

**KARTU GALIME  
APSAUGOTI IR PADĖTI**

# LEGAL AND PSYCHOLOGICAL IMPLICATIONS OF THE PARTICIPATION OF A CHILD WHO HAS BEEN SUBJECTED TO VIOLENCE IN CRIMINAL PROCEEDINGS

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# INTRODUCTION

Children are one of the most vulnerable groups in society, who require not only care and protection of their close ones, but also special attention of state authorities, especially when they suffer from violence exerted against them.

Violence against children is a violation of children's rights and a major social and societal problem. Child abuse has a wide range of consequences for a child's daily functioning and development, which then manifests in adult life, creating a never-ending cycle of violence, and it is therefore crucial that children, who are victims of violent offenses, receive timely and effective comprehensive assistance to help them successfully overcome the consequences of their trauma and become full members of their communities. This requires swift and coordinated action by both law enforcement authorities and entities providing social, psychological and other support to children affected by violence.

In order to achieve these goals, the Prosecutor General's Office and the Public Institution Children Support Centre have been implementing the project "Together We Can Protect and Help" funded by the European Commission in the implementation of which this publication was drafted. It is aimed for law enforcement and other specialists working in the field of violence against children and covers key issues related to pre-trial investigations into violence against children, how they are carried out, and how authorities cooperate with each other. It provides guidance to help make the criminal justice process more child-friendly and reflect the best interests of children.

# 1. CRIMINAL OFFENCES AGAINST MINORS

## 1.1. The concept of violence against children

Lithuanian legislation does not have a general concept of violence against children.

The Law on Fundamentals of Protection of the Rights of the Child of the Republic of Lithuania defines violence against a child as direct or indirect intentional physical, psychological or sexual violence inflicted on a child by act or omission, if this has led to the death of the child, or has disrupted the child's health or normal development, or has caused pain or danger to life, health or normal development of the child, or has humiliated child's honour and (or) dignity. Child abuse also includes neglect of a child. Acts of physical force and physical or mental pain against a child shall not be considered to constitute violence, if they are intended to prevent a greater risk to the child's physical or mental safety, health or life and cannot be achieved by other means.

According to the Law on Protection against Domestic Violence of the Republic of Lithuania, violence is a deliberate physical, mental, sexual, economic or any other influence exerted on a person, whether by act or omission, which results in physical, property or non-pecuniary damage. Not all violence against a child subjects to criminal liability, but only that which meets the criteria of a criminal offence under the Criminal Code of the Republic of Lithuania (hereafter – the CC): murder (Article 129 of the CC), severe health impairment (Article 135 of the CC), minor health impairment (Article 138 of the CC), infliction of physical pain or minor health impairment (Article 140 of the CC), rape (Article 149 of the CC), sexual abuse (Article 150 of the CC), forcing to have sex (Article 151 of the CC), rape of a person under the age of 16 (Article 153 of the CC), abuse of the rights or duties of a parent, guardian or custodian or of other legal representatives of the child (Article 163 of the CC), and other offences provided for in the CC, which have resulted in physical, mental, sexual or other forms of abuse of a child.

According to the National Register of Criminal Acts, 1 614 children were victims of criminal acts in Lithuania in 2021, including 840 boys (52%) and 774 girls (48%). The Table below shows that the figures have constantly been changing. This could be due to a variety of factors (registration features, changes in legislation, high-profile cases, public attitudes towards violence, etc.) (see Figure)<sup>1</sup>.

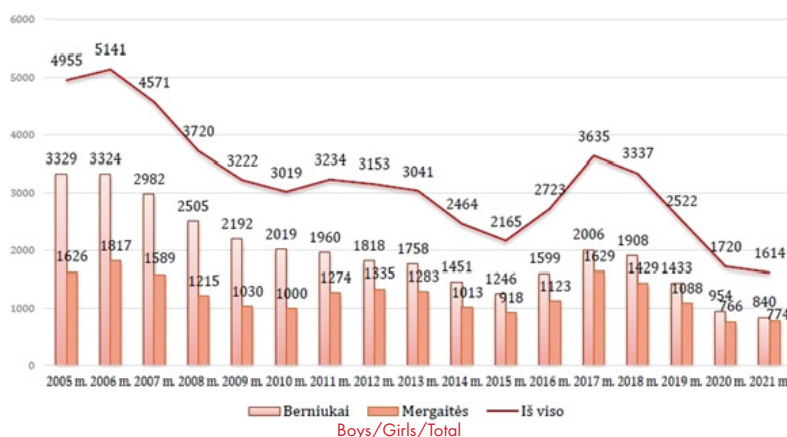


Figure 5. Children victims of crime (in 2005-2021)

In 2021, 520 children (32.3% of all victims) were victims of their parents, 144 children (8.9%) suffered from their stepparents or adoptive parents, 11 children were victims of their guardians, 77 children suffered from their relatives and close family members, and 8 children were victims of teaching staff.

In 2021, children mainly suffered from crimes of violence: 896 (55.5%) were victims of infliction of physical pain and 41 (2.5%) were victims of minor health impairment, all of which is related to domestic violence.

Thus, although the number of child victims of crime has been declining in recent years, statistics show that the problem of domestic violence against children is still very serious and requires special attention from both law enforcement authorities and child and family support providers.

## 1.2. Definition of a victim of violence

There is no common legal definition of a victim of violence.

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 (hereinafter –Victims’ Directive) defines a victim as a person who has suffered from a criminal offence as a victim, i.e. (i) a natural person who has suffered harm who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person’s death. Victims can avail themselves of some of the rights enshrined in the Victims’ Directive even when they are not formally recognised as victims. For example, a victim of a crime who has not reported the crime to the police is also entitled to psychological or counselling support.

According to the Law on Protection against Domestic Violence of the Republic of Lithuania, a person who has been subjected to domestic violence, or a family member of a person who has died as a result of domestic violence and who has suffered damage as a result of the death of that person, or a child who has witnessed domestic violence or lives in an environment exposed to violence is considered a victim of domestic violence.

The definitions of a victim and a survivor of domestic violence differ from that of a victim as a participant in criminal proceedings. A victim as a participant in criminal proceedings is a natural person who has suffered physical, property or non-pecuniary damage as a result of a criminal offence, or a family member or close relative of a natural person who has died as a result of a criminal offence, suffered physical, property or non-pecuniary damage as a result of the death of that person. A person acquires the status of a victim only after a pre-trial investigation officer or prosecutor has issued a decision or a court has issued a ruling. Together with the acquisition of the status of a victim, a person acquires the rights and obligations of a victim set out in the Code of Criminal Procedure of the Republic of Lithuania (hereinafter – the CCP) (Article 28 of the CCP).

The Ministry of Justice of the Republic of Lithuania has published a publication "What does a victim need to know?", which contains all the information related to the rights of a victim in criminal proceedings, the course of the criminal proceedings and the provision of assistance to him. The publication is publicly available online at *Dark Blue and Yellow Corporate Marketing Trifold Brochure (lrv.lt)*.

## 2. INITIAL RESPONSES TO DOMESTIC VIOLENCE

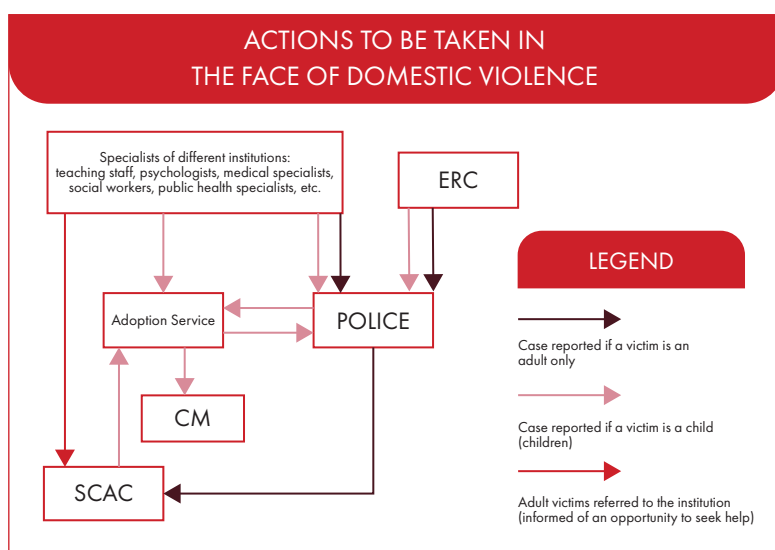
Information about violence experienced by a child usually first reaches close relatives, teachers, psychologists or social workers, legal aid providers, doctors, care institution staff, child protection authorities and law enforcement agencies. These are the main actors who have relations with the child, possess information about the child and some of them take part in criminal proceedings. Their actions have a significant impact on the success of the subsequent process.

Initial factors affecting the proper safeguarding of the best interests of a child and determining the success of the subsequent process include:

- 1) the ability of persons who interact, work with, or provide services to the child \ to recognise violence and spot it on time;
- 2) the capturing of a possible violation of a child's rights and the taken;
- 3) timely transmission of information to law enforcement or child protection authorities;
- 4) timely transmission of information by child protection authorities to pre-trial investigation bodies.

Actors involved in processes and investigations of violence against children (see Figure )::

- 1) the police;
- 2) the public prosecutor's office;
- 3) State Child Rights Protection and Adoption Service (hereinafter – the Adoption Service);
- 4) Emergency Response Centre (hereinafter – the ERC);
- 5) case management authority (CA);
- 6) Specialised Comprehensive Assistance Centre (SCAC);
- 7) other institutions (health care institutions (HCIs), educational institutions (EIs), probation service, social services centre, education assistance service; municipal administrations).



Having learnt about a possible case of domestic violence, all participants and specialists working in different institutions shall:

1) inform:

- the police, suspecting that the abuser intends to exert or has exerted violence;
- the police or the Adoption Service, suspecting that a child has been a victim of domestic violence;

2) refer to the SCAC (a person who may be experiencing (has experienced) domestic violence).

It is everyone's civic duty to report violations of child rights. Individuals, as well as institutions who have information about possible violence exerted against a child, are obliged to report it to law enforcement authorities under certain legislation:

1) Article 35(2) of the Law on Fundamentals of Protection of the Rights of the Child;

2) Cooperation Agreement of 28 June 2018 between the General Prosecutor's Office of the Republic of Lithuania, the Police Department under the Ministry of the Interior of the Republic of Lithuania, the Ministry of Social Security and Labour of the Republic of Lithuania, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour of the Republic of Lithuania, and the Office of the Ombudsperson for Child's Rights;

3) Recommendations for schools on how to recognize domestic violence and actions to be taken in case of suspicion of possible domestic violence approved by the Order No V-582 of the Minister of Education, Science and Sport of the Republic of Lithuania of 21 April 2020;

4) Description of the Procedure for the Provision of Information about the Patient to State Authorities and Other Institutions approved by Order No 65 of the Minister of Health of the Republic of Lithuania of 1 February 2001 (wording of Order No V-1328 of 21 November 2018).

Heads and other employees of education, upbringing, health care and other institutions and establishments under the supervision of which a child is a child, , as well as other persons who fail to report violations of child rights by parents, other legal representatives of children and other persons to the State Child Rights Protection and Adoption Service, the police or the Public Prosecutor's Office, may be subject to the administrative liability provided for in Article 75(1) of the Code on Administrative Offences of the Republic of Lithuania.

Failure to report a very serious offence committed or being committed without good reason may also, in the cases provided for by law, be subject to the criminal liability provided for in Article 238(1) of the CC. It should be noted that close relatives and family members of the perpetrator are not liable for a failure to report a crime (Article 238(2) of the CC).

However, law enforcement alone cannot help in all cases of violations of child rights. Sometimes actions of child rights authorities, the initiation of case management, work with the family, and carefully selected social support measures for the family are enough.

Criminal proceedings are a last resort and should only be initiated if there are signs of a criminal offence and no other means of protecting the rights and interests of a child are available, and the nature and gravity of the violation of the child's rights must be carefully assessed. This is usually done by child protection authorities or the police. When deciding which violations of child rights must be reported to the police, it is essential that specialists of the Adoption Service make a proper assessment of whether they fall within the scope of criminal liability.

The case law also notes that in cases of domestic violence, it is relevant that liability for offences



relating to children and the family is provided for not only by the Criminal Code but also by the Code of Administrative Offences. Article 72 of the Code of Administrative Offences provides for administrative liability for violations of child rights e, while a failure to exercise parental authority or its use contrary to the best interests of a child is laid down in Article 73 of the Code. When deciding which law – Article 140(3) of the Criminal Code or Articles 72 and 73 of the Code of Administrative Offences – to apply, the specific features of the constituent elements of these offences, the nature of the offence committed and its seriousness are taken into account (e.g. cassation rulings in criminal cases No 2K-260/2010, No 2K-474-489/2016) (Review of the Case Law in Criminal Cases on Domestic Violence No. AB-47-1).

Therefore, to ensure best interests of a child, it is important that the Adoption Service reports to the police or the Public Prosecutor's Office solely when there is evidence of possible violence against a minor or violations of child rights that, in the opinion of the Adoption Service, have the elements of a possible criminal offence rather than reporting any violation of child rights. It is therefore of particular importance that all authorities have the same understanding of the concept of violence and that the Adoption Service has the legal knowledge of what offences may have elements of criminal offences under the CC.

Criminal proceedings always involve the risk of secondary trauma. Having initiated criminal proceedings, hearing out a child (his/her opinion) is usually not enough, as the proceedings will normally require procedural questioning (Article 186 of the Code of Criminal Procedure) will take place, and the child will be involved in the proceedings regardless of the judicial prospects of the case. In order to avoid unreasonably initiated pre-trial investigations, it is very important to assess results that could be achieved by other measures (administrative, disciplinary, civil sanctions or measures of social impact) that are not related to the application of criminal penalties (e.g., ruling of the Supreme Court of Lithuania in criminal case No 2K-474-489/2016).

When responding to reports of domestic violence, including domestic violence against children, police officers follow the Police Officers' Procedures for Responding to Reports of Domestic Violence, Enforcement of a Court Decision on the Imposition of Provisional Measures to Ensure the Protection of a Victim of Violence, and the Procedure for Controlling the Enforcement of this Decision, as adopted by Order No.5-V-611 of the Police Commissioner General of Lithuania of 2 July 2018 (hereafter – the Description).

The Description sets out all the necessary actions that police officers must take in response to a report of domestic violence, as well as the information they must collect and assess, regardless of whether the violence has been perpetrated by a child or an adult.

Police officers must establish whether a minor (child) witnessed the incident and whether the minor (child) is living in an environment where the violence is exerted (sub-clause 5.1.3 of the Description). They are also obliged to immediately inform the Officer of the Operational Management Unit of a police institution about children or other persons who, due to their physical or mental characteristics, cannot be left unattended, if the person who has suffered domestic violence is not able to take care of them due to the medical assistance provided to him/her, or due to his/her physical or mental state (the person is drunk or intoxicated) (sub-clause 5.5 of the Description).

Police officers must inform the person who has suffered violence that he/ she will be contacted by a specialised help centre that will provide assistance, and give him/ her an information card or leaflet containing a telephone number for psychological assistance, the contact details of the specialised help centre in the area, and other written information on assistance for persons who have suffered violence (sub-paragraph 5.4 of the Description).

It is important to note that talking to a minor at the scene of the incident is only possible to the extent necessary to find out the data needed to establish the lines of investigation and to take immediate action. In this case, the minor should not be asked in detail about the circumstances of a possible offence, asking him/ her for information that could help to identify the suspect only, avoiding, as far as possible, any additional trauma to the child. The results of a conversation with the child must be recorded in the officer's official report (clause 5.1.3 of the Description).

If a child is a possible victim of violence, inform the police constable thereof, who then immediately contacts the Adoption Service coordinator by phone and passes on information about the incident and the child. This cooperation is carried out in accordance with the Cooperation Agreement No BS-3/5-IL-4384 of 2 July 2018 signed by the Adoption Service and the Police Department (version No BS-4/5-IL-6973 of 27 May 2020).

The Guidelines on the Procedure for Initiating and Registering the Initiation of a Pre-Trial Investigation, approved by Order No I-110 of the Prosecutor General of the Republic of Lithuania of 11 August 2008 (version of Order No I-391 of 23 December 2020) lay down the requirements to be followed by the Prosecutor's Office and pre-trial investigation bodies when refusing to initiate a pre-trial investigation or initiating a pre-trial investigation, and when registering the initiation thereof.

Clause 89 of the Guidelines, which states that "when clarifying circumstances, Article 168(1) of the Code of Criminal Procedure and the procedure for carrying out procedural action laid down in Articles of the Code of Criminal Procedure governing the procedural action shall be followed. <...> When clarifying a statement of offence, minors shall only be interrogated having ensured the conditions laid down in the Guidelines on the Interrogation of a Minor Witness and a Victim" is of particular importance.

