

Pursuant to § 1, para. 4 of the Additional Provisions of the Criminal Procedure Code, "specific protection needs" exist when it is necessary to apply additional means of protection against secondary and repeated victimisation, intimidation and retaliation, emotional or psychological suffering, including to preserve the dignity of the victims during interrogation. Art. 7a(2) of the Law on assistance and financial compensation for victims of crime provides that it shall be mandatory to presume that there are special protection needs when:

1. the victim is a child or disabled person;
2. the person is a victim of terrorism, trafficking in human beings, an offence committed on the orders or in execution of a decision of an organised criminal group, an offence under Chapter Two, Section VIII of the Special Part of the Penal Code, an offence committed in the context of domestic violence, or an offence committed on racist or xenophobic grounds;
3. the victim is materially or otherwise dependent on the perpetrator.

In the framework of the criminal procedure, the provisions regulating the rights and general measures for the protection of a victim shall be applied in the first place with regard to juvenile victims (Art. 15, para. 49 - initiation of criminal proceedings by the prosecutor for crimes prosecuted on the complaint of the victim; Art. 67 - measures for the protection of the victim; Art. 67a - informing the victim with special protection needs in relation to custodial measures; Chapter Eight "Victim" Art. 74-Article 88; Art. 139a - questioning of a witness with special protection needs, etc.).

The specific provisions relating specifically to minor and/or juvenile victims also apply (Art. 51 - filing of a civil action by the prosecutor; Art. 101 - appointment of a special representative; Art. 139a, para.1 - interrogation of a minor witness with special protection needs; Art. 262 - interrogation in a specialised room, outside the court building; Art. 263, para. 3 - hearing the case in camera; art. 280 - examination of witnesses and Art. 281 - reading of witness testimony in the court proceedings). These exceptions apply to any child victim, irrespective of the type of crime of which he or she is a victim.

The Criminal Procedure Code currently contains special rules for the examination of minor victims who are examined as witnesses with specific protection needs. In the framework of pre-trial proceedings, the examination of a witness with special protection needs shall be carried out while taking measures to avoid contact with the accused, including by videoconference or telephone conference, in accordance with the provisions of this Code (Article 139(10)).

When questioning a witness who is a minor, no warning of liability under Art. 290 of the Penal Code is given, as these persons are not criminally liable given their age. The minor shall, however, be explicitly informed of the need to give truthful testimony. Where the witness with special protection needs is a minor, the presence of a pedagogue or psychologist is mandatory. The presence of an educational or psychological counsellor is required in view of the specific personality of children and the need to ask them questions in an age-appropriate manner. The presence of an educationalist or psychologist is imperative and the failure to involve one in the questioning constitutes a procedural irregularity which prevents the evidence given from being valued.

If necessary, the interrogation shall also take place in the presence of the parent, guardian or custodian (Art. 139a, paragraph 1, of the Criminal Procedure Code). At the request of a witness who has been the victim of a crime committed in the context of

domestic violence or of an offence under Chapter Two, Section VIII of the Special Part of the Penal Code, which also includes crimes of sexual violence committed against a child by a person in a recognised position of trust, power or influence, the interrogation shall be conducted by a person of the same sex if this will not impede the criminal proceedings. This provision does not apply when the interrogation is conducted by a judge or prosecutor (Article 139a(2) of the Criminal Procedure Code).

In the framework of the court proceedings, the provision of Art. 280, para. 6 of the Criminal Procedure Code provides that a witness who is a minor or a witness with special protection needs, who has been questioned in criminal proceedings, shall be questioned again only when his testimony cannot be read under the conditions and in accordance with the procedure of Art. 281 or the new questioning is of exceptional importance for the discovery of the truth. The interrogation shall be conducted with measures taken to avoid contact with the defendant, including in specially equipped premises.

Art. 280(4) of the Criminal Procedure Code provides that, in principle, a juvenile witness must be removed from the courtroom after giving evidence at the trial unless the court orders otherwise. Pursuant to Art. 281, para. 1(6), where the witness is a minor or has special defence needs and the accused and his defence counsel were present during his examination, the witness's testimony given in the same case before a judge in the pre-trial proceedings or before another panel of the court shall be read out. As regards the specific provisions relating to juvenile victims, see below a detailed extract from the Criminal Procedure Code:

Civil action by the prosecutor

Article 51

Where the victim, on account of being underage or of a physical or mental deficiency, is unable to defend his/her rights and legal interests, the prosecutor may bring a civil action to his/her benefit.

Special representative

Article 101

(1) (Supplemented, SG No. 48/2023) Where the interests of the minor or underage victim and of their parent, custodian or guardian are contradictory or the parent, custodian or guardian do not perform their obligations under Articles 125, 129, 164 and 168 of the Family Code, the respective body shall appoint for them a special representative who is a lawyer.

(2) A special representative who is a lawyer shall also be appointed for the victim, where he/she is incapacitated or has limited capacity and his/her interests stand in contradiction to those of his/her custodian or guardian.

(3) The special representative shall participate as attorney in the criminal proceedings.

(4) The provisions of Articles 91, paragraph 3 and 92 shall also apply to the special representative *mutatis mutandis*.

