before their formal submission, where the court are expected to decide on these claims within criminal proceedings unless it would significantly prolong proceedings, mostly complies with the relevant international standards, there is a still huge room for improvements. Namely, the courts almost always referring victims to submit compensation claims in additional, civil proceedings where they are deprived of the protective measures.<sup>9</sup> Therefore, the priority would be to foster application of the Guidelines for improving the case law regarding procedures for compensation of damage to victims of serious crimes in criminal proceedings adopted in 2019 by the Supreme Court. In parallel, to address these practical challenges, it is necessary for the Republic of Serbia to amend the Civil

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<sup>9</sup> Empirical research of the treatment of juvenile victims in criminal proceedings in the Republic of Serbia conducted in 2020 (Kolaković-Bojović, 2022a) revealed significant shortcomings regarding compensation claims. Only 17% of juvenile victims submitted compensation claims, with merely 17% of those specifying their property claims, typically at the main trial stage. Consequently, only one out of 70 juvenile victims obtained compensation within criminal proceedings. The key reason for that is certainly the fact that only 17% of them pointed out and only two determined the request, which does not change the overall picture of the complete practical ineffectiveness of the mechanism prescribed by the CPC (2021, Articles 252-260).

Procedure Code in order to explicitly incorporate protective measures for particularly vulnerable victims, including child victims, in civil proceedings conducted upon their compensation claims based on the decision of the criminal court to refer them to litigation. Therefore, the main goal should be to ensure, through the proactive approach, that child victims are protected from the secondary victimisation through repeated testimonies in criminal and civil proceedings.

Additional practical difficulties for victims arise in situations where child victims are unable to obtain compensation due to offender's lack of assets or their inability to be prosecuted and/or punished for other reasons. Therefore, consistent with previously discussed international standards, it is essential to establish a state-funded compensation mechanism, while the state will further proceed with its efforts to reimburse itself from an offender, if possible, at the latter stage. An additional purpose of such funds is to ensure prompt material support for victims in situations of urgent need, even before to a final court decision is reached. This is particularly important for especially vulnerable victims, such as child victims, who may require immediate access to medical treatment or resources to repair various forms of damage.

### 3. EC ASSESSMENT OF THE CURRENT STATE OF PLAY AND THE WAYS FORWARD

#### 3.1. EC assessment of the current state of play and the requests for improvements

Considering all the above-described challenges it is interesting to see how the European Commission perceives a way to overcome them. Namely, in the latest feedback on the Self-assessment Report submitted by Serbia in 2024, with regards the IBM 42 on the rights of a child, the EC urged Serbia to:

- Demonstrate implementation and monitoring of the strategy related to violence against children by timely publishing the annual reports on the action plan and providing a summary in English, at least on the achievement of the strategy's indicators.
- Adopt a new Law on juvenile offenders and protection of minors in criminal proceedings in line with the EU acquis and international standards.
- Address the recommendations (2017) of the UN Committee on the Rights of the Child.
- Amend the family law to explicitly prohibit corporal punishment of children in the family and to ban child marriage.
- Amend the Law against domestic violence to ensure that every child who is a witness or victim of domestic/partner violence is always included in the court's individual protection plan.

When it comes to the IBM 44, EC requested the following actions:

- Continue to demonstrate enforcement of the law on free legal aid and a "well-resourced legal aid system" (as required by the IBM).
- Continue to implement, without further delay, the National Strategy on the Rights of Victims and Witnesses of Crime and its action plan.

- As foreseen by the strategy, amend the legislation, including the Criminal Code and the Criminal Procedural Code, to align with the EU *acquis* on procedural rights and on victim's rights.

From the requests presented above it is obvious that the EC follows the progress made/needed in this field mostly from the procedural point of view (achieving the above-mentioned goals). However, this doesn't mean that the substantial content of the reforms will not be monitored/checked, but rather that the EC relies on the assessment of the UN Committee on the Rights of the Child and the Council of Europe treaty bodies (of course with the exception of the legislative reform where it monitors alignment level with the relevant EU *acquis*).

With this regard, it would be also of the great importance to ensure continuous monitoring and advocacy mechanisms at the national level, not just to foster the reforms and benefit from the EC financial support, but also that those reforms provide for the prompt, comprehensive and substantial improvement of the child victims position in Serbian justice system.

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## ПРИСТУПНИ ПРЕГОВОРИ СРБИЈЕ СА ЕУ КАО ОКВИР ЗА УНАПРЕЂЕЊЕ ПОЛОЖАЈА ДЕЦЕ ЖРТАВА

### Апстракт

Иако је систем малолетничког правосуђа Србије пре 20 година био међу пионирима у увођењу најпрогресивнијих приступа адресирању специфичних потреба малолетника у контакту са законом, некако је изгубио корак са савременим међународним стандардима у овој области, посебно када је реч о положају деце жртава. Реформе које су већ спроведене у правосудном систему показале су да је процес приступних преговора са ЕУ један од најефикаснијих покретача реформских процеса. Имајући то у виду, овај рад анализира захтеве поглавља 23 као оквира за даље унапређење положаја деце жртава у систему кривичног правосуђа. Он баца светло на недавна достигнућа, напоре који су у току, али и преостале изазове, како из перспективе законодавне реформе, тако и у погледу капацитета за ефикасну имплементацију законских одредби.

**Кључне речи:** деца жртве, приступни преговори, ЕУ, Поглавље 23, малолетничко правосуђе.

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