When collecting data on violence against children, taking the following aspects into account is recommended:

- 1) when collecting primary data, it is particularly important to assess who reported the violence against a child and under what circumstances, and whether there is any intention to manipulate the child in the context of conflictual family relations. An unjustified pre-trial investigation can cause serious harm to a child;
- 2) to decide whether or not to institute a pre-trial investigation, it is recommended to collect detailed information from a social worker, a teacher, a psychologist or another person who first received information about a possible violence (usually by asking these people about when and from whom they learned about the possible violence, what is it that the child himself/ herself told them, how the child felt, whether there were obvious injuries, if so, what they were, who else might know or be aware of the possible violence, etc.). Also, the recommendation is to ask staff to make explanations, to submit service reports, provide minutes of child welfare commissions held in

schools or municipalities, or other documents completed by the above-mentioned persons regarding the observed violence);

3) it is not recommended for officials to talk to a child when clarifying circumstances of the incident when violence is evident (injuries or consequences of other criminal acts are visible, other persons confirm the data, etc.), as in such a case, a pre-trial investigation shall be initiated immediately, and the child will be questioned in a pre-trial investigation. If physical violence is not evident or if a report concerns psychological or other forms of violence, it is important to collect information on the nature of the violence, check for marks, physical pain or other forms of violence. To collect this information, the guidelines set out in the previous clause must be followed and, if sufficient information cannot be collected and the situation is unclear, to decide whether it is appropriate to interrogate a child without initiating a pre-trial investigation;

4) pursuant to Article 168(1) of the Code of Criminal Procedure, the actions to clarify a report of a possible criminal offence shall be carried out within a maximum of 10 days. It is important to collect sufficient initial data during this period of time to ensure a reasoned and justified decision on whether or not a pre-trial investigation should be instituted. If information about possible violence is to be provided by the Adoption Service, police officers must obtain the information in the possession of the Adoption Service;

5) having assessed the initial data collected and determined that a criminal act does not have the elements of a criminal offence in accordance with the Code of Criminal Procedure, the violation of child rights must be assessed in the context of the Code of Administrative Offences. Therefore, in order to clarify the circumstances of a report of violence against a child, it is necessary to collect data on the child's upbringing, living conditions, interference with his/ her education, neglect or other potentially unlawful acts towards the child. Administrative offences relating to the violation of child rights are provided for in Articles 72-80, 489 and other Articles of the Code of Administrative Offences. It should be noted that the Adoption Service only may impose administrative liability for administrative offences provided for in Article 75(2) of the Code of Administrative Offences ("Failure to notify the State Child Rights Protection and Adoption Service, the police, the Public Prosecutor's Office or legal representatives of the child of the whereabouts of a child who has ran away from a foster care institution, a socialisation centre or his/her family") and Article 75(3) ("Providing the State Child Rights Protection and Adoption Service with knowingly false information on the need to protect minor's rights and interests").

Timely exchange of information is essential for smooth cooperation between authorities dealing with violence against children. To this end, a cooperation agreement was signed on 28 June 2018 between the Prosecutor General's Office of the Republic of Lithuania, the Police Department under the Ministry of the Interior of the Republic of Lithuania, the Ministry of Social Security and Labour of the Republic of Lithuania, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour of the Republic of Lithuania, and the Office of the Ombudsman for Child's Rights of the Republic of Lithuania (hereafter – Cooperation Agreement of 28 June 2018).

By this Agreement, the signatory institutions undertook, within their respective competences and insofar as this does not conflict with provisions of legislation governing their functions and activities, to work towards greater mutual cooperation, more effective protection of rights and legitimate i

interests of children and representation of best interests of children. The Agreement lays down the rules and cases for the exchange of information between the Adoption Service, prosecutors and pre-trial investigation officers, as well as the obligations of each party to the Agreement. This Agreement must be followed throughout the criminal proceedings.

It should be noted that in cases where the Adoption Service submits a report on possible violence against a child to a law enforcement authority, the Adoption Service shall have the right to have access to all or a part of the material on the basis of which the decision of the pre-trial investigating officer or the public prosecutor to refuse to initiate a pre-trial investigation was adopted, and to make copies of, or excerpts from, such material. A written request for access to the material and/or for making copies or extracts of the material shall be submitted to the head of the pre-trial investigation body (its unit), and in cases where a complaint, statement or report has been examined by a public prosecutor and the procedural decision has been taken by a public prosecutor – to the public prosecutor (Article 168(4) of the Code of Criminal Procedure). The prohibitions laid down in Article 181(6) of the Code of Criminal Procedure shall apply during access to material, i.e. making copies of the pre-trial investigation material in the case of data concerning minor suspects and victims, the private life of participants in the proceedings, criminal offences against the freedom and inviolability of human sexual decision, etc. shall be prohibited.

As an applicant, the Adoption Service also has the right pursuant to Article 168(5) of the Code of Criminal Procedure, to appeal against a decision of a pre-trial investigation officer or a public prosecutor to refuse to initiate a pre-trial investigation.

A decision by a pre-trial investigation officer to refuse to initiate a pre-trial investigation is appealed to the public prosecutor, and a decision by the public prosecutor – to a pre-trial investigation judge. If the public prosecutor does not annul his decision to refuse to open a pre-trial investigation, the decision may be appealed to a pre-trial investigation judge. Decisions made by a pre-trial investigation judge are appealed to a higher court. Appeals may be lodged within seven days from the day of receipt of a copy of a decision or a resolution.

If the Adoption Service was not an applicant, i.e. it did not report a possible violence against a child, but participated in the interrogation of a child, provided information about a child, forwarded to a pre-trial investigation institution a report from other persons submitted to the Adoption Service, etc., the Code of Criminal Procedure does not provide for its possibility to access material on the refusal to initiate a pre-trial investigation and to appeal a decision to refuse to initiate a pre-trial investigation. In such a case, the Adoption Service receives the information on the basis of the cases provided for in the aforementioned Cooperation Agreement of 28 June 2018.

Since other institutions work with a family and a child in parallel to criminal proceedings, cooperation between the institutions responsible for the protection of child rights must be active and targeted from the moment of receiving a report of possible violence against a child. In order for this to take place, it is essential to know what processes are taking place at the same time and which institutions are involved.

- Case management (CM) assesses the situation and the needs of a family, prepares a family assistance plan, organises the provision of social, psychological and other assistance to the family,

coordinates the provision of these services and monitors the implementation of the assistance plan. The CM works closely with the SCAC to ensure that interests of an adult victim are also represented in the provision of assistance to the family. It also actively cooperates with all the institutions involved in the implementation of the assistance plan. The Description of the Case Management Procedure approved by Order No A1-141 of the Minister of Social Security and Labour of the Republic of Lithuania of 29 March 2018 (version of Order No A1-802 of 30 December 2019)) sets out the procedure for the initiation and application of case management for the child and the legal representative of the child, or persons expecting the child, a natural person in temporary care of the child, initiation and application of a case management, examination of a case, assessment of the need for assistance to the child and/or the family, the development and implementation of a comprehensive assistance plan, the monitoring of the family, the review of the assistance plan, the completion of the case management process, and the coordination of case management at the municipality.

- Specialised Comprehensive Assistance Centres (SCACs) contact and keep in touch with the adult victim, providing specialised comprehensive assistance with the victim's consent (consultations by a consultant, psychologist or lawyer, empowerment to solve a problem, referral to other institutions for services). The SCAC communicates with municipalities, the social services centre, etc., as necessary, regarding the provision of assistance. If a victim refuses assistance, the SCAC repeatedly contacts him/ her and clarifies the need for assistance. If children also suffered domestic violence, the SCAC cooperates with the CM coordinating the provision of assistance, as in such a case the SCAC represents interests of the adult. The Description of the Activities of Specialised Assistance Centres, approved by Order No A1-227 of the Minister of Social Security and Labour of the Republic of Lithuania of 7 May 2012 regulates activities of the SCAC.

- The Adoption Service is the main institution with which law enforcement authorities cooperate when investigating cases of violence against children. The Adoption Service protects and ensures child rights and represents rights and legitimate interests of children in the municipal territory 24/7; in order to ensure the protection of the rights and legitimate interests of all the children living in the municipal territory of the municipality, it assesses the situation of a child in the event of a possible violation of child's rights, initiates a case review; when it detects a criminal offence which is being committed or may have been committed in respect of a child, it immediately informs the police and takes the measures provided for in the Law on Fundamentals of Protection of the Rights of the Child to ensure the safety and safe environment of the child (relocates the child to a safe environment); act as the child's legal representative until a guardian is appointed for the child; represent interests of the child during pre-trial investigations and/or criminal court proceedings in the cases and procedure established by the Code of Criminal Procedure, provide information on the living and upbringing conditions of the minor at the request of a pre-trial investigation officer, prosecutor or court.

The Law on Fundamentals of Protection of the Rights of the Child regulates the actions of the Adoption Service or the territorial unit authorised by the Adoption Service to respond to possible violations of the rights of the child.

It establishes the obligation of the Adoption Service, having received a report of a possible violation of the rights of a child, to investigate the report as soon as possible, but no later than within 3 business days from the date of receipt of the report, and to meet with the child, securing the possibility to communicate with him/her without restriction, if there is such a need, – in the absence of the child's legal representatives, listen to the child in a manner acceptable to the child, taking into account the age and maturity of the child, about a possible violation of the child's rights, and, as appropriate, assess the child's living and/or social environment and the child's relationship with the child's parent(s) or other legal representatives. If there are suspicions that the child has been subjected to violence, or if the child has special needs, developmental and/or other disabilities, the child shall meet with a psychologist as necessary. Having taken the above steps, the Adoption Service shall carry out an assessment of the child's situation in accordance with the established procedures. If, after carrying out these actions, the Adoption Service does not find any violation of the rights of the child or any threat to the child's physical or mental safety, health or life, it decides to close the investigation of the report.

Police officers competent to work with minors who determine at the scene of an incident that a child is in an unsafe environment are obliged to take immediate action to ensure the child's physical or mental safety and to inform the Adoption Service or the territorial unit authorised by the Adoption Service of the incident. Upon receiving a report from the police about the presence of a child in an unsafe environment, the Adoption Service or the territorial unit authorised by the Adoption Service shall, within the scope of its competence, take steps to remove the child from the unsafe environment and hand him/her over to his/her parents (or one of his/her parents) or to the child's other legal representatives, and/or to assess the situation of the child. If it is established that the child cannot be returned to his/her parents or legal representatives, the Adoption Service shall immediately take the steps set out in Article 36<sup>5</sup> of the Law on Fundamentals of the Protection of the Rights of the Child ("Procedures for Taking a Child from his/her Parents and Other Legal Representatives).

The Table below shows the cooperation between actors in the exchange of information on violence against children (see Figure<sup>3</sup>):

	Police	Adoption Service	CM	SCAC
Police	X	The police collect information from the Adoption Service both to clarify the circumstances of the incident and after the opening of a pre-trial investigation; inform the Adoption Service about domestic violence if a victim is a child and provide other information in accordance with the agreement of 28 June 2018; take part in briefings held by the Adoption Service.	The police collect information from the CM to clarify the circumstances of the incident and having initiated a pre-trial investigation; police officers attend CM meetings.	The police inform the SCAC about a case of domestic violence; if necessary and with the consent of the victim, the police collect information from the SCAC about the victim's situation.
Adoption Service	The Adoption Service informs the police about possible criminal offences against children, provides information to the police and participates in children interrogations, and informs them about unsuitable child representatives.	X	The Adoption Service refers to CM to initiate the case management process as necessary; participates in case management briefings.	The Adoption Service provides information to individuals about the possibility to refer to the Adoption Service, as necessary.
CM	CM informs the police; invites officers to CM briefings.	The CM invites the Adoption Service to CM meetings; participates in briefings held by the Adoption Service.	X	The CM invites SCAC to CM meetings.
SCAC	If the violence has not been reported to the police, the SCAC shall report a case of violence to the police.	The SCAC informs the Adoption Service, if a child is suffered and the SCAC has not been informed thereof.	The SCAC attends CM meetings when an adult or a child suffered domestic violence.	X
Educational institutions (EI)	The EI informs the police if domestic violence is suspected.	The EI informs the Adoption Service in case of suspected domestic violence.	The EI provides information for the CM and attends CM meetings as necessary; in case of a child victim of domestic violence, the CM informs the educational institution about the assistance provided to the child.	The EI informs adult victims of the possibility to refer to the SCAC.
Health care facilities (HCFs)	The HCF provides information to the police in the course of pre-trial investigations; informs the police if it suspects that a child has been subjected to domestic violence. It also provides information without the person's consent if it suspects that the damage has been caused by a criminal offence.	The HCF provides information to the Adoption Service in the course of the assessment of a child's situation, as well as in case of information about a possible violation of child rights, as referred to in the Law on the Protection of Rights of Minors of the Republic of Lithuania (psychological, physical, sexual violence against a child, neglect of a child, minor children left without parental care, the necessity to protect the rights and legitimate interests of minor children (due to the parents' sickness, death, departure, disappearance, refusal to pick up children from medical institutions, or other similar causes)).	The HCF provides information on the CM process according to CM inquiries; the HCF may attend CM meetings.	The HCF informs adult victims about the possibility to refer to the SCAC.



## 3. SPECIFICS OF PRE-TRIAL INVESTIGATIONS INTO VIOLENCE AGAINST CHILDREN

The success of criminal proceedings in the best interests of a child is determined by the whole process, starting with the reporting of violence against a child. Throughout the process, it is essential for authorities and officials to cooperate and exchange information in a timely manner, and to plan and coordinate their actions appropriately, as the best interests of a child during a pre-trial investigation are not only related to the pre-trial investigation, but also to the social services provided by authorities.

Having instituted a pre-trial investigation into violence against a child, criminal proceedings are conducted in accordance with provisions of the Code of Criminal Procedure and other legislation setting out the general rules of criminal procedure. However, the legislation also lays down certain rules which must be followed exclusively in criminal proceedings concerning a child victim.

When conducting a pre-trial investigation of violence against a child, the implementation of the principle of the best interests of a child is most challenging, and requires, inter alia, that the criminal proceedings have the least negative impact on a child who has already suffered harm as a result of a criminal offence committed against him/ her. It is therefore of the utmost importance during a pre-trial investigation to agree on who and when will interrogate the child, who will attend the interrogation, to choose appropriate representatives of the child, to assess the child's special protection needs, to select appropriate remand measures for the suspect, and, if a perpetrator is a family member, ensure that the child is not exposed to his/ her violence, take steps to reimburse the damage done, decide on the necessity of the need for tests, forensic psychological or psychiatric examinations and their appointment in a timely manner, also timely provision of psychological or other assistance. Teamwork involving all these stages and factors is complex, requiring direct, constant and often urgent exchanges of information and organisational division of labour.

Therefore, provisions of the Cooperation Agreement of 28 June 2018 shall be followed both at the time of the clarification of a report on possible violence against children and at the time of the initiation of a pre-trial investigation. This agreement lays down who is to provide information in relation to a pre-trial investigation into violence against a child, to whom, in what cases and within what timeframe.

The Cooperation Agreement of 28 June 2018 does not foresee that the Adoption Service should coordinate with the prosecutor the start of the assistance provided to the child, inform about the application of child protection measures, the establishment of guardianship, the return to the family, the transfer to other foster homes or the appointment of other guardians. It is recommended to discuss these aspects on a case-by-case basis as needed.

### 3.1. Specifics of conducting a child interrogation

One of the most important procedural steps in the success of a pre-trial investigation is the interrogation of a child victim of violence.



The main tasks of a child interrogation are:

1. Obtaining information about the criminal offence under investigation.
2. Ensuring that the child is not repeatedly harmed during the interrogation.

The reliability of the information obtained and the well-being of the person being interrogated depend on the ability of each person who performs or assists in this process to communicate, ask questions, assess and respond to the behaviour of the person being interrogated.

The Recommendations for the Interrogation of a Minor Witness and Victim adopted by Order No I-126 of the Prosecutor General of the Republic of Lithuania of 16 September 2009 (version of Order No I-52 of 18 February 2015) (hereinafter – the Recommendations on the Interrogation of Minors) lay down the procedure for interrogating a minor victim.

Clause 3 of the Recommendation on the Interrogation of Minors stipulates that, due to the particularities of social and psychological maturity and in order to avoid the traumatising effect of criminal proceedings, procedural actions with minors, and with toddlers in particular, shall be carried out only in cases where the circumstances of the offence, which are relevant to a fair resolution of a case, cannot be established in other ways or would involve considerable procedural costs. The recommendation is to avoid interrogating a minor in the procedure other than that provided for in the Code of Criminal Procedure of the Republic of Lithuania (calling such interrogation an interview, a conversation, etc.) when clarifying the circumstances of an offence report (both before and after a pre-trial investigation has been instituted).

Article 11 of the Law on Fundamentals of the Protection of the Rights of the Child establishes the right of a child to be heard in all matters concerning him/ her and to have his/ her opinion taken into account, provided that this is not contrary to the child's interests. Ensuring this right of a child is also essential in criminal proceedings. However, provisions of legislation governing participation of a child in criminal proceedings govern that having properly heard a child's opinion, there is a possibility to exclude a child from procedural steps.

The following circumstances must be taken into account when deciding whether to exclude a child from proceedings:

1. the child's age and other characteristics (whether or not the child is able to express himself/herself appropriately, information about his/ her specific needs, possibly diagnosed disabilities or impairments);
2. the child's procedural status (whether the child is a victim or a witness);
3. whether the circumstances relevant to correct outcome of the case can be established by other means;
4. the nature of the possible criminal acts under investigation;
5. the fact that a pre-trial investigation has been instituted into an incident whose qualification (cases of physical violence) raises no doubt.

Clauses 21 and 23 of the Recommendations for the Interrogation of Minors lay down the procedure for the interrogation of minor victims.

## Selecting an entity to conduct an interrogation

Interrogations of minor victims in a special room, making audio and video recording, in the presence of a psychologist and a specialist from the Child Protection Service, usually no more than once and, in the cases provided for in the Code of Criminal Procedure, – before a pre-trial investigation judge, is one of the measures provided for in Article 186 of the Code of Criminal Procedure in order to ensure the best interests of a child.

Article 186 of the Code of Criminal Procedure and clauses 17 and 18 of the Recommendations for the Interrogation of Minors provide that child victims shall be interrogated by a pre-trial investigation officer or a prosecutor specialising in juvenile justice.

In order to protect a minor witness or victim from detrimental effects of criminal proceedings on his/her psyche and secondary traumatisation during a trial, and to prevent the minor from being summoned to the trial, if it is to take place, the interrogation of a minor shall be referred to a pre-trial judge. However, interrogation before a pre-trial judge shall be carried out under additional conditions, i.e. a pre-trial judge shall interrogate a minor witness or a minor victim when requested by a child's representative, a public prosecutor or a defence counsel to interrogate the child in light of his/her interests (in the child's best interests), or when there are the circumstances provided for in Article 184(1) of the CPC (interrogating a witness in the course of the trial shall not be possible; the witness may change his/her testimony during the trial or exercise his/her right to refuse to testify; he/she will give more detailed testimony to a pre-trial judge).