Interrogation of witnesses

Article 139

(1) (Amended, SG No. 32/2010, effective 28.05.2010) Prior to interrogation of the witness his or her identity shall be established, and the relations thereof with the accused party and with the other participants in the proceedings. In cases under Articles 141 and 141a, the identification code of the witness shall be entered in the record to substitute for his/her identity data.

(2) The body conducting the interrogation shall invite the witness to testify in good faith and warn him or her of the responsibility under the law if he or she refuses to do so, gives false

testimony or withholds certain circumstances, also explaining him/her the right under Article 121.

(3) The witness shall promise to tell in good faith and exactly everything to his or her knowledge about the case.

(4) The persons under Article 119 shall be explained their right to refuse to testify.

(5) Witnesses shall state in the form of free narration all that may be known to them about the case.

(6) The provisions of Article 115, paragraph (1), Article 138, paragraphs (4) and (5) shall also apply to the interrogation of witnesses, mutatis mutandis.

(7) (Amended, SG No. 32/2010, effective 28.05.2010) Any witness outside the territory of Bulgaria may also be interrogated through a video or phone conference in compliance with the provisions of this Code.

(8) (New, SG No. 32/2010, effective 28.05.2010) Interrogating a witness within the territory of Bulgaria through a video or phone conference may be conducted in trial proceedings, as well as in pre-trial proceedings subject to the conditions and procedures laid down in Article 223.

(9) (New, SG No. 32/2010, effective 28.05.2010) In cases within the scope of paragraph 8, the interrogation shall be conducted in compliance with the provisions of this Code, and the identity of the witness shall be verified by a judge from the court of first instance in the area where the witness is located.

(10) (New, SG No. 63/2017, effective 5.11.2017) Interviews of witnesses with specific protection needs shall be conducted after measures have been taken to avoid contact with the accused party, including videoconferencing or telephone conferencing, in accordance with the provisions of this Code.

(11) (New, SG No. 98/2020) Protected witness may also be interrogated through a videoconference.

Interrogation of a witness with specific protection needs

Article 139a

(New, SG No. 48/2023, effective 1.09.2023) (1) The presence of a pedagogist or psychologist shall be mandatory where the witness who has specific protection needs is minor or underage. Where necessary, the interrogation shall also be conducted in the presence of the parent, custodian or guardian.

(2) If this is requested by a witness, a victim of a domestic violence crime or of a crime under Chapter Two, Section VIII of the Special Part of the Criminal Code, the interrogation shall be performed by a person of the same sex, if this does not impede the criminal proceedings. This provision shall not apply if the interrogation is conducted by a judge or prosecutor.

Appointment of court hearings outside court premises

Article 262

Where necessary, the court hearing or separate court actions shall be appointed to be held outside court premises.

Trying the case behind closed doors

Article 263

(1) The case shall be examined or individual acts within court proceedings shall occur behind closed doors where this is required in view of safeguarding the state secret or morality, as well as in the hypotheses of Article 123, Paragraph 2, item 2.

(2) The provision of paragraph (1) may also apply where this is necessary for preventing the divulgence of facts pertaining to the intimate life of citizens.

(3) (New, SG No. 109/2008) Witnesses who are children or minors, having become victims of crime, may be interrogated behind closed doors.

(4) (Renumbered from Paragraph 3, SG No. 109/2008) Sentences shall be announced publicly in all cases.

Interrogation of witnesses

Article 280

(1) First, the witnesses called by the prosecution shall be interrogated, and then the other witnesses. Where necessary, the court may change this order.

(2) The questions shall be put to the witnesses in the order established under Article 277, paragraph (3) and (4). The party that has called the witness shall put questions before the other parties.

(3) (Amended, SG No. 32/2010, effective 28.05.2010) Interrogated witnesses shall not be allowed to leave the courtroom before completion of the judicial trial, except by permission of the court, granted after hearing the parties. In cases under Articles 141 and 141a, the witness shall remain at the disposal of the court in suitable premises out of the courtroom.

(4) After giving their testimonies, witnesses who are underage shall be removed from the courtroom, unless the court rules otherwise.

(5) (Amended, SG No. 32/2010, effective 28.05.2010) In the cases under Articles 141 and 141a, the interrogation of the witnesses shall be conducted in a way that does not allow disclosure of their identity.

(6) (New, SG No. 32/2010, effective 28.05.2010, supplemented, SG No. 63/2017, effective 5.11.2017) Any under age witness or witness with specific protection needs who has been interrogated in the course of the criminal proceedings may be interrogated again only where the witness's depositions cannot be read as per the conditions and the procedure laid down in Article 281, or where the new interrogation is crucial to discover the truth. The interrogation shall be conducted after measures have been taken to avoid contact with the defendant, including in specially equipped premises.

Reading out depositions of witnesses

Article 281

(Amended, SG No. 32/2010, effective 28.05.2010)

(1) Depositions of witnesses given in the same case at the pre-trial proceedings before a judge or before another court panel, shall be read out where:

6. (supplemented, SG No. 63/2017, effective 5.11.2017) the witness is under age or has specific protection needs, and the accused party and the latter's defence counsel have attended the witness's interrogation.