

Question 17

The Section 108, Paragraph 5 of the CPL (Provision of Legal Assistance to a Victim) provides that provision of legal assistance to a minor victim and the representative of a minor victim is mandatory in criminal proceedings regarding a criminal offence related to violence committed by a person upon whom the minor victim is materially or otherwise dependent, or regarding a criminal offence against morality or sexual inviolability. In such case payment to the advocate for the provision of State ensured legal assistance and the reimbursable expenses related to the provision thereof shall be covered in accordance with Cabinet regulations governing payment for the provision of State ensured legal assistance.

The Section 151.1 (Special Features of Interrogation of a Specially Protected Victim in Pre-Trial Criminal Proceedings) establishes that interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of persons not related to the particular procedural action. It also determines that the interrogation of such person who has been recognised as a victim of violence committed by a person upon whom the victim is materially or otherwise dependent, from trafficking in human beings or from a criminal offence directed against morality or sexual inviolability of a person shall be conducted by a performer of an investigative action of the same gender. That condition may be waived if the victim himself or his or her representative agrees thereto. If in a criminal offence, which is directed against morality and sexual inviolability of a person, the victim and the person who has the right to defence are of the same gender and if the victim or his or her representative so requests, the interrogation shall be performed by the performer of an investigative action of the opposite gender.

In addition, CPL establishes also special features of an interrogation of a minors. According to Section 152 of the CPL the course of interrogation of a minor shall be recorded in an audio and video recording, if it is in the best interests of the minor and if it is necessary for achieving the objective of criminal proceedings. The course of interrogation of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is dependent financially or otherwise, a victim of human trafficking, or a criminal offence directed against morality or sexual inviolability of the person, shall be recorded in an audio and video recording, except when it is in contradiction with the best interests of the minor or hinders the achievement of the objective of criminal proceedings. The length of an interrogation of a minor without the consent of such minor may not exceed six hours, during a twenty-four-hour term, including an interruption. A minor shall be interrogated by a performer of an investigative action who has special knowledge regarding communication with a minor during criminal proceedings. If the performer of an investigative action has not acquired special knowledge regarding