It is recommended that a pre-trial investigation officer or a prosecutor interrogates a child only when:

- 1) the person having committed an offence has not been identified;
- 2) other sources of evidence do not provide the factual basis for concluding that a specific offence prohibited by criminal law has been committed and that it was committed by the person named by the child in particular;
- 3) the circumstances provided for in Article 184(1) of the CPC do not exist;
- 4) the minor's testimony is not essential to establish the essential circumstances to be proved and there is an easy way to prove these circumstances with other data of the investigation.

Moreover, it is also necessary to assess whether it is possible to ensure that, after the child has been interrogated by a pre-trial investigation officer or a prosecutor, he/she will not be summoned for interrogation during trial, thus guaranteeing the principle of one interrogation (e.g. whether there is a plan to discontinue a pre-trial investigation, to refer the case to court for the adoption of a criminal order, or whether a shorter investigation of evidence has been planned). These conditions are difficult to predict and may change after an interrogation has taken place, so the possibility of a child being summoned to yet another interrogation in court remains.

Children shall be interrogated by a pre-trial judge based on a request from a prosecutor. A prosecutor may make such a request on his/her own initiative or on the initiative of a representative of a minor victim or the defence counsel of the suspect.

Requests by a representative of a minor victim or a suspect's defence counsel for an interrogation of a minor victim before a pre-trial judge shall be dealt with in accordance with the procedure laid

down in Article 178 of the Code of Criminal Procedure. Requests by a representative of a minor witness to conduct an interrogation of a minor witness before a pre-trial judge shall be examined in accordance with the procedure set out in the Description of the Procedure for the Service of Persons at the Public Prosecutor's Office of the Republic of Lithuania approved by Order No I-103 of the Prosecutor General of the Republic of Lithuania of 17 April 2020.

The public prosecutor shall, on his/her own initiative, apply to a pre-trial judge for the interrogation of a minor witness or victim on the grounds provided for in Article 184(1) of the Code of Criminal Procedure, i.e. when he/she considers that it will not be possible to interrogate a child during trial; the child is likely to change his/her statement during a trial or to exercise the right to refuse to give evidence; the child is likely to give a more detailed statement to a pre-trial judge (clause 18 of the Recommendations for the Interrogation of Minors).

The prosecutor must also apply to a pre-trial judge for a child's interrogation if the child's testimony is essential to establish essential circumstances to be proved, and these circumstances cannot be proved by other sources of evidence or if proving them by other sources of evidence is difficult (clause 19 of the Recommendations for the Interrogation of Minors). The aim of this provision is to protect a child from damaging effects of criminal proceedings on his/ her psyche and from secondary traumatising during trial, so that the child is not summoned to the trial and his/ her statements to a pre-trial judge are read out at the hearing in accordance with the procedure of Article 276(2) of the Code of Criminal Procedure.

### Preparing a child for an interrogation

In order to ensure that the implementation of the principle of one interrogation per child, proper preparation for an interrogation during a pre-trial investigation must be ensured and it must be carried out in accordance with all the mandatory requirements of the CPC and psychological recommendations.

Inadequate preparation for an interrogation, lack of competence of interrogators or a breach of the CPC can lead to a situation where a child is interrogated more than once.

Additional interrogation is usually carried out when:

- 1) the first interrogation of a child is uninformative and fragmented;
- 2) the interrogation reveals new circumstances that could have been known and verified;
- 3) rights of a suspect or his/her defence counsel to participate in the interrogation were not guaranteed during the interrogation before a pre-trial judge, or the suspect or his/her defence counsel was not given the opportunity to ask questions.

In practice, there are situations where a repeated interrogation of a child is unavoidable for the following objective reasons:

- 1) the suspect is identified after an interrogation of a minor (the person acquires the right to ask questions of the victim being interrogated when he/ she becomes a suspect, so if a minor victim was interrogated before he/ she became a suspect, he/ she could not have exercised this right);
- 2) new circumstances were discovered during the first interrogation in relation to a long-standing (systematic) criminal offence, which were not known to pre-trial investigation officers;

3) the first interrogation with the child was not informative due to the child's psychological state, which prevented the child from opening up.

In order to ensure that a minor victim is interrogated only once during a pre-trial investigation, the necessary pre-trial investigation steps must be taken as soon as possible before his/her interrogation in order to collect sufficient factual data complying with the requirements of Article 20 (1), (3) and (4) of the CPC, which would allow a decision to be made on the presence (absence) of the elements of a specific criminal offence and on the identity of the person who may have committed a crime.

When initiating a pre-trial investigation, it is usually known what crime is being investigated, whether the child is a victim or a witness, the child's gender and age. It is also usually known about the child's clearly expressed specific needs, possibly diagnosed disabilities or disorders.

Often, before interrogating a child, obtaining additional information is needed about who the child is currently living with and what information the child has already provided about the offence under investigation. This information must be detailed and recorded in the procedural documents.

Pre-trial investigation material must contain:

- 1) a service report of the officer who first interacted with the child testifying at the scene, indicating as accurately as possible the child's initial account of the incident and the situation/environment in which he/she was present at the time of the account. This information is particularly important when obtaining information from other sources (BodyCAM, interrogations of witnesses) may take too long;
- 2) body camera (BodyCAM) recordings of the officers having arrived at the scene;
- 3) information from the Adoption Service specialist or duty officer who interacted with the child;
- 4) a child situation assessment questionnaire (CSA) by the Adoption Service;
- 5) other information about the child (development, language, memory, personality traits, interests, hobbies, communication, emotional or behavioural characteristics).

Any officer (the officer who came to the scene and wrote an official report; the Adoption Service specialist who spoke to the child; an investigator who has met with the child or the child's representative), who learns about the child's personality traits, interests, hobbies, and, in particular, communication, emotional, developmental, language and memory peculiarities from family members or professionals working with the family, must inform the person who interrogated the child (the investigator, the public prosecutor, the judge of the pre-trial investigation) about it. This should be done by drafting a service report; a report of interrogation of his/ her close adults; the collection of documents confirming the child's health; by the Adoption Service specialist completing a questionnaire on the assessment of the child's situation, information on the child's living and upbringing conditions, and sending a separate letter.

In presence of sufficient evidence that a person has committed a criminal offence, he/ she shall be conferred the status of a suspect before a child can be interrogated. Article 44(7) of the Code of Criminal Procedure establishes that any person suspected or accused of committing a criminal offence has the right to interrogated witnesses himself or to request that witnesses are interrogated. Article 184(4) of the Code of Criminal Procedure provides that a public prosecutor must notify the

suspect and his/ her defence counsel of the place and time of the questioning by a pre-trial judge; the suspect and his/ her defence counsel shall have the right to be present at the interrogation, to ask questions of the person being interrogated, to examine and comment on the record of the interrogation having completed an interrogation. Prior to the interrogation of a child, the granting of the status of a suspect shall ensure the suspect's right to be present during the interrogation of a minor child before a pre-trial judge and reduce the likelihood of the child being repeatedly interrogated. However, it is important to remember that a child may forget circumstances relevant to a pre-trial investigation after some time.

In practice, cases when allegations against a person cannot be made without interrogating a child are quite common. Also, in exceptional cases, a person may be interrogated as a special witness before interrogating a child. In such cases, there is no uniform practice as regards the possibility of interrogating special witnesses or persons who have not yet been conferred the status of a suspect, but who have been subjected to a pre-trial investigation for a criminal offence allegedly committed by that person. Pursuant to the ruling of the Supreme Court of Lithuania in criminal case No 2K-225-689/2018), courts advise informing such persons of the planned interrogation and a possibility to take part in the interrogation. Since the CPC does not provide for the participation of such a person in the interrogation of a minor, courts decide in each case on the possibility for a person whose actions are the subject of an interrogation to participate in the interrogation.

In the case of *Kryževičius v. Lithuania* (petition No. 67816/14), the ECtHR concluded that the status of a special witness under Lithuanian national law is similar to that of a suspect. The ECtHR noted that certain rights granted to suspects under Lithuanian national law are also granted to special witnesses, such as the right to have an authorised representative present during interrogation, and the exemption from liability for refusal or evasion to testify, or for giving false testimony. The institute of a special witness, and thus his/ her rights and particularities of his/ her testimony, are laid down in Article 82(3) of the CPC. The status of a special witness, his/ her rights and obligations, and procedural guarantees are regulated in more detail in the Recommendations for the Interrogation of Witnesses in Accordance with the Procedure laid down in Article 80(1) and Article 82(3) of the CPC approved by Order No I-8 of the Prosecutor General of the Republic of Lithuania of 9 January 2008 (version of Order No I-143 of 15 April 2022). It should be noted that neither the CPC nor the Recommendations for the Interrogation of Witnesses in Accordance with the Procedure laid down in Article 80(1) and Article 82(3) of the CPC provide for the possibility for family members or close relatives of a special witness to refuse to give evidence or to answer certain questions, nor does it regulate the guarantee of a special witness to take part in certain procedural actions, including the right to take part in the interrogation of a minor witness or victim. This distinguishes the status of a special witness from that of a suspect and affects a decision to call a special witness to the interrogation of a minor victim.

It is also necessary to decide, before inviting a child for an interrogation, whether he/ she will be interrogated as a witness or whether he/ she should be recognised as a victim before an interrogation. If there are sufficient grounds for recognising a child to be a victim, a pre-trial investigation officer or a public prosecutor shall make a decision to that effect.

The special protection needs of the victim must be assessed no later than at the time of the first inter-

rogation of a child (Article 186<sup>1</sup> of the CPC). This shall be done in accordance with the procedure laid down in the Recommendations on the Assessment of Special Protection Needs of Victims approved by Order No I-63 of the Prosecutor General of the Republic of Lithuania of 29 February 2016.

In preparation for an interrogation of a child by a pre-trial investigation officer, it is recommended for a pre-trial investigation officer to convene (hold) a remote meeting in advance with a representative of the Adoption Service, a psychologist, and, if necessary, a child's legal representative, who will be present at the interrogation, and discuss with them organisational and technical aspects of the upcoming interrogation. Having arranged an interrogation with a pre-trial judge, he/she shall become a person responsible for initiating a discussion of an interrogation of a child to be conducted. Although court psychologists normally take part in interrogations conducted by a pre-trial judge, a psychologist from the list of psychologists willing to assist in interrogating persons in criminal proceedings administered by the State Guaranteed Legal Aid Service may sometimes be invited. In this situation, it is particularly important that the judge is informed properly and on time to discuss the forthcoming interrogation with all the persons concerned.

The persons involved in the interrogation of a child (a pre-trial investigation officer, prosecutor, pre-trial judge, psychologist, child protection specialist) must be aware of the roles and responsibilities of each of them when interrogating a child.

When a pre-trial investigation officer interrogates a child, he/ she must be aware of the psychological guidelines for such interrogations: the questions to be used to assess the child's memory and thinking, the child's perception of "truth and lies", the means used to establish a contact with the child, the means to gain the child's trust, the way the questions are to be formulating, and how to respond to the child's negative reactions and emotions that may arise during the interrogation. Due to the specific nature of such interrogations, a psychologist usually has a better understanding of these aspects.

When a psychologist assists a child in an interrogation, the pre-trial investigation officer (prosecutor) must, on his/her own initiative, seek to discuss with the psychologist the most important questions which the child is to be asked and the order in which the questions should be asked. The pre-trial investigation officer (prosecutor) must also discuss with the psychologist and other participants (child's representatives, child protection specialists) before an interrogation how they will communicate with each other, and when and how other participants will be able to communicate questions which the child should be asked.

Questions such as when breaks are to be taken, who will be able to ask questions and when, and how it will be decided when the interrogation can be ended, usually have to be assessed in the course of an interrogation.

When an interrogation takes place before a pre-trial judge, the officer conducting a pre-trial investigation shall discuss with the prosecutor before an interrogation the procedure and course of the interrogation, deciding on who will call the persons to the interrogation, when the child will arrive at the interrogation, who will communicate with the child and stay with him/her until the start of the interrogation, and when the suspects who are free or arrested will arrive, if they are to watch the interrogation.



The pre-trial judge conducting an interrogation shall decide on matters relating to the course of the interrogation (the time of breaks for the child to rest, the sequence of questions to be asked, etc.) in consultation with a psychologist.

It is recommended that a prosecutor and a pre-trial judge also discuss the course of an interrogation of the child to be conducted by a pre-trial judge separately.

### Conducting a child interrogation

Article 186(3) of the CPC establishes that a psychologist shall always be invited to an interrogation of a toddler witness or a toddler victim, also an interrogation of a minor witness or a minor victim in connection with offences against human life, health, liberty, freedom and integrity of sexual decision-making, against a child or the family, profiting from or involving a minor in prostitution or in other cases, when requested by the parties to the proceedings or on the initiative of a pre-trial investigation officer, a public prosecutor or a pre-trial judge, taking into account his/ her social and psychological maturity, as well as a representative of a state institution for the protection of child rights, who shall observe from another room to make sure that the rights of the witness or the victim are not violated during the interrogation.

The procedure for selecting and inviting a psychologist to participate in a child interrogation is regulated in clause 15 of the Recommendations on Interrogations of Minors and discussed in the letter of the Police Department under the Ministry of the Interior of the Republic of Lithuania "On the Use of Psychologists in Interrogations with a Pre-Trial Investigation Judge" of 10 August, 2018.

In accordance with Article 89(5) of the CPC, psychologists who are present at an interrogation of a minor are considered specialists. In criminal proceedings, they have the right to have access to the case material relating to an interrogation (Article 89(7) of the CPC).

The purpose, objectives, tasks, functions and rights of a court psychologist are discussed in more detail in the Recommendations on the Organisation of the Activities of Court Psychologists (hereinafter – the "Recommendations") approved by a protocol resolution of the Judicial Council of 29 June 2022.

Clause 16 of the Recommendations establishes that having received an assignment, a forensic psychologist shall immediately, but no later than on the next working day, contact the prosecutor, the pre-trial judge assigned to conduct the child's interrogation <...> and agree on a plan of preparation for conducting procedural actions (procedure for accessing case material, the time of an introductory interview, an interrogation, the formulation of the main questions, the order of their presentation, and any other matters relating to the child's involvement in the proceedings, etc.) and other matters relating to the completion of the task.

In pre-trial investigations of sexual abuse of a child, psychologists from a specialised institution, namely, the foster home "Užuovėja" (hereinafter – the Centre), often take part in interrogations. The purpose of this institution is to provide comprehensive (psychological, social, legal, medical) and other assistance to children victims of sexual abuse and abuse, as well as to their parents and adoptive parents (guardians) (Order No A1-309 of the Minister of Social Security and Labour of the Republic of Lithuania of 28 June 2010 "On the Approval of Statutes of the Foster Home "Užuovėja" of 28 June 2010).

A legal interrogation of children takes place in a special interrogation room remotely via the electronic court system, ensuring that the child cannot hear or see other participants in the proceedings. Before the interrogation, the child who may have been sexually abused, is accommodated in the premises of the Centre, either alone or together with his/ her close ones, , where he/ she is provided with qualified psychological support and, at the same time, prepared for a legal interrogation. Positive experience is ensured by the fact that the same psychologist from the Centre, who has been in contact with the child since the day of the child's placement at the Centre, takes part at the interrogation by a pre-trial judge and assists the court in the interrogation of the child.

In addition to a psychologist, a specialist from the Adoption Service is also present during an interrogation. Clause 16 of the Recommendations on the Interrogation of Minors lays down the procedure for inviting a representative of the state child rights protection institution to an interrogation.

It should be noted that in cases where a specialist from the Adoption Service is appointed as the child's legal representative, his/her participation in the interrogation of the child is sufficient, and there is no need to invite another specialist from the Adoption Service, who, in accordance with Article 186(3) of the CPC, should only be present during the interrogation to monitor the questioning to ensure that the rights of a minor are not violated.

It is important to note that when inviting a specialist from the Adoption Service, a letter must indicate that pursuant to Article 186(3) of the CPC, his/her participation as a specialist who monitors to ensure that the rights of a minor are not violated during the interrogation is mandatory. The same letter must indicate the specialist from the Adoption Service, who was permitted by resolution to participate in the proceedings as a legal representative.

A minor victim/witness shall be summoned to an interrogation in accordance with the procedure laid down in clause 27 of the Recommendations on the Interrogation of Minors, either through his/her legal representative or directly (e.g. if the representative is away for a long period of time, is ill, the representative's whereabouts are not known and it is not possible to quickly find out where he/ she is, etc.).

When summoning a child for an interrogation, it is advisable to first make use of the possibility provided for in Article 182(2) of the CPC to summon the child for interrogation by telephone or by other means (by e-mail, etc.). In cases where it is not possible to summon a minor by these means, summons in the form provided for in Article 182(1) of the CPC should be served on the minor through the minor's legal representative or through an adult living together.

The psychological preparation of a child for legal proceedings is crucial. It improves the course of legal proceedings (the child has a better understanding of his/her role, the actions and consequences to be expected) and reduces psychological trauma experienced by the child during legal proceedings.

Clause 30 of the Recommendations for the Interrogation of Minors states that, in order to reduce the child's tension before an interrogation, the interrogator must ensure that the rights and obligations of a minor during the interrogation are explained to the minor in a way that is comprehensible for his/ her age and development; where, i.e. in which office or institution, the interrogation will take place; who, i.e. which officer or a person, will be interrogating him/her; what other persons



will be present during the interrogation, for what purpose and which facts or circumstances will be discussed; how the interrogation will be conducted, i.e. the minor shall be informed that a video and audio recording will be made and that additional questions may be asked after the minor has told what he/she knows, also explaining that the minor shall have the right to ask for a break. The duration of an interrogation and the breaks shall be decided on a case-by-case basis, taking into account the age of the minor to be interrogated, his/her individual traits and state of mind, taking into account the recommendations of the representative of the state child rights protection institution assisting in the interrogation or of the psychologist, as well as the opinion of the legal representative.

Both child's parents or guardians and a psychologist, a social worker (case manager), a teacher, an Adoption Service staff member, or a member of staff of law enforcement agencies can prepare a child for legal procedures psychologically. When preparing a child for an interrogation, the adult should focus on informing a child when, where and how the interrogation will take place rather than on the content of the interrogation, and it is particularly important to refrain from talking about the specific event for which the minor is being called for an interrogation. In such a case, it is advisable to stop the child if he/she starts to tell relevant circumstances of the incident and to reassure him/her that what he/she is telling is important and that he/she will have to tell everything during the interrogation.

The victim-witness, who is 16 or older, shall be warned in advance of the interrogation in writing of his/her liability under Article 235 of the Criminal Code. He/ she shall also be informed of his/ her right not to answer certain questions or to refuse to give evidence against members of his/ her family or close relatives. A victim or witness under the age of 16 shall be informed in a language which he/ she understands of his/ her right not to testify against his/ her family members or close relatives and of his/ her obligation to tell the truth and nothing but the truth (clause 6 of the Recommendations on the Interrogation of Minors). Due to their age, minor family members (children) of a suspect and an accused person may not have a proper understanding of the content of the right laid down in Article 82(2) of the CPC and may not be able to decide on their own how to exercise this right. In such cases, it is for their representative to decide on the exercise of the right provided for in Article 82(2) of the CC (ruling of the Supreme Court of Lithuania of 26 June 2018 in criminal case No 2K-225-689/2018).

Pursuant to Article 186(3) of the CPC, a representative of a minor may be present during the interrogation. However, if the minor expresses his/her wish to participate in the interrogation before a pre-trial judge, it is necessary to assess whether the direct participation of a minor's representative (due to a consequence of the criminal offence, such as the emotional shock experienced, high sensitivity levels or other characteristics or circumstances) would not have an unacceptable effect on the minor or would not hinder the achievement of the aims of the interrogation. If the public prosecutor considers that the presence of a minor's representative could be detrimental or otherwise disruptive to the interrogation, and thus to the person being interrogated, he/ she shall seek to have a pre-trial judge to prohibit the representative to be present in the interrogation room, allowing him/ her to watch audio-visual recording (clause 24 of the Recommendations on the Interrogation of Minors).

The suspect (in the case of an interrogation before a pre-trial judge in accordance with the procedure laid down in Article 184 of the CPC) and the other participants in the proceedings, with the exception of a psychologist and a representative of a minor witness or a minor victim, shall not be allowed to be present in the room in which the interrogation is taking place. In such a case, an audio-visual recording must be made and the suspect and other participants in the proceedings must be able to watch and hear the interrogation *from another room and to ask the person being interrogated questions through a pre-trial judge*. If it is not possible for the suspect and the other participants in the proceedings to be able to watch and hear the interrogation from another room, the interrogation shall be carried out in the absence of a suspect and other participants in the proceedings. The audio and video recording made during such an interrogation shall be shown to the suspect and other participants in the proceedings immediately after the interrogation, and they shall have the right to ask the person being interrogated questions through a pre-trial judge (Article 186(4) of the CPC).

According to Article 179 of the CPC, the interrogation of a person shall be captured in minutes of the interrogation. Pursuant to Article 183(3) of the CPC, testimony shall be recorded in the minutes in the first person and as verbatim as possible. However, the Supreme Court of Lithuania has emphasised in its practice that it is often difficult to accurately reproduce the essence of a child's testimony in the record due to the fact that children answer questions inaccurately, using their body language, specific words, etc. (ruling of the Supreme Court of Lithuania of 13 January 2015 in criminal case No 2K-126/2015). Therefore, the fact that a child's testimony was not written down verbatim is not considered a violation of the CPC (ruling of the Supreme Court of Lithuania of 22 January 2013 in criminal case No 2K-40/2013).

Recording a child's testimony during an interrogation can be difficult when the child is very young, unable to give a coherent and complete statement, or when children with severe special needs and communication challenges take part in an interrogation. Given that a child's *interrogation is video and audio recorded*, capturing essential facts in the minutes of the interrogation and analysing the video and audio recording after the interrogation in the presence of a psychologist who would explain the meaning of the child's body language and words would be appropriate.

Article 2.9 of the Civil Code provides that a minor who has reached the age of 16 may, on the application of his/ her parents, guardianship authorities, custodian or the minor himself/ herself, be declared fully capable (emancipated) by a court.

However, it should be noted that emancipation relates to the person's ability to exercise any civil rights or obligations independently, rather than with his/her protection in criminal proceedings, and therefore the emancipated person should be subject to all the interrogation requirements set out in Article 186 of the CPC.

Moreover, Article 185 of the CPC also provides for a possibility of interrogating persons who have reached the age of majority by applying one or more of provisions of Article 186, where it is necessary to ensure special protection needs of the victim.

## 3.2. Representation of a child in criminal proceedings

### Choosing a legal representative

Pursuant to Article 53 of the CPC, parents, adoptive parents, guardians, custodians or persons authorised by an institution having custody or care of a minor may act as a child's legal representatives in criminal proceedings. A legal representative who has submitted a written or oral request shall be allowed to participate in the proceedings when a pre-trial investigation officer or a public prosecutor has issued a decision to that effect and the court has issued a ruling. The legal representative shall normally take part in the proceedings together with the person he/ she represents.

There is a presumption that parents are best legal representatives of a child, but this assumption should not be followed strictly. The legal representative must be able to identify and protect child's interests, assist the child in exercising his/ her rights under the law, take an active part in criminal proceedings, accompany the represented child during the proceedings, and provide the child with emotional, psychological and other support needed. The ability of a person to fulfil these responsibilities determines whether he/ she can be a suitable legal representative, and therefore, when deciding on the appointment of a legal representative of the child, a careful assessment must be made as to whether the person is able to identify and represent the child's best interests.

Circumstances that indicate that the parents (or one of them) may be considered unfit to be a child's legal representatives (the list is not exhaustive):

- 1) the parents or one of them is a suspect in the pre-trial investigation;
- 2) the parents/partners are in an adversarial relationship (divorcing) and accuse each other of violence against the child;
- 3) domestic violence against a child is being investigated, and one parent is excessively supportive of the other parent suspected of committing the offence;
- 4) there is evidence that he/she will have a negative impact on the child victim and that this could prejudice the pre-trial investigation;
- 5) the child's parents are hostile towards pre-trial investigation officers, refuse to cooperate, act contrary to the child's interests, or prevent the child from taking part in the necessary pre-trial investigation actions without objective reasons;
- 6) the representatives have health problems (physical, mental) that prevent them from representing the child properly, or are overly sensitive to the pre-trial investigation (crying, exerting influence on pre-trial investigation officers, interrupting, interfering, advising during the proceedings);
- 7) the parents themselves refuse to represent the child during a pre-trial investigation, or the child does not agree to being represented.

Before deciding on the selection of a suitable legal representative for a child victim, a pre-trial investigation officer must collect relevant information.

Being aware of an instituted pre-trial investigation into violence against a child and the need to select an appropriate legal representative for the child, the Adoption Service is obliged to provide the pre-trial investigation officer with the information known to him/her that potential representatives of the child may hinder an objective investigation, conflict with and be detrimental to the best interests of the minor, indicating who would be an appropriate legal representative for the child.

A pre-trial investigation officer, a prosecutor's decision and a court order may refuse to allow a legal representative to participate in the proceedings as a representative if this would be contrary to interests of a minor or prejudicial to the criminal proceedings. In such a case, and where the legal representative cannot be contacted or is unknown, the minor's legal representative may be a person of his/ her choice, who has been recognised by a pre-trial investigation officer, the public prosecutor or the court suitable to act as a legal representative. If the minor has not chosen another person or if the person chosen by the minor is not suitable to act as his/ her legal representative, the pre-trial investigation officer or prosecutor, pre-trial judge or the court shall, taking into account the interests of the minor, appoint another person who could represent the minor properly.

A pre-trial investigation officer, a prosecutor or a court shall appoint any other person who can adequately represent interests of a minor as his/ her representative on a temporary basis, pending the resolution of the issue of appointing a new legal representative.

If a minor's legal representatives are unable to represent the child for important reasons (e.g. they are abroad and have not applied for temporary guardianship at the request of parents, etc.), a person who is de facto responsible for the minor, i.e. a family member or a close relative, a person in regular and close contact with the minor, or any other person capable of adequately representing the minor's best interests, could be recognised as a child's representative in the proceedings under the law. In all cases, best interests of the minor shall be the main criterion for appointing or replacing a legal representative.

The Adoption Service may be appointed as a child's legal representative in criminal proceedings only if there are no other persons closer to the child who can represent him/ her, and only after a decision has been taken not to allow the legal representative to take part in the proceedings. Having appointed a specialist of the Adoption Service as a child's legal representative, he/ she is expected to play an active role not only during the interrogation, but also during subsequent proceedings, such as submitting requests, exercising the right to lodge complaints, reacting to mistakes made by a pre-trial investigation officer (such as the asking of trivial questions, a failure to explain the child's rights, inappropriate place of an interrogation, etc.), and actively cooperating with the appointed authorised representatives (in case of a civil claim).

### Rights and obligations of a legal representative

A legal representative has the right to accompany the person he/ she represents during criminal proceedings, to take part in taking procedural steps involving the person he/ she represents, and to help the person he/ she represents to exercise his/ her legal rights. The legal representative shall also have the right to receive information on the rights of the minor in criminal proceedings, as set out in Article 28 of the CPC (Article 54(1) of the CPC).

When the circumstances referred to in Article 53(3) of the CPC, on the grounds of which the minor's legal representative was refused permission to participate in the proceedings as a representative, cease to exist, he/ she shall also be provided with information on the minor's rights in criminal proceedings.

Pursuant to Article 178(5) of the CPC, the victim and his/her representative shall have the right to

participate in investigative actions carried out at their request, to ask questions during interrogations, to access minutes of investigative actions carried out at their request, and to comment on the content of these minutes.

Pursuant to Article 186(1) of the CPC, a legal representative has the right to request that a child is interrogated by a pre-trial investigation judge.

Although usually one of a child's legal representatives takes part in criminal proceedings, it is recommended that both parents (including the parent living away) are informed of their right to represent their child. Both parents, rather than one, may also take part in an interrogation and be allowed to participate as legal representatives in the proceedings, except in the case of an investigation into an incident of possible child abuse by one of the parents. Such a person, whether under suspicion, interrogated as a special witness or without any procedural status, may not be a legal representative. If such a person has requested to participate in the proceedings and to represent the child, a decision shall be taken to exclude the legal representative from the proceedings.

The legal representative shall appear before a pre-trial investigation officer, a prosecutor, a judge and a court when summoned by law, and shall comply with the procedures laid down during the pre-trial investigation and the court hearing. He/ she may be interrogated as a witness, in which case he/ she shall acquire rights and obligations of a witness (Article 54(2) and (3) of the CPC). It is therefore recommended that the child's legal representative be interrogated before interrogating a child in order to collect more detailed information about the child, his/ her ability to testify, etc.

Interrogating a legal representative as a witness shall not be considered a procedural violation. The rules of interrogation of witnesses provided for in the CPC in cases where a witness has another procedural status (in this case – a representative under the law) are applied with special features, taking into account the fact that during the proceedings, the person being interrogated has to reconcile not only the rights and duties of a witness, but also the rights and duties of the person under other procedural status (ruling of the Supreme Court of the Republic of Lithuania in criminal case No. 2K-370/2014 of 23 September 2014).

The rights of the representative shall be explained in the order allowing the legal representative to participate in the proceedings. Doing so before an interrogation of a child is appropriate, as the legal representative may exercise his/ her right to request the interrogation of the child before a pre-trial judge.

It is also important to inform the legal representative on how to communicate with the child, how to help the child involved in criminal proceedings, and to explain to him/ her his/ her and the represented child's rights in a broader and more understandable way, so that he/ she can fulfil his/ her duties in criminal proceedings. Although the legislation does not impose such an obligation on any pre-trial investigation body, it should be important for both the pre-trial investigation officer and the Adoption Service, who are the first point of contact with the parents of the victims.

### Child's representative under a power of attorney

An authorised representative is a person who provides legal assistance to a minor victim to defend his/her rights and legitimate interests. He/ she may be a lawyer or, if delegated by a lawyer, an

assistant lawyer, or, with the authorisation of a pre-trial investigation officer, a public prosecutor or a judge, another person with higher legal education who has been authorised by the party to the proceedings to represent his/ her interests. An authorised representative shall be allowed to participate in the proceedings when a pre-trial investigation officer or a prosecutor issues a decision and the court issues a ruling on the authorised representative's participation in the proceedings (Article 55 of the CPC).

Where the presence of an authorised representative in criminal proceedings is necessary pursuant to Articles 51 or 55 of the CPC, a pre-trial investigation officer, a public prosecutor or a court shall notify the State Guaranteed Legal Aid Service or the coordinator designated by it that the victim requires an authorised representative. Having received such a notification, the Service or the coordinator designated by it shall immediately select a lawyer to provide secondary legal aid and notify the pre-trial investigation officer, prosecutor or court thereof. If the victim has already been provided with secondary legal aid at an earlier stage of the case in which the selection of the authorised representative is requested (at the time of the procedural step), the lawyer who provided secondary legal aid to the victim shall normally be selected as the authorised representative. Other specific features of the provision of secondary legal aid in criminal cases are provided for in Article 21 of the Law on State Guaranteed Legal Aid of the Republic of Lithuania.

Recommendations on the authorised representative:

- 1) an authorised representative should be appointed for a minor victim in criminal proceedings without any undue delay and his/ her role should not be limited to attending the child's interrogation only. The authorised representative must be active and provide real legal assistance;
- 2) If specialists of the Adoption Service see that an authorised representative of a minor victim has not been appointed, they should contact a pre-trial investigation officer, a public prosecutor or a court to inform the State Guaranteed Legal Aid Service of the necessity to appoint an authorised representative;
- 3) in cases where a decision has been taken not to allow the legal representative to participate in the proceedings as a representative, a pre-trial investigation officer, a prosecutor or a court shall request the appointment of an authorised representative. The Supreme Court of Lithuania also noted the fact that an unsuitable legal representative cannot invite an authorised representative to represent a child in its rulings No. 2k-225-689/2018 and No. 2k-157-495/2021;
- 4) the same authorised representative could be present during both a pre-trial investigation and a trial.
- 5) in accordance with Article 12(12) of the Law on State Guaranteed Legal Aid of the Republic of Lithuania, minor children who have suffered from criminal offences against health, liberty, freedom sexual self-determination and inviolability, a child and family, morals and in other criminal cases, where the presence of an authorised representative is deemed necessary by a reasoned decision of a pre-trial investigation officer, a prosecutor or a court, have the right to receive free secondary legal aid, irrespective of a person's (family's) assets and income.

The participation of an authorised representative is recognised as necessary (clause 11 of the Recommendations on the Interrogation of Minors) when:

- 1) a minor has been directly affected by criminal offences against human life, health, liberty, free-

dom of sexual determination and inviolability, a child and family (with the exception of Article 164 of the Criminal Code) or morals;

- 2) a minor victim has been placed in the care of a child care institution, care centre or family home or is being educated in a child socialisation centre;
- 3) a decision of a pre-trial investigation officer or a prosecutor not to allow the legal representative to participate in the proceedings as a representative;
- 4) a minor victim's legal representative is unable to adequately protect the minor victim's rights and legitimate interests, or in other cases where the minor victim's rights and legitimate interests would not be adequately protected without the assistance of an authorised representative (e.g. in cases with a large number of suspects, etc.).



### 3.3. Other issues relating to participation of a minor victim in criminal proceedings

#### Person accompanying a victim

During the criminal proceedings, a victim may be accompanied by his/ her selected person. This person shall comply with the established procedure during the pre-trial investigation and the trial. The participation of the person accompanying the victim in the criminal proceedings or in individual parts thereof may be restricted by a decision of a pre-trial investigation officer, a prosecutor, a pre-trial judge or a court, where such participation is contrary to interests of the victim or interferes with the investigation or the hearing of a case (Article 56<sup>1</sup> of the CPC). Any person close to the child may be an accompanying person.

The participation of an accompanying person in juvenile cases, if the victim or his/her representative has expressed such a request, should be allowed in exceptional cases only, as interests of the minor are safeguarded by a legal representative, a psychologist, or a representative of a child rights protection authority. A minor cannot be an accompanying person (clause 8 of the Recommendations on the Interrogation of Minors<sup>1</sup>).

An accompanying person can accompany a child to interrogations, examinations and other procedural actions. In such cases, the recommendation is to warn the accompanying person of his/her liability for disclosing pre-trial information.

#### Bringing a civil action

Article 117 of the CPC establishes that a prosecutor supporting the prosecution must bring a civil action in court, if it has not yet been brought, in cases where the offence has caused damage to the State or to a person who, because of his/ her minority, sickness, dependence on the accused or other reasons, is unable to defend his/ her legitimate interests in court.

This Article establishes a prosecutor's duty, not a right, to bring a civil action. Therefore, in cases where the legal representative or the authorised representative of a minor victim does not bring a civil action, the prosecutor is obliged to do so. A declaration by the legal representative of a minor victim that he/ she will not bring a civil action should not be a reason for the public prosecutor not to do so, since the action must be brought for the benefit of the victim, who, due to his/ her minority, is unable or lacks the necessary knowledge to exercise his/ her legal rights properly rather than for the benefit of the legal representative (Summary No 17.9.-7513 of 29 September 2021 of the Prosecutor General's Office).

#### Procedural coercive measures in criminal proceedings, where a child is the victim

Article 44(11) of the Code of Criminal Procedure establishes that a pre-trial investigation officer or a prosecutor shall take measures to ensure that coercive procedural measures, such as a body search, a search of property, a search of a person, escort or seizure, are not applied, also ensuring that a person is not temporarily detained or arrested in presence of a minor, except cases where



the minor himself/ herself is suspected of committing a criminal offence. If the procedural coercive measures listed in this clause have been exercised in presence of a minor, a pre-trial investigation officer or a public prosecutor shall immediately inform the state child rights protection institution thereof. This shall be done in writing by a pre-trial investigation officer or a prosecutor who executed the procedural coercive measure. The letter shall contain the main details of the procedural coercive measure, the minor in whose presence it was exercised, his/ her reaction, his/ her legal representatives and other relevant data. A copy of the letter shall also be attached to the pre-trial investigation file.

When planning the execution of procedural coercive measures, a pre-trial investigation officer or a public prosecutor shall collect information as to whether minors will be present at the place where the procedural coercive measures are to be executed, and, if possible and without prejudice to the success of the procedural action, adjust the time of execution of the procedural coercive measures, and the actions to be carried out in presence of minors. If procedural coercive measure must be carried out immediately, and the presence of minors cannot be avoided, a pre-trial investigation officer or a prosecutor shall ensure the participation of a specialist of the Adoption Service. If, for objective reasons, it is not possible to ensure the presence of a specialist of the Adoption Service, the minor present at the place where a procedural coercive measure is to be exercised shall be safely escorted from the room accompanied by an adult. The escorting of a minor from the room shall be coordinated with his/her parents/guardians, if they are present at the place of exercise of the procedural coercive measures. If exercising procedural coercive measures in presence of a minor cannot be avoided, procedural actions shall be organised in such a way as to minimise the traumatic effect on the child (explanatory note No 17.9-2770 of the Prosecutor General's Office of 15 September 2014).

When a person is suspected of having committed a criminal offence, it is essential to decide as soon as possible whether to impose a precautionary measure. This must also be coordinated with the Adoption Service to ascertain whether the child is to be taken from his/ her family. Clause 39 of the Recommendations on the Procedure for Imposing Precautionary Measures Other than Arrest during Pre-Trial Investigation and Control of Compliance with the Conditions Set approved by Order No. I-306 of the Prosecutor General of the Republic of Lithuania of 1 December 2015 (hereinafter – Recommendations on Precautionary Measures) establishes that, having established the grounds for the imposition of an obligation to live apart from the victim and not to approach the victim closer than a prescribed distance, and believing that other precautionary measures cannot achieve the objectives set out in Article 119 of the CPC and that the criminal proceedings cannot be completed in accordance with the accelerated procedure, the public prosecutor shall immediately, but not later than within 48 hours, apply to a pre-trial investigation judge for the imposition of such a precautionary measure, regardless of the fact that the suspect does not have another place of residence.

Clause 15<sup>2</sup> of the Recommendation on Precautionary Measures states that precautionary measures and their conditions shall be proportionate and have the least possible adverse effect on the minor in cases where the precautionary measure or the additional obligations do not allow the suspect to have access to see or communicate with a person in the minor's immediate environment. The rights

and interests of the minor to communicate with the suspect and/or to be dependent on him/her must be taken into account when imposing pre-trial precautionary measures, changing their conditions or considering requests from parties to the proceedings, depending on the stage of the pre-trial investigation. If the suspect is allowed to communicate with a minor close to his/her family, the prosecutor's decision shall specify the conditions of communication and the fact that the suspect has to coordinate them with the territorial unit of the State Child Rights Protection and Adoption Service.

Clause 15<sup>1</sup> of the Recommendations on Precautionary Measures states that a public prosecutor or a pre-trial investigation officer shall immediately inform the relevant territorial unit of the Adoption Service about the imposition, change or withdrawal of precautionary measures against a person having minor children suspected of committing criminal offences related to domestic violence. This is particularly important because the legal framework does not provide such information to organisations that organise and provide family assistance, but it is important for the purposes of providing family assistance to know whether the child's parents have been subjected to any prohibitions. Having provided the Adoption Service with information on precautionary measures (restraining orders) imposed on the suspect in a timely manner, the case manager can obtain this information from the Adoption Service.

### Protection of data about children

Cooperation between all stakeholders in the protection of child rights is subject to certain limitations, which must be respected by all those who possess data on minors.

Article 177(1) of the CPC prohibits the publication of data on minor victims. Moreover, the CPC defines very specifically the circle of persons to whom certain procedural decisions are sent. Such limitations relate not only to the disclosure of information to, for example, the media, but also to other participants in the proceedings or to other institutions. Therefore, not only during criminal proceedings, but also during case management meetings or in the provision of assistance to families, it is very important to assess what information can be provided and discussed, and what information may undermine the success of a pre-trial investigation, have a negative impact on the child or even be treated as disclosure of pre-trial investigation data leading to criminal liability (Article 247 of the Criminal Code).

Decisions on the publication, provision of and access to pre-trial investigation material are made by a public prosecutor, who organises and leads a pre-trial investigation. The rules on access to pre-trial investigation material at all stages of the pre-trial investigation are laid down in the Recommendations on Access to Pre-trial Investigation Material by Participants in the Proceedings approved by Order No I-57 of the Prosecutor General of the Republic of Lithuania of 14 February 2018, if access is requested by participants in the criminal proceedings. Requests from other persons and institutions are examined in accordance with the Recommendations on the Provision and Use of Pre-trial Investigation Data for Non-Prosecution Purposes and for the Protection of Pre-trial Investigation Data approved by the Order No I-279 of the Prosecutor General of the Republic of Lithuania of 17 August 2017.

It is also necessary to carefully assess what information can be submitted to court in civil proceedings for divorce, etc., where a pre-trial investigation into child abuse has not yet been completed, as in such cases there is a risk that the participants in the civil proceedings will manipulate the pre-trial information obtained, which will undermine the success of the pre-trial investigation and harm the interests of the child. In each case, it is necessary to assess the scope and content of the information provided to the court in order to protect the interests of the child in the civil proceedings, but also to ensure that the success of the pre-trial investigation is not prejudiced.

It is very important to assess how much information needs to be included in the decision to close a pre-trial investigation, as it is sent to the parties involved in the proceedings, and some of the child's details may become known to them. The decision must comply with the standards for the preparation of procedural decisions adopted by the Public Prosecutor's Office approved by Order No I-368 of the Prosecutor General of the Republic of Lithuania of 25 October 2017.

### Peculiarities of the conclusion of a pre-trial investigation where the victim is a child

If, after all the necessary steps have been taken, the circumstances and grounds provided for in Article 212 of the CPC are established, a decision shall be made to close a pre-trial investigation. Clause 65.8 of the Recommendations on Organising and Leading a Pre-Trial Investigation approved by Order No I-40 of the Prosecutor General of the Republic of Lithuania of 25 February 2004 (version of Order No I-139 of 2 June 2015) establishes that using the information system, the public prosecutor shall immediately inform a prosecutor of senior competence of the decision or a ruling of a judge of pre-trial investigation to discontinue the pre-trial investigation in respect of criminal offences, other than those provided for in Article 178 of the Criminal Code, where a minor was the victim.

Explanatory note No 17.2.-3912 of the General Prosecutor's Office of 8 May 2017 explains that:

- 1) having terminated a pre-trial investigation on the basis of Article 212(5) of the CPC, i.e. after a suspect and a victim have reconciled, it is necessary to decide in each case on the imposition of a penal measure – participation in programmes changing violent behaviour;
- 2) if a child is unable to express his/ her opinion on reconciliation with the suspect due to his/her age, terminating a pre-trial investigation pursuant to Article 212(5) of the CPC is not recommended.

In case of termination of a pre-trial investigation pursuant to Article 3(1)(3) of the CPC and having established that a minor has caused property or non-property damage to another minor by means of a criminal offence, the Public Interest Advocacy Centre shall be informed sending an official report of the investigated incident and the possible need for public interest protection, accompanied by any relevant material (explanation No.17.9.-2544 of the Prosecutor General's Office of 11 February 2019).

Article 214(6) of the CPC provides that if pre-trial investigation material contains evidence of an administrative offence or an offence provided for in other legal acts, the public prosecutor shall refer, by his decision to discontinue the pre-trial investigation, the material for resolution in accordance with the procedure laid down in the Code of Administrative Offences or other legal acts.

Article 592(4) of the Code of Administrative Offences provides that if, in the cases and according to the procedure laid down by the CPC, a pre-trial investigation or a criminal case is discontinued,

but it is established in the pre-trial investigation material or in the criminal case that there are indications of an administrative offence, a copy (transcript) of the decision to discontinue the pre-trial investigation or the criminal case, together with a certified copy (transcript) of the entire investigation or case file, shall be forwarded to the authorised authority to initiate administrative offence proceedings and to draw up an administrative offence report. In this case, the evidence collected in the criminal case shall not be collected repeatedly, unless additional circumstances need to be investigated.

Thus, when closing a pre-trial investigation, subjecting parents/representatives/teachers and other persons to administrative liability must always be carefully assessed. In this context, the conditions of upbringing and living of a child (interference with his/ her education, neglect, various unlawful acts characterising participants in the proceedings) must be thoroughly investigated during the pre-trial investigation. This will facilitate the decision-making process and form the basis for initiating administrative proceedings.

Depending on the evidence collected in the pre-trial investigation, the qualification of the offence, the time limits for the pre-trial investigation and other circumstances, the prosecutor may decide to conclude a pre-trial investigation in the following ways:

- simplified proceedings (the prosecutor's right to conclude the proceedings with a criminal order or fast-track procedure);
- applying to the court by a resolution, asking it for compulsory medical measures;
- forwarding the indictment with case material to the court.

## 4. VIOLENCE AGAINST CHILDREN AND ITS PSYCHOLOGICAL CONSEQUENCES. DISCLOSURE OF VIOLENCE

The project “Together We Can Protect and Help”, funded by the European Commission and implemented by the Prosecutor General’s Office of the Republic of Lithuania and the Public Institution Children's Support Centre, seeks to promote early identification of child victims of violence and ensure their protection, to take into account the specific needs of children in the course of criminal proceedings, and to provide them with comprehensive assistance needed to overcome the consequences of the violence they have suffered. Given the multidisciplinary nature of the field of child abuse detection and assistance, particular attention should be paid to harmonising the understanding of the manifestations of child abuse as defined by law.

As the phenomenon of violence against children, like all forms of violence against children, is widespread and has significant negative consequences on children’s physical, mental health and development, it requires joint efforts of officers and professionals to effectively identify, stop and assess the consequences of violence and provide assistance to child victims. Another important role of all professionals involved in criminal investigations and those indirectly involved in the investigation is to raise public awareness, sensitivity and sense of responsibility, thereby reducing the level of crime against children and increasing the safety of children in the society.

According to the World Health Organisation (WHO, 2016), 1 in 4 children experience physical abuse and 1 in 5 children experience sexual abuse. High prevalence of violence against children has also been confirmed by research conducted in Lithuania. According to a study conducted by the Vilnius University Centre for Psychotraumatology, 71% of adolescents aged 12-16 years who participated in the study reported having experienced some form of violence (Zelviene et al. 2020). Among the types of violence, psychological violence (47%), physical violence (34.6%) and online sexual abuse (31.4%) predominated. Adult sexual abuse of children accounts for 9.9% and peer sexual abuse – for 17.1% (Zelviene et al. 2020). These results reflect the extent of the harm suffered by a large proportion of young people under the age of majority. The findings also suggest that only a small proportion of children who are abused are known or reported. According to the data of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour, ~0.52% of the country’s children were victims of violence in 2021. These statistics, unfortunately, do not reflect the real extent of the problem of violence against children in Lithuania, based on scientific research and professional practice, and should be thoroughly investigated.

Below are important concepts enshrined in the Law on Fundamentals of Protection of the Rights of the Child that give rise to the concept of child abuse:

- **Violence against a child** means direct or indirect intentional physical, psychological or sexual impact on a child, whether by act or omission, if this has resulted in the death of the child, or has impaired child’s health or normal development, or has resulted in pain or danger to the child’s life, health or normal development, or has adversely affected the child’s dignity and/or honour. Violence against a child also includes neglect of a child (...).

- **Physical violence** means a deliberate physical act or acts against a child, including physical punishment, if the act or acts have resulted in the death of the child, or have impaired the child's health or normal development, or have caused pain or danger to the child's life, health or normal development, or have violated the child's honour and/or dignity.

- **Physical punishment** means the disciplining of a child by means of a physical act that is used to inflict physical pain, however slight, or to physically torture the child, or to violate the child's honour and/or dignity (...).

- **Neglect** means a persistent failure or neglect by parents or other legal representatives of a child or the person responsible for the child's care to meet the child's basic physical, emotional and social needs, which has resulted in the death of the child, or in the impairment of the child's health or normal development, or in a danger to the child's life, health or normal development. Poverty for objective reasons shall not be considered neglect.

- **Sexual violence** means intentional criminal acts, as defined in Chapter XXI of the Criminal Code of the Republic of Lithuania "Crimes and criminal offences against the freedom and inviolability of sexual self-determination of a human being", committed against a child, as well as profiting from the prostitution of a child, the involvement of a child in prostitution or in a pornographic event, the showing of pornography to a child, the forcing of a child into prostitution, the exploitation of a child in pornography or the possession of pornographic material depicting a child or a person as a child, or the involvement of a child in sexual slavery, and any other forms of sexual exploitation of a child.

- **Psychological violence** means the intentional systematic violation of a child's right to identity, humiliation, bullying, intimidation, interference with the child's normal development, encouragement of antisocial behaviour or other non-physical contact behaviour (acts or omissions), which has led to the death of the child, or to the impairment of the child's health or normal development, or to the endangerment of the child's life, health, normal development or the humiliation of the child's honour and/or dignity. Psychological abuse shall not include appropriate and reasonable assessment of a child's knowledge and abilities and other actions to assess the child's normal development.

The types of violence against children discussed may be single factors, but often several forms of violence against children are revealed at a time (Briere & Runtz 1988, Ney et al. 1994). A study by Claussen & Crittenden (1991) highlighted that among children who experienced physical abuse and neglect, 90% have also experienced psychological abuse. The authors of this study also found that psychological abuse is a factor that has a stronger impact on a unsuccessful development of a child than the extent of physical abuse.

It is important to stress that psychological abuse is defined as persistent contact with a child by adults, i.e. parents/guardians and others, which causes long-term negative changes in the child's emotional state and self-esteem, and can lead to physical health problems and mental disorders. Psychological abuse includes adult actions directed at the child, such as frequent aggressive statements and comments towards the child, and inaction, where parents emotionally reject the child, withdraw, or fail to show sympathy or support when the child is in desperate need. Various terms

are used in the literature to describe this phenomenon, including 'psychological abuse', 'psychological violence', 'emotional abuse', 'emotional neglect' or 'emotional violence'. These terms are often used synonymously.

Psychological abuse can be used against children not only by their parents or guardians, but also by other related persons. Psychological abuse or neglect is indicated by specific, frequently repeated patterns of parenting and behaviour towards children by adults, which can be observed in the adult's interactions with a child. The way adults treat a child may also be reflected in the child's own behaviour, interactions with other children or adults, his/ her game playing, posture and changes in his/ her well-being. According to definitions by Glaser (Glaser & Prior, 2012; Glaser, 2002), psychological abuse can be divided into several types according to the nature of the adult's behaviour towards a child:

**1. Persistent negative adult attitudes towards a child.**

Parents or other adults who influence a child blame, criticise, humiliate and reject the child because they believe the child deserves it. Adults convey the message to the child that whatever the child does, he/ she is bad, guilty, a loser, a problem and a burden.

**2. The expectations and demands of the adults responsible for a child are not in line with the age and maturity of the child.**

Parents and other adults make demands on children that are too high or too low for their age and maturity. Adults demand that a child, who is not yet able to do so, assesses threatening or difficult situations, takes responsibility for circumstances beyond his/ her control, such as being able to look after younger siblings, protect them from dangers, and provide help. Adults can also overprotect their children in non-threatening situations, limiting their own initiative, doing everything for them and thus preventing the development of independence.

**3. Parents or other adults overly restrict a child's socialisation and prohibit interaction with others, or distort the child's social adaptation.**

Adults responsible for the child do not help or create opportunities for the child to develop his/her communication and cognitive skills: they do not allow him/her to attend classes, extracurricular activities, training sessions, and unreasonably prohibit him/her from socialising with peers. Some adults may involve children in anti-social activities, such as drug and alcohol use, stealing and other inappropriate activities.

**4. Adults responsible for a child do not protect him/her from traumatic experiences, and the child becomes a witness of violence.**

A child is left alone as a bystander in traumatic situations that are not age-appropriate, especially in cases of physical violence or psychological abuse between parents/guardians.

**5. Parents or other adults responsible for a child do not recognise the child's individuality and psychological limits.**

Adults use children to meet their own psychological needs, fail to separate their own expectations from the child's abilities and needs, and ignore the child's unique temperament and character - for example, adults persist in trying to make a withdrawn and shy child open, sociable and unafraid of public speaking, or force a child to play sports competitively even though the child has a talent for the arts and feels clumsy in sports.



Of all the types of violence, psychological violence against children is the most difficult to identify. Psychological abuse is difficult to identify because it does not leave physical signs, and its negative effects can be felt later in a child's development, affecting the child's personality. The main challenge for professionals working with children in this respect is to distinguish between the problems which adults encounter in parenting and psychological violence. It is not easy to distinguish between manifestations of inappropriate parenting, such as excessive demands, unjustified fears for the child's safety, verbal punishments and criticism, and emotional violence. Adult behaviour that is psychologically abusive to a child is defined as a persistent failure to meet the child's emotional needs and to make the child feel worse becoming a parenting style and a systematic pattern of adult behaviour towards the child. Such adults constantly blame children for their own (as parents/guardians or other important people) failures, illnesses, suicides or divorces, for a child having some characteristics typical of their spouses, a "bad parent" or other people that adults do not like. Children suffering from other difficulties from other backgrounds and emotionally abused children may behave in similar ways and show similar symptoms or behaviours. However, observing the behaviour of parents or other adults towards children with different backgrounds can help to distinguish what has affected the child's well-being, behaviour and development. Parents of children with other backgrounds are more likely to acknowledge the existence of a problem, to notice when their child is feeling unwell and to seek help for their child. On the other hand, parents who emotionally abuse their children are more likely to deny the problem and the impact of their behaviour on their child's well-being, to blame the child, to refuse the help offered, to be unconcerned about their child's psychological well-being, to take no interest in their child's well-being, and to refuse to cooperate with professionals.

Another problem that arises when assessing possible psychological violence against a child is the aspect of "intentional misbehaviour" formulated in the definition. The behaviour of psychologically abusive adults is not always conscious and pre-planned. Such behaviour may be influenced by the social problems they experience, their psychological well-being and mental health, their limited knowledge of children's emotional needs and their lack of skills of relationship-building with their children. For this reason, in cases of psychological abuse, it is important to give consistent attention to the adults responsible for a child and to target them with all the forms of influence and assistance that help them develop their safe behaviour towards their children.

### Consequences of violence against children

Violence affects a child's physical, emotional, social, cognitive and behavioural areas. Research in various countries also shows that violence can have significant adverse consequences on a child's development and functioning. There is a distinction between short-term and long-term consequences of violence against children. The short-term consequences of child-harming behaviour include physical injuries, mental disorders or emotional difficulties resulting from abuse. Long-term consequences are personality traits that may have developed as a result of childhood abuse or neglect, which become apparent as the child grows up and interfere with the child's favourable adaptation. Some types of child-damaging behaviour do specific harm, for example, physical abuse may cause brain damage, children who have been sexually abused may exhibit sexualised and/or sexually inappropriate behaviour, also children may develop post-traumatic stress disorder after



experiencing or witnessing rape or inter-parental violence (Children's Aid Centre, 2008). Some of the consequences of violence may manifest later in a child's life, for example, depression may develop after a child experiences sexual abuse, and anxiety disorders may develop after long-term emotional abuse. It is important to stress that a significant damage can be done to a child even when parents or other adults do not consciously intend to harm the child.

Below is information on the consequences of violence on specific areas of a child's functioning:

- **Attachment issues.** Secure attachment is crucial for a child's early emotional and social development. Secure attachment protects a child's developing brain from damaging effects of stress, whereas if a child's attachment is insecure, his/ her brain is more susceptible to these effects. Infants and young children who are exposed to constant screaming, shaking or neglect are at a greater risk of developing insecure disorganised attachment (Hildyard & Wolf, 2002; Jordan & Sketchley, 2009).

- **Physical health problems.** Physical injuries are a direct result of physical abuse and/or neglect. These are specific bone fractures, scars, burns, concussion, recurrent and unrelated somatic illnesses and other health problems. Physical injuries, impaired growth and cerebral palsy, which are incurable or irreversible, can be the long-term consequences of physical abuse of a child. Infants are particularly vulnerable in this respect. Shaking an infant can cause brain damage, spinal and spinal cord injuries, blindness and/or deafness, speech impairment and death (Child Welfare Information Gateway, 2008). Having suffered such injuries, infants are often unable to recover and reach the physical and mental health levels of their peers (Goldman et al., 2003). Extreme physical and emotional neglect, shortage of full-fledged nutrients, lack of physical stimulation and social isolation also disrupt brain development of an infant and a young child – the affected child's brain may be smaller in volume, less active and have less hemispheric differentiation. Longitudinal studies on the consequences of child abuse show a strong association between childhood abuse and the development of serious illnesses in adulthood, such as cardiovascular disease, diabetes and cancer (Flaherty et al., 2013).

- **Psychological problems.** Violent behaviour by adults has a comprehensive impact on a child's psychological well-being and can have a significant impact on his/ her personal development and self-esteem. A child who is constantly subjected to psychological, physical or sexual violence by the people closest and most important to him/ her develops a distorted view of the world around him/ her, "learns" that the world around him/ her is unpredictable and threatening, and that the people who care for him/ her can suddenly turn cruel, angry, impatient, irritable, depressed and indifferent, and can exploit the child for their own needs. Living with abusive adults, the child may perceive himself/ herself as "bad", inadequate, guilty, often experiencing feelings of helplessness and depression, shame and guilt.

- **Difficulties in interpersonal relations.** Victims of childhood violence do not have the opportunity to experience a healthy, loving and trusting relationship with the adults who take care of them. Relationships with key people, based on violence and abuse, horror and helplessness, persist throughout life as a fundamental pattern of relationships in which the child may unconsciously identify and involuntarily become a "victim" or a "perpetrator". The psyche of the abused child has to

adapt in order to survive physically and psychologically. In order to cope with these difficult experiences, a child often uses a variety of coping strategies and immature psychological self-defence mechanisms that may persist into later life or adulthood. Children who are chronically abused may also become “desensitised” to pain. They may not “feel” pain when they are injured and often do not realise that other people may be in pain. Children who suffer such consequences may find it difficult to recognise and name their own feelings or the feelings of other people. They may lack empathy and compassion that are essential in relationships and may avoid any psychological closeness. Children who have been abused in emotionally difficult situations may feel as if they are out of their body and thus “absent” in actual situations, watching what is happening from aside, psychologically detaching themselves from the event in order to survive. Children who have been abused may also “forget” specific events or whole periods of their lives. Painful experiences that the child cannot integrate into his/ her psyche are pushed into the unconscious and can emerge at any time when the child does not expect them.

- **Behavioural problems.** Growing up in a threatening environment, constantly exposed to physical and emotional abuse, children learn that the world is unsafe and that adults are a source of threat and pain. The younger the age at which a child is exposed to abuse and the longer it lasts, the more serious the behavioural problems that can be observed in their childhood, adolescence and adulthood. The behavioural difficulties observed may be internalised, i.e. manifesting by withdrawal, disengagement and/or passivity, or externalised, i.e. manifesting by increased excitability, impulsivity and/or aggressiveness. Children who have been physically abused may be prone to misinterpret the motives of another person’s behaviour, perceive it as aggressive and react with exaggerated defensiveness or offensiveness. Children who have been sexually abused and molested may have serious sexual behavioural problems in adulthood. Examples of such difficulties include involvement in prostitution, frequent partner changes, denial of sexuality, gender confusion, gender denial, teenage pregnancy, sexually transmitted diseases, unsafe sexual behaviour, and increased risk of rape (Corby, 2006; Merrick et al., 2008). Physical abuse and emotional humiliation in childhood is also a major risk factor for the use of violence and humiliation of others in adulthood. Gilbert and et. al. (2009) found a strong correlation between the experience of abuse and future criminal behaviour. According to the study, children who had experienced abuse and neglect were eleven times more likely to be arrested for criminal behaviour than children who had not.

- **Cognitive and learning problems.** Abuse and neglect in infancy and early childhood significantly impairs the development of a child’s cognitive functions, especially language development, the ability to act in a purposeful and planned manner, and to focus. Research shows that children who have been exposed to abuse and neglect often have learning difficulties and significantly lower academic achievement compared to other groups of children (Gilbert et al., 2009; Mills, 2004; Veltman & Browne, 2001). Emotional difficulties resulting from violence may also affect children’s learning opportunities. Children who are anxious and stressed or who have acquired organic brain damage often find it difficult to fit in with others, behave impulsively and hostile, and are more likely to be bullied.

- **Mental health issues.** Certain mental health problems can be a result of violence. Post-traumatic stress disorder is one example of such disorders. A child with post-traumatic stress disorder may

experience vivid, unexpected and uncontrollable flashbacks that force the child to seemingly relive the traumatic event, even years later. Children may also suffer from sleep disturbances, nightmares, fears, startle reactions and avoidance of certain places and/or people. In their longitudinal study, Brown, Cohen, Johnson and Smailes (1999) found that abused children were three times more likely to suffer from depression and anxiety disorders than those who had a positive upbringing. Research found (Brodsky & Stanley, 2008) that children who have been abused are twice as likely to engage in suicidal behaviour, and young people who have been sexually abused are eight times more likely to attempt suicide than others. Eating disorders are also often associated with childhood abuse. When researching the background of young people with anorexia and/or bulimia, they are often found to have experienced childhood sexual abuse and/or psychological violence. The use of psychoactive substances in childhood and beyond is also strongly associated with all types of violent behaviour affecting the child.

As violence can seriously affect child's development, physical and mental health, interpersonal relationships, behavioural problems, cognitive impairment and educational success, it is important to assess the harm done to the child correctly and to provide timely and effective support. It is important to take into account that violence against a child has not only short-term but also long-term consequences, and to distinguish between the possible consequences of different types of violence. Knowledge of the consequences of violence against children also contributes significantly to the detection of a potential crime and to the accurate and efficient planning of the investigation and interrogation process.

### Specific features of disclosure of violence against children

Representatives of different authorities face challenges of exposing violence against children. This Chapter discusses the factors related to a child and adults around him/her that influence the child's ability to disclose violence to others before legal proceedings begin (Daniūnaitė et al., 2013). The assumption that a child is usually reluctant to disclose violence is not entirely correct, as there are usually two forces fighting within a child, one of which wants the violence to end and the other one has a variety of fears about the consequences of disclosing violence. The age of the child, child's developmental disorders, mental health and physical condition are the negative factors that do not allow children to open up. In terms of the impact of the adults, a child is prevented from opening up by closeness of the relationship with the abuser and the importance and influence of the adult on the child. It is always easier for children to tell what strangers have done to them. According to a study, 67% of children disclosed violent behaviour by strangers to their parents, while 28% of children disclosed violence by relatives or acquaintances, regardless of the type of violence against the child (Daniūnaitė et al., 2013). The presence of a safe, non-violent and supportive family or understanding and caring individuals in child's life is a positive factor that increases the likelihood that the child will disclose violence. Awareness and knowledge that such treatment is unacceptable, changes in the relationship with the perpetrator due to various circumstances and other factors also contribute to children's disclosure. A study by Schaeffer (1991) revealed that children aged 3-10 years usually, in 91.4% of cases, opened up about sexual abuse to adults, and a mere 8.6% told about it to other children. On the other hand, in the older age group of

11-18-year-olds, this trend was different, with 51.7% of children and adolescents opening up to adults and 48.3% – to their peers.

Children can talk about the violence they have experienced directly and indirectly. In direct disclosure of violence, children tell about the violence verbally, while in indirect disclosure, they may disclose the violence through game playing, drawing, acting, writing a letter or communicating this message in other cue-based ways. Due to these specificities of the child's disclosure, the initial reaction of an adult can be very important in further stages of the child's interrogation and aid (Zmarzlik & Pawlak-Jordan, 2010).

The child's condition, age and living conditions therefore have a significant impact on the child's ability to disclose violence. Based on professional practice and research evidence, it is important to use all possible sources of evidence of violence against children and to systematically educate adults working with children to prepare them for possible disclosure and to arrange help.

## 5. PSYCHOLOGICAL FACTORS OF CHILD PARTICIPATION IN CRIMINAL PROCEEDINGS

The child's participation in legal proceedings and his/ her testimony in a legal interrogation is affected by a wide range of factors, including factors related to the child himself/ herself, the nature of the incident suffered by the child, the conditions under which it was observed and stored in memory, the child's relationships with other people and the interrogation itself (Grandgenett et al., 2021; Hershkowitz et al., 2014; Leach et al., 2017). Thus, the conditions of the interrogation and other important matters relating to the organisation and implementation of the interrogation are only one of the factors that have a strong influence on the child's testimony, his/ her well-being in the legal proceedings and his/ her motivation and ability to participate in the investigation. It is important to understand and take into account the many other factors that affect a child's testimony.

Child-related factors that affect the child's participation in legal proceedings and his/ her testimony:

- **A child's developmental stage.** At different ages, children have different abilities to perceive, explain events, remember, recall and narrate. So, when planning a survey, it is important to know how to adapt it to the age of the child, and to understand what we can expect from a child, what expectations we can have and what we cannot expect from a child of a certain age. The characteristics of children at different ages and their significance for the interrogation process are discussed below.

- **Individual cognitive abilities.** Every child is different; it is not enough to know the age of a child or what is typical of a child of a certain age. It is also important to take into account the unique, individual cognitive abilities of each child: how observant he/ she is, his/ her ability to analyse what has happened, to express what has happened in words, to think logically, how good his/ her memory is, how well he/ she can concentrate, how well he/ she can perceive social norms and so on. Sometimes children may have cognitive difficulties, but if these are taken into account during the interrogation, they can be credible witnesses.

- **Genetic vulnerability, disability.** It is important to be aware of and take into account the special needs of a child, and to anticipate when planning an interrogation whether there are any difficulties that may make it difficult for a child to testify, to take part in legal proceedings, whether any aids to enable a child's interrogation, such as visualisations to facilitate communication, are needed.

- **The child's well-being and mental state:**
  - ✓ **Post-traumatic stress disorder (PTSD).** This is a disorder that reflects a person's reaction to a very severe trauma. In child victims or crime witnesses, PTSD symptoms may include: reliving the trauma in recurrent memories, dreams and associations; emotional detachment from negative experience (numbing), avoidance of socialising, distancing from people; high mobility, high emotional arousal, which causes disturbances in sleep, attention and other cognitive functions, and in some cases, even impairs the development of a child (Budzynska et al., 2012). If a child is diagnosed with PTSD, this should be taken into account when planning an interrogation. In this case, it

is recommended to postpone an interrogation, as it may cause additional trauma to the child and may not be sufficiently detailed.

✓ **Psychological defence mechanisms.** These are unconscious ways of dealing with negative emotions (fear, anxiety, guilt, shame, etc.) caused by trauma. Child victims and crime witnesses tend to have defensive reactions, i.e. in order to cope with their emotional experiences, they unconsciously push negative memories out of their minds, or try to interpret them according to societal norms. Children under 7 years of age have less mature defence mechanisms (e.g. displacement, when a child does not even remember what happened), while older children have more mature defence mechanisms (e.g. rationalisation, i.e. "I myself went there for no reason..."). Defence mechanisms can be triggered both immediately after an incident and later. Defence mechanisms may lead to differences and inconsistencies in the child's testimony collected at different times. One of the more difficult defence mechanisms is dissociation, where the child does not seem to be talking about himself/ herself, without any feeling as if talking about a different person, which makes it difficult for the listener to hear, raising doubts as to whether the child has really experienced it (Budzynska et al., 2012).

• **Experience in legal proceedings.** If a child takes part in a legal procedure for the first time, it is likely that he/ she will be anxious. Also, if a child has not been properly prepared for the interrogation, anxiety may make it difficult for him/her to recall the events he/she came to tell the interrogator. If a child has already had a positive experience of taking part in a legal investigation, he/ she will be less anxious and will be able to give a more detailed account of the events. On the other hand, if the child's previous experience of participation in legal proceedings is negative, it may significantly reduce the child's motivation to participate in the current investigation.

• **A tendency to be influenced by others.** Children are easily swayed – the smaller the child, the easier swayed he/ she is. Children with developmental disabilities are even more swayed. It is important to minimise children's suggestibility when planning and carrying out legal proceedings. This can be done in a number of ways: speaking to a child at eye level, not wearing a uniform, informing the child that we do not know answers to the questions which he/ she will be asked, refraining from asking the same question many times, avoiding multiple choice questions. It is important to behave and interact with a child during an interrogation in a way that makes him/her feel that he/she is the expert of the incident and that the adult talking to him/her is the one who does not know the answers to his/her questions. This reduces the child's tendency to be easily swayed.

• **Personal characteristics of a child.** A child's personal characteristics are also important and can influence his/ her testimony of the incident:

✓ **Self-confidence.** The more confident a child is, the easier it is for him/ her to talk about his/ her experiences.

✓ **Psychological resilience.** The more resilient a child is, the easier and simpler it is for him/ her to recall and recount events.

✓ **Openness/closeness.** An open child will be more inclined to share, to tell everything he/ she knows.

Knowing all these factors can therefore help understand how to best plan the investigation and the interrogation itself, and sometimes to even explain why a child is not talking during an interrogation. This list of factors relevant to the child and which may affect the child's testimony or participation in legal proceedings is not exhaustive. The abilities of children at different ages and the factors that may help to interrogate children of different ages are discussed below.

### Developmental features and participation of children of different ages in proceedings

It is important to discuss what is typical of children at different ages, how to prepare for interrogating children at different ages and what can be expected of children at different ages (Budzynska et al., 2012):

#### 3-6-year-old children

- Are able to distinguish between sexes;
- Are not embarrassed to talk about gender differences and are naturally interested;
- Are able to name the parts of the body (including sex organs) and their functions;
- Fragmented attentiveness;
- Failure to identify the most important elements from the whole;
- Short-term focus;
- Poor vocabulary, use of specific words;
- Spontaneity of emotions, lability;
- Family is very important;
- Are egocentric and have a subjective perception of the world and people;
- Play is the main form of activity;

Children in this age group have a harder time understanding, a harder time distinguishing that what happened to them is something wrong, that certain adult behaviour is violence. Often, they talk spontaneously about the abuse they have experienced. If this topic is picked up during an interrogation, it "pops out", and young children often do not find it difficult to talk about it because they do not yet feel a sense of shame. Children at this age find it difficult to sit and talk, so the specialist needs to be willing to talk through play, movement, drawing, and it is important to allow the child to do so and to adapt to him/ her. Children at this age are characterised by egocentricity, they think that what has happened to them, has happened to others, and they may also think that you know what they know. Pre-school children often pay attention to details that adults do not necessarily think are important (for example, when describing a suspect they do not know, a child may talk about a very nice pair of trainers or a detail of appearance that reminds him/ her of a cartoon character he/ she likes). It is very important to find out the meaning of words when talking to a young child, as they may use words that have a different meaning to an adult, or they may use unusual, idiosyncratic words. A child may also lack words to talk about his/ her experience, so sometimes you can ask a child to show you what happened using a plush toy or drawings. The emotions of pre-school children are very volatile and changeable, so a child may cry, but within a few minutes, he/ she may be eager to talk to the interrogator, and vice versa. Children aged 3-6 get tired quickly, so all procedures should be kept as short as possible. It is important to mention that



waiting for an interrogation also counts as a part of the procedure, since children get tired from sitting and waiting for a scheduled interrogation.

### 7-11-year-old children

- Strong identification with one's gender;
- Maintaining physical and emotional distance from the opposite sex;
- Feelings of shame when talking about sex;
- Causal thinking;
- Ability to focus for a longer period of time;
- A richer vocabulary;
- Ability to understand the world from other people's perspectives;
- Control and moderate expression of emotions;
- Lack of spontaneity in disclosing experiences;
- Norms and rules are very important;
- Not only parents, but also other adult authority figures are important;

Children in this age group can talk much more about things that have happened to them because they have a richer vocabulary, their thinking is more advanced, they can understand and explain more, and they are able to keep their attention for longer. However, at this stage, communication with the interrogator may be hampered by the fact that a child already understands the consequences of his/her story and may be reluctant to open up. Also at this age, children start feeling shame, so they may not say certain things because of being ashamed, shy, embarrassed, etc. When interrogating children aged 7-11, it helps to emphasise the rules, as they are very important for children at this age – for example, if a child does not talk, does not tell about violence, said it can be explained to him/ her that his/her story can help to protect other children.

### Children aged 12 and older

- Interest in the opposite sex;
- First sexual contact;
- Memorisation, comprehension and vocabulary use – close to that of an adult;
- Emotional lability, reacting abruptly to the environment;
- Reduced resistance to negative opinions;
- Keeping distance with adults;
- Need to demonstrate autonomy and independence;
- A strong sense of justice;

Adolescents already understand the world in a way similar to adults, and their vocabulary allows them to talk in detail about their experiences. However, emotional factors can make it difficult for a teenager to come forward during an interrogation: fear of confrontation with or retaliation from a suspect, embarrassment at publicly revealing intimate details, feelings of guilt, fear of social stigmatisation. It is also important for an adolescent to feel sufficiently motivated to give evidence. Adolescents are usually able to talk to an interrogator and are willing to come forward if they have a good relationship with the interrogator or if the adolescent is very angry with the abuser.

Thus, children of all ages can be credible witnesses, but the interrogator must take the child's age into account at the time of the interrogation. As previously discussed, children of different ages have different attention, memory and language abilities, so it is important to tailor the questions to them and to organise an interrogation according to their developmental characteristics. Knowing the age specificities helps the specialist to anticipate what may help the child to take part in the interrogation and what can hinder the child's ability to testify.

Factors related to the child's environment that affect the child's participation in the legal process and his/ her testimony:

- **The child's relationship with relatives.** The way relatives feel and behave in relation to the abuse experienced by their child and the started legal investigation greatly affects the child's willingness and ability to participate in the legal process (Leach et al., 2017). If a child has a supportive circle of people close to him/her who believe him/ her, it is easier for the child to participate in the investigation. If a child is stigmatised and disbelieved, he/ she is very unlikely to cooperate with law enforcement. If a child sees or feels that the events that have happened and/or the ongoing legal process are very upsetting and depressing for his/her relatives, he/she may also be reluctant to re-tell the things that are painful to them. Also, if a child is constantly questioned in the family, encouraged to "rehearse" before interrogations, he/ she may find it more difficult to participate in the interrogations, and his telling of events may not be as authentic.

- **The child's relationship with the suspect.** It is easier for a child to tell about a stranger's wrongdoing (Grandgenett et al., 2021; Leach et al., 2017). Children also find it easier to talk about a person who is not their authority figure. It may be even more difficult for children to talk about the misbehaviour of a person in authority and/or close to them during an interrogation. As already mentioned, children are usually victims of people close to them. The behaviour of a suspect when exerting abuse is also important. If the suspect scared the child, told the child what would happen if he told someone (for example, that his/ her mother would die, he/ she would have to live in a foster home, etc.), the likelihood of the child cooperating willingly with the investigation is much lower. If the suspect admits to having exerted abuse and is remorseful about his/ her behaviour, it is easier for a child to talk about the abuse during an interrogation than in cases when the suspect is defensive, denies and/or blames the child.

- **Nature of the incident.** It is more difficult for a child to notice, remember and talk about incidents that are uncommon, incomprehensible, or that the child lacks the knowledge and words to explain. It is also more difficult for a child to talk about incidents that involve strong negative experiences - for example, a road traffic accident is easier for a child to talk about than a violent experience. Sexual violence is the most emotionally distressing experience and is therefore the most difficult for a child to talk about. It is also important whether the incident was a one-time or a multiple event. Children talk much easier about one-time incidents of violence rather than about systematic, long-term violence.

- **Conditions for observing an incident and dwelling on it.** What and how much detail a child can remember about an incident depends on the external conditions of its observation – for example, whether the child was able to observe the incident from up-close or whether something was in the way. If the child was able to experience the incident through different senses, this helps the child to

remember it better (for example, when the child not only saw but also heard, smelled, touched, etc.). The images stored in the witness's memory of the incident may change in the time leading up to the interview for a number of reasons (Budzynska et al., 2012):

- ✓ When talking to the child, people close to the child consciously or unconsciously try to instill their own view and assessments of the incident.
- ✓ A child's new life experiences begin to overwhelm the incidents stored in his/ her memory.
- ✓ The child experiences other intense feelings.
- ✓ Once a child speaks out about abuse, and legal proceedings are initiated, the environment around him/ her changes.

- **Consequences of the incident.** If, after the child has disclosed his/ her experience, he/ she has been rejected by relatives, has had to move out himself/ herself or people close to him/ her had to move out, this may affect the child's motivation to continue to participate in the criminal investigation. If the consequences experienced by the child are significant and complicated, it is very likely that the motivation of the child to participate in the investigation and to testify will be lower.

Thus, many different factors affect a child's ability to testify effectively and to cooperate willingly during an interrogation. It is important to be aware of these factors when planning the interview and to understand why the child may not find it easy to give evidence. Understanding these factors also helps to understand why a child may tell little or nothing, even if the interrogator is very well prepared and has conducted the interrogation professionally.

## 6. INTERROGATING A CHILD: GUIDELINES FOR PREPARATION AND IMPLEMENTATION

In order for an interrogation to run smoothly and to collect detailed and reliable evidence, it is important that the interrogation is properly prepared and conducted using a reliable methodology.

### Help when preparing for an interrogation

The interrogation of a child is a relatively short process, so advance preparation by all those involved is crucial for its effectiveness. Information on the preparation of officers for an interrogation is provided in the legal part of this publication.

This section provides guidance on how to help a child and his/her family prepare for an interrogation. Preparing the child and his/her family for an interrogation is defined as providing the child and the family with appropriate information and emotional support. Preparation does not involve teaching a child the answers he/she should give during the interrogation. Preparing for an interrogation in advance provides clarity and reassurance to the child and family. It helps to reduce the family's anxiety and stress before and during the interrogation. Less stress helps the child to testify more effectively in the interrogation. It is important that the child and his/her family know when and where the interrogation will take place, who will talk to the child during the interrogation, who can accompany the child to the interrogation, and what rights the child and his/her family have.

### Helping the family prepare for the interrogation.

The way the child feels before and during an interrogation depends on how the people closest to him/her feel. It is therefore crucial that the child's parents/guardians know about the upcoming, its purpose and procedure interrogation as much as possible. Parents/guardians should also stress the importance of the child telling the truth and speaking in his/her own words during the interrogation.

The well-being of the child and his/her relatives before an interrogation also depends on what they know about the overall process of the investigation – what further steps are foreseen, when and which procedures the child will need to take part in, and the possible duration of the investigation. It is important that the child's relatives are clearly and understandably informed about their rights and rights of their child. Often, the child's relatives feel timid and do not take the opportunity to call law enforcement officials to clarify their concerns. It is important to encourage the family/child's representative to be proactive – to call and ask if they have any questions and to give them as much information as possible about the ongoing investigation.

### Helping the child prepare for the interrogation.

The aim of preparing a child for an interrogation is to make the interrogation less stressful for the child. Less stress helps the child to concentrate better, to keep attention longer and to remember the information better. It is important not to leave the preparation of the child for the last minute or the last day. Keeping the interrogation a secret can cause additional anxiety for the child's relatives

and thus for the child himself/ herself. It is important that the child has the opportunity to calm down, to prepare for an interrogation and to ask questions about the interrogation.

The child should know the full truth about how the interview will take place – who will take part in the interrogation, the fact that the process will be video and audio recorded. It is also important to inform the child that during an interrogation the child can:

- ask for a break if he/ she wants to have a drink or go to the toilet,
- tell if there is something he/ she doesn't understand,
- correct the interrogator if he/ she has misunderstood the child.

Parents/guardians or a specialist with the capacity to do so can help the child prepare for an interrogation.

### Child interrogation

In order to obtain detailed and reliable testimony from a child during an interrogation, it is important to conduct an interrogation in a structured way, taking into account the child's well-being during the interrogation.

Conducting an interrogation based on a structured and research-based methodology helps (Hershkowitz et al., 2014; La Rooy et al., 2015; Lamb et al., 2007):

- to establish a contact with the child which is necessary for an interrogation;
- to collect reliable and accurate information.

It is recommended to conduct an interrogation taking the following steps:

- Establishing a contact with the child;
- Free storytelling;
- Clarifying questions;
- Ending the interrogation.

All stages of the interrogation are necessary and need to be implemented consistently. Each of the interrogation stages is discussed in the publication below.

#### Establishing a contact with the child.

The contact phase is usually a two-part process, covering:

- Interrogation rules and agreements;
- Storytelling practice (telling stories for practice).

In Lithuania, this stage is often called an introductory conversation in participation of a child and a psychologist interviewing him/her. Although the aim of this stage is to establish contact with the child and to assess how ready he/ she is to testify in an interrogation, it is already at this stage that details of relevance to the investigation may emerge spontaneously. For this reason, the recommendation is to make a video and audio recording at this stage. Information spontaneously revealed by the child is important and reliable.

It is important that before an interrogation about the possible offence starts, the child discusses with the interrogator the process of the interrogation. An interrogation is very different in its nature from other conversations where a child takes part in (for example at home or at school). It is important

to convey to the child that he/she is the expert in the interrogation, as he/she knows best what he/she has experienced or seen. Children may be used to having to give either the right answers (as in school) or the answers that adults expect. It is important for the child to tell the truth in his/her own words during an interrogation, and this message needs to be conveyed to a child.

Rules/agreements for the child to understand and apply:

- A child may say "I don't know" when he/ she doesn't know the answer to a question;
- A child may say "I don't understand" when they don't understand a question;
- A child can correct the interrogator if he/she makes a mistake.

It is also important that a child understands and knows that:

- The specialist who interrogates the child does not know answers to the questions he/she asks (he was not in the situation in which the child was);
- If a specialist asks a similar question or repeats a previous question, it means that the specialist has not understood or wants to clarify. It does not mean that the child has said something wrong.

Research shows that it is not enough to tell children about the above rules (Lamb et al., 2007). It is important to discuss and test them in conversation with children, allowing sufficient time for this.

Another important part of making contact with a child is talking about things that are interesting to the child and at the same time testing the type of conversation to be used during the interrogation process. Since the recommended and most frequently asked questions in the interrogation should be "tell me more" and "what happened next?", it is important to use these questions as often as possible when talking to the child. In this part, it is important that the child understands that the interrogator talks little and asks questions, while the child talks more and tells what he/she knows.

Time should be given for making contact, understanding the rules and practicing storytelling, but at the same time the conversation should not be extended, as the child may become tired and his/her efficiency may decrease. In this part it is important to assess whether the child is cooperating and participating in the conversation. This is important for further success of the interrogation. If the child is not answering questions or responding to the interrogator's attempts to make contact, it is recommended to consider whether it is appropriate to continue the interrogation on that day and to decide on the next steps.

### Free storytelling.

The free storytelling stage is particularly important as it is the most reliable stage. During the free storytelling stage, it is important to assess that the child may need more time to start talking about emotionally difficult things. It is important for the specialist not to rush with clarifying questions, as questions point the child in a certain direction and information that only the child knows and the specialist does not ask may not be disclosed.

It is recommended to start and stimulate a free storytelling with an inviting sentence and then give the child time to react. An example of such a sentence could be: "Tell me what you are here for today". If the child starts to talk, it is important to listen without interrupting. When the child pauses, he/ she should be encouraged by saying "Tell me more" or "What happened after that?". These questions ensure that the interrogator does not steer the child away, but rather helps him/ her to

present information which he/ she knows that is not affected by questions. If the child is not talking, it is important to encourage him/her reflecting his/her feelings.

Moving on to the follow-up questions is recommended only after having heard the free narrative.

### Clarifying questions.

The recommendation is to group questions together when asking a child clarifying questions. Examples of grouping questions include: asking questions related to one episode of violence and then clarifying another episode; asking all questions related to the suspect's appearance and then asking about what the suspect said. When questions are grouped, the child is better able to concentrate and present information more fluently. If there is "jumping" between topics, the child or adolescent (like an adult witness) may find it difficult to give coherent information and may become confused.

It is recommended to ask as many open-ended questions as possible (those that start with "Who", "What?", "How?", "What", "What?" and "Where"), avoiding implied questions (those that already have an implied answer in their wording). It is recommended to avoid questions beginning with "Why?". Question "How many times?" is particularly difficult, especially when dealing with long-term violence. It is recommended to ask the child "Was it once or more?". After the child has answered, the recommendation is to ask follow-up questions about different episodes.

### Ending the interrogation.

A child having opened up and told about one difficult experience is more likely to talk about other difficult experiences he/ she has suffered. At the end of the interrogation, it is recommended to ask the child if there have been more events similar to the one he/she has told about. This may reveal more episodes of possible crime or other crimes.

If, during an interrogation, a specialist sees that the child is in need of psychological support for the violence he/ she has suffered, it is important to provide the child and the person accompanying him/her with information about the psychological support available.



## 7. CHILDREN WITH DEVELOPMENTAL DISORDERS: THE CONCEPT OF DISORDERS, SPECIFICS, RECOMMENDATIONS FOR SPECIALISTS

The participation of a child with a developmental disorder in legal proceedings has its own specificities, and thus specialists often have different questions: what is important to know about the child's disorder, how to organise interrogations properly, how to take the child's special needs into account, and how to empower the child to give a smooth testimony. This publication introduces the concept of a developmental disorder, several specific more common strands of developmental disorders, discusses the various features of special needs, and provides guidance for inter-agency specialists. It is important to note that there is a wide variety of developmental disorders and that children with developmental disorders, like children with normal development, have a myriad of individual differences. The information provided in this publication therefore does not cover all the possibilities of knowing and helping a child, but it is an important basis which the specialist can use to take the first step towards a better understanding of the child, facilitating communication and empowering the child in legal proceedings.

### Child development and developmental disorders

Development is an intensive comprehensive process during a child's development, when various skills, including- motor, communication, cognitive, socio-emotional, domestic-hygienic and other skills, form (Mikulénaité, 2019). In other words, a child's development is a routine sequence of skills specific to a certain age. Specialists who encounter children on a normal developmental trajectory can predict, in most respects, certain characteristics of the child - for example, the child's likely interests, his/her ability to understand what is being said to him/ her, and to recall and express what has happened.

Developmental disorders are delays or abnormalities in one or more areas of development that affect a child's functional and social adaptation (Mikulénaité, 2019). A child may have a disorder of one, several or even all areas of development, for example, a child diagnosed with a developmental disorder may have challenges in social interaction but be fully independent and demonstrate high academic skills; meanwhile, another child with this diagnosis may have much greater difficulties in more areas of life and thus be under continuous adult supervision. Thus, given the wide variety of developmental disorders, specialists dealing with a child with a disorder cannot predict in detail the child's opportunities or challenges to participate in the legal process and need to get to know the child and his/her life circumstances better at an individual level.

### Specifics of developmental disorders

Developmental disorders can be diagnosed at different ages. If a child has a disorder that does not have a clear visual manifestation in the child's behaviour, communication or learning skills, it may go undiagnosed or may be detected at a later age. Thus, any specialist working with children of all ages is likely to come across a child with a developmental disorder.

Children and adolescents with developmental disorders are at a particularly high risk of experiencing different types of violence. Unlike many children with normal development, children with developmental disorders often face challenges in communicating, understanding emotions and social situations, find it harder to recognise inappropriate behaviour in others, have more difficulty developing personal safety skills, and often have language and communication barriers to talking about inappropriate behaviour that has happened to them. Thus, a child's atypical development often leads to greater vulnerability.

The thinking, communication, behaviour or interests of a child with a developmental disorder may seem unusual in relation to typical development. It is important to note that developmental disorders, unlike other human conditions, do not have the potential to "disappear" with time or support (Petrulytė & Mikulėnaitė, 2021). In other words, the skills of a child with a developmental disorder may change over time and with support, but their specific behaviour or relationship with people, the environment and skill development remains unusual in relation to traditional development. It is therefore important that specialists dealing with a child with a developmental disorder are able to accept his/ her specific communication or behaviour as worthy of respect and attention.

Unusual communication or behaviour in a child with a developmental disorder (e.g. avoidance of eye contact, unusual vocabulary, less coherent thought patterns) should not be directly linked to lower reliability. Children with developmental challenges narrate events that have happened to them as they understand and are able to communicate them. On the other hand, like younger children, those with developmental difficulties may be more suggestible, so it is crucial for the specialists to organise a child's interrogation in a sensitive and appropriate way, to use short and clear sentences and to avoid fake questions.

### Overview of specific developmental disorders

While the specific name of a developmental disorder cannot, in isolation, be indicative of a child's abilities or difficulties in testifying, knowledge of the developmental challenges a child may have can contribute to a clearer, more empowering preparation of the child and to a more competent specialist responsive to the child's special needs in preparing the child for the interrogation.

The publication goes on to present three specific, more common trajectories of developmental disorders, discussing the associated special needs of children and recommendations for specialists.

#### Intellectual disorders.

Intellectual disorders are developmental delays that limit a child's adaptive behaviour and are manifested in at least some of the following areas: basic skills, self-management skills, communication, organisation of leisure and other activities and self-regulation, social skills, health and safety skills, and the application of academic knowledge to everyday life (Mikulėnaitė, 2019).

Children with intellectual disorders can have significant challenges in understanding abstract information, for example, what is "a feeling", "safety", "yesterday", etc. They may also have particular difficulties in orienting themselves in space and time, for example, they may struggle to identify when something happened, where it happened, etc. Due to slowed or uneven skill development, children with intellectual disorders may find it difficult to develop a range of safety skills, for

example, to recognise and report someone's behaviour as violence. Thus, children with intellectual disorders may be more assertive, more dependent on their environment and on adults, and at a greater risk of violence.

It is important to note that the development of a child with an intellectual disorder can be very uneven compared to normal development, for example, a child may have severe communication difficulties but good self-management skills; an adolescent may be interested in pre-school toys and activities but at the same time be able to read, write and talk about relatively age-appropriate topics. The variety of expressions of intellectual disorders and the combination of the child's individual characteristics often puts adults at risk of automatically underestimating or overestimating the child's competences. For this reason, the specialist interacting with the child should be attentive, take time to get to know the child, and assess his/ her language.

Below are recommendations for more effective, child-centred communication between the professional and the child:

- **Language and vocabulary adaptation.** The specialist should use short, clear sentences, avoiding concepts, complicated words or abstract expressions. In the course of a conversation, a specialist should monitor the child's state of mind and, if necessary, check whether the child has understood the idea/question being discussed.

- **Narrowing the content of conversation.** A specialist should express one thought or question at a time. Longer questions should be broken down into several separate ones. After asking the child something, the specialist should be patient and wait for the child's answer.

- **Use of visual material.** For children with communication and cognitive challenges, processing and expressing language can be much more challenging than seeing and showing something. In this respect, the inclusion of visual material in the conversation can be of great help to the specialist. Visual material includes real objects, pictures, cards, drawings, notes, etc.

#### **Activity and attention disorders.**

Activity and attention disorders are characterised by age-inappropriate signs of attention (inability to sustain attention long enough to finish work), increased activity (running, moving, making noise, sitting still) and impulsivity (inability to wait for one's turn, delay of a wish) (Leskauskas, Kuzmickas, Baranauskienė, & Daškevičienė, 2004). These signs are already evident in the pre-school age children.

Child's attention and activity disorders can be observed in a wide range of activities and social interactions – he/ she may seem inattentive, easily distracted, continually fail to finish an activity, or fail to listen to a story or question. The child may also appear disengaged in conversation, not answering questions on the first try, avoiding conversation or tasks that require more effort. When observing a child with attention deficit disorder, it is common to see constant movement, changes in body position, sudden changes in behaviour, and acting as if "without thinking". Children with ADHD can also be very talkative, ask a lot of questions, make comments and interrupt the speaker without waiting for their turn. The totality of the symptoms of Attention Deficit Disorder can have a profound impact on various important areas of a child's life, such as school performance, relationships, independence, etc. (Čalkaitė, Kerševičiūtė, & Diržius, 2022).

It is important to note that, given the specific nature of ADHD, a specialist may face a number of challenges when being with the child, for example, the child's behaviour may seem unpredictable (the adult may worry that the child will break something, injure himself/ herself, etc.), the child's high state of alertness and behaviour may make the specialist more stressed, more tired, and more challenging to understand and feel the child (the adult may feel that the child is behaving like that on purpose). In this respect, it is therefore crucial for the specialist to monitor his/her own well-being and to ensure that his/her attitudes towards the child remain objective and unaffected by the circumstances of the communication.

Here are some recommendations for more effective communication between a specialist and a child, focused on the child's special needs:

- **Adapting the conversation and its pace.** It is important for the specialist to pay attention to the child's speech patterns and pace. The specialist should communicate with the child in short, clear sentences that match his/her pace and avoid complex expressions.
- **Pauses to activate concentration.** The alertness, activity, impulsivity caused by the disorder are beyond child's control, so it is not enough for the child to "try" to focus. For this reason, it may be important for the specialist to provide the child with small breaks redirecting his/her attention (for example, to play with a ball for a short time).
- **Allow standing, moving.** Allowing a child to move, for example, allowing him/ her to talk while standing, squishing some object in his/ her hands, sitting on a gym ball or other uneven surface - can increase his/ her concentration and a sense of security. On the other hand, excessive movement can also have the opposite effect, so it is important for the specialist to monitor the child's well-being and not to start very active games, jogging, etc.
- **Balance between a shortage and excess of stimulus.** The environment of interaction with the child should, where possible, be adapted to enable the child's self-regulation. It is important that the communication environment is neither completely empty (a lack of stimuli can increase the child's anxiety and insecurity) nor crowded (an excess of objects can interfere with the child's ability to concentrate).

### Autism spectrum disorders.

Autism spectrum disorders are neurodevelopmental disorders that typically affect three areas of a person's development: language, social skills and behaviour (Mikulénaité, 2019). The impact of the disorder on these domains could be described through the epithets of "unusual", "atypical", "different". In other words, autism spectrum disorders are characterised by the child's unusual development of speech and communication, atypical, different reactions to (or unusual building of) relationships, and unusual, specific behaviours.

The combination of the expression of autism spectrum disorder and the individual child's characteristics can be extremely varied: some children may have no or very limited speech, while others may have a wide and complex vocabulary; some children may have very low social skills and avoid social contact, while others may actively seek out a friendly relationship, but often have to deal with various social misunderstandings, misunderstanding of other people's feelings, intentions, intonations, and behaviours.

Children with autism spectrum disorders often have a variety of strong interests (e.g. a great deal of knowledge about specific topics and a desire to talk about them at length), as well as a strong need for routine and predictability (e.g. extreme sensitivity to change, to breaking rules, to uncertain and unclear situations). For this reason, it is important for the specialist to prepare the child for an interrogation in advance, if possible, by discussing the location, the duration and the course of the interrogation. Many children with autistic spectrum disorders perform a variety of repetitive movements (e.g. swinging, jumping, clapping their hands, twisting their wrists, etc.) against a background of emotions. These repetitive movements have an important self-regulatory function, helping the child to calm down, concentrate and “release” tension. Thus, if the child is not harming himself/ herself or the environment, it is important for the specialist not to stop the child’s behaviour, staying with it.

A specialist can often find a contact with a child having an autism spectrum disorder unusual – children often give little emotional response during interactions, do not actively look an adult in the eye, may ignore some of the adult’s questions, refuse to accept the adult’s play or to engage in a play or conversation initiated by the adult. However, it is important to stress that such unusual behaviour and contact with a specialist does not necessarily mean that a child is distant or uninvolved. In many cases, a child with an autism spectrum disorder simply does not know the correct way to make contact, what to do, how to react, how to respond to an invitation to play, and therefore the support and patience of an adult is crucial.

Here are some recommendations for more effective communication between the specialist and the child, focused on the child’s special needs:

- **A clear presentation of the meeting process.** Given the child’s need for routine and predictability, it is important for a specialist to provide as much clarity as possible about how the conversation will proceed. Where possible, a specialist should aim to prepare a child for an interrogation in advance by discussing when and where the interrogation will take place and, if possible, by showing the interrogation room or a picture of it. It is also important to tell the child what will happen during or after the interrogation and to remind him/ her that they are not in trouble.
- **Adaptation of conversation and its scope.** As with other disorders, it is important for a specialist to pay attention to the child’s speech characteristics. If a child speaks in multi-word phrases, the specialist may speak in sentences of a few words; if a child speaks in sentences of a few words, the specialist may expand his/her language a little and communicate in normal short, clear sentences. In all cases, it is important for the specialist to be specific, avoiding complicated expressions and words with figurative meanings.
- **Using visual information to complement a conversation.** For children with autism spectrum disorders, language processing and communication are significantly improved by the use of a variety of visual aids to supplement a conversation, including real objects, pictures, social stories, cards, drawings, schedules, notes, etc. The inclusion of visual aids must be chosen thoughtfully, taking into account the child’s cognitive abilities and interests.
- **Adapting the communication environment.** Many children with autism spectrum disorders have some atypical reactions to sensory information, such as over-sensitivity to certain sensations (sound, smell, touch, light, etc.). For this reason, the specialist should, where possible, prepare the communication environment so that it is not overloaded with stimuli, thus enabling the child to self-regulate more effectively.

## Summary

Knowledge of various developmental disorders and their manifestations can be particularly useful for a specialist taking his/ her own capacity to consider a child's special needs into account. Addressing special needs in the context of developmental disorders is one of the key objectives of a specialist in empowering a child in legal proceedings. Only having taken a child's needs into account can help to ensure that he/ she feels safer, is more patient and more determined to tell what he/ she knows.

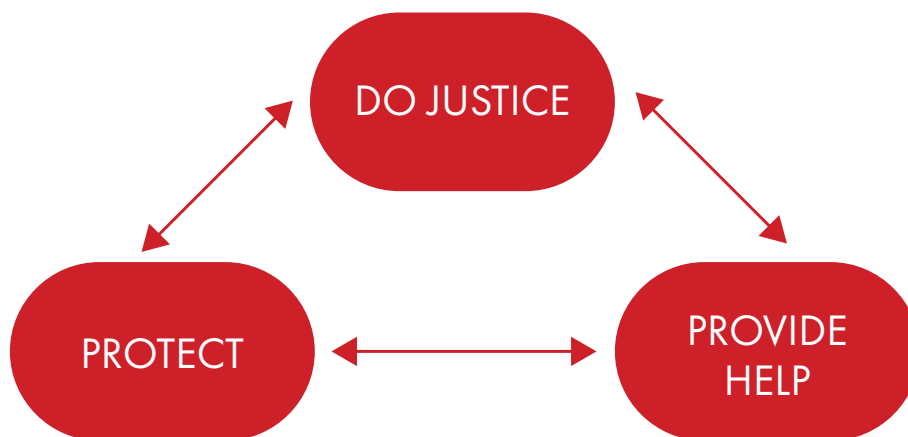
## 8. PSYCHOLOGICAL ASPECTS OF INTER-AGENCY COOPERATION BETWEEN SPECIALISTS

### Benefits and features of effective inter-agency cooperation

Violence against children is a highly sensitive and painful phenomenon, where three main objectives are important:

1. to do justice: to find out if the law has been broken and to stop violence against a child;
2. to protect: to clear up and provide immediate protection for a child, protecting him/ her from further violence;
3. to provide help: to identify and help a child and his/ her family cope with consequences of violence.

All three objectives are important and their implementation is mutually reinforcing:



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Achieving all these objectives requires close cooperation between institutions and specialists. Cooperation means working together with others (at individual or group level) to develop a common approach, product or event. Inter-agency cooperation is an essential aspect of work in the field of child abuse protection. It involves law enforcement and child protection authorities, health, social and psychological service providers, as well as the education sector and other organisations. No one agency can do all the tasks and meet all the needs of a child alone.

There are several reasons why inter-agency cooperation is necessary in this area:

- ensuring a child-centred process;
- each specialist contributes his/ her own expertise and competence to the process;
- making sure that every agency and specialist knows what other specialists are doing;
- avoiding duplication and potential gaps;
- ensuring that responsibilities and information are properly shared.



Various studies in different countries highlight the benefits of effective inter-agency cooperation at different levels. Some important benefits of cooperation include:

- Better use of resources – clear roles and tasks make work smoother and more efficient.
- Reduced impact of secondary traumatisation on the child and the family, avoiding repetitive actions and involving a child and a family in a more effective support process.
- Fewer cases of professional burnout among specialists – specialists see themselves as a part of an interdepartmental team, upgrade their skills on a specific topic, experience a common understanding of the topic, and a sense of mutual respect within the professional community.

Understanding the importance of inter-agency cooperation is essential to its effectiveness. Inter-agency cooperation and coordination is based on clear communication and information sharing. The features and requirements of effective cooperation include:

- communication between institutions and between specific specialists at an individual level;
- clarity on the functions, roles and responsibilities of each participating authority;
- agreement on methods of cooperation;
- coordination of inter-agency work;
- systematic meetings/conferences;
- mutual respect;
- specialists being open to constructive criticism;

Thus, having overviewed the benefits and features of effective inter-agency cooperation, it is important to look at the challenges which specialists face.

### Psychological challenges of inter-agency cooperation

Teamwork requires specific knowledge and skills and can present different challenges. Some of these may be systemic and cultural. The most common challenges in inter-agency cooperation are:

- systemic challenges and incompatible protocols or laws;
- unclear rules and regulations;
- harmful team culture, low levels of engagement;
- role confusion and lack of team coordination;
- different attitudes and perspectives between specialists in different agencies;
- unresolved or protracted conflicts and communication challenges;
- professional burnout.

However, when it comes to cooperation in the field of violence against children, specific challenges arise in relation to certain psychological aspects. The following section of the publication overviews some of the psychological challenges of cooperation: the issue of different attitudes among specialists, specialists' feelings and professional burnout, and the issue of unresolved conflicts within the team.

#### Different professional attitudes.

Attitudes are a person's predisposition to perceive various phenomena in a way that is specific to them. They are formed over a long period of time through the accumulation of a wide range of experience and knowledge on a given topic. Preconceptions can help to make decisions faster or

more efficient, but they can also prevent people from seeing a situation in a new way, from a perspective outside their own. As the professional and personal backgrounds of specialists in inter-agency teams may vary, it is natural that specialists may have different preferences. On the one hand, this can broaden the team's overall view of the situation, while on the other hand it can make it more difficult to work together. When working on the topic of violence against children, it is important for specialists to explore and be more aware of their own attitudes towards the following topics: violence against children, inter-agency cooperation, attitudes towards other institutions or specific specialists. Exploring attitudes can be done individually, working with oneself, or in a group by discussing various questions: "What do I think about this?"; "What do I know about this?"; "What is my personal experience of this topic?".

Preconceptions on these topics can have a very direct impact on specialists' work or decision-making, for example, the belief that violence against children is a rare phenomenon that occurs only in pathological situations can make it difficult to see the problem of violence and abuse, lead to rationalisation of observed facts, and can increase the willingness to avoid discussing violence when dealing with a child experiencing violence, thus making it more difficult or even impossible to disclose it (Ambroziak, 2018).

Inter-agency training helps specialists to harmonise their knowledge on violence against children and cooperation. By regularly updating their knowledge of the subject, specialists gain a better understanding of the phenomenon of violence against children and become more sensitive to the problem.

### Specialists' feelings and professional burnout.

Working with children who have experienced violence is considered particularly difficult. Specialists and officers often experience a range of intense feelings when dealing with violence, for example, when confronted with a child's feelings of helplessness, specialists themselves may feel powerless, as also feeling anger and a desire to take revenge on perpetrators or abusers, just like the child does. Usually, all these emotions and reinforced adult beliefs are an appropriate response to learning about violence against a child (Ambroziak, 2018). Specialists of professions that provide aid (e.g. doctors, nurses, law enforcement, psychologists and social workers) are often directly exposed to various forms of trauma and suffering of others in their work and are therefore considered to be at a high risk of professional burnout. Specialists who continuously provide help to others, while not feeling sufficiently cared for themselves, may begin to feel a lack of energy and sense. Over time, this can have a negative impact on emotional well-being of the specialists and on their performance. Over time, the debilitating nature of such work can have a negative impact on specialists' relationships with their relatives, colleagues and the people they help. Such progressive fatigue can develop into professional burnout, the main features of which are (Letson et al., 2020):

- physical and emotional exhaustion;
- depersonalisation;
- reduced sense of personal achievement.

Burnout can lead to cynicism and ineffectiveness in the workplace and is a common cause of staff turnover. It can also have an impact on the final outcome of work.

The impact of work culture is important for preventing burnout. There are various skills that help specialists to take care of their burnout prevention at an individual level, but research conducted with inter-agency teams working on child abuse (Letson et al., 2020) indicates that one of the most important factors in reducing the risk of burnout is the perceived support of an organisation or an agency. Summarising the experiences in different countries, the following approaches to preventing burnout can be identified:

- organise the support of an agency/ institution and understand the risk of burnout for a specific position or a group;
- adequate distribution of workload;
- promote and create a supportive and cooperative atmosphere in the group/ agency/ institution;
- provide training on specific topics (e.g. working with abused children, burnout prevention, self-care skills);
- promote clear roles within a team;
- organise a constructive space for case advice;
- where possible, promote case diversity (working with children other than those who have suffered trauma);
- promote systematic rest breaks at work;
- encourage the analysis of positive processes and the reinforcement of staff;
- promote personal self-care skills of specialists (adequate sleep, nutritious food, exercise, enjoyable activities, nurturing close relationships);

### Conflicts.

A conflict is an active disagreement between several individuals or groups with different needs, opinions, beliefs or goals. Working with cases of violence against children in an inter-agency team may even have several different conflict-provoking factors. First of all, an inter-agency team is characterised by a diversity of different professional backgrounds, which can provoke and promote a conflict in itself. On the other hand, when this diversity is consciously understood and even valued, it can help teams work more effectively. Also, as previously mentioned, working on the topic of child abuse can provoke a range of intense feelings in specialists. In addition, the team may be confronted with the phenomenon of a delegated family conflict, i.e. when a conflict exists between family members and is moved onto specialists/ institutions. In the case of a delegated conflict, different specialists or even institutions may unconsciously support different sides of the conflict.

Given that conflicts are an inevitable part of teamwork, it is important to invest in constructive conflict resolution skills. During conflict, it is important for the team to:

- remember the overall objective;
- look for opportunities, not accusations;
- be respectful towards others;
- try to understand where the other person is coming from, putting it into own words;
- express own position;
- avoid personalisation;
- make suggestions and avoid criticism;
- remember that conflict within a team is a natural part of the process.

In conclusion, it is important to emphasise that different countries have different inter-agency cooperation schemes. Strengthening cooperation can be important at different levels, including at the national level, at the level of individual institutions or their divisions, as well as at the level of specific specialists and officers. However, an understanding of the psychological aspects of cooperation can help to create a smoother reality for representatives of different agencies to work on a daily basis towards a common goal.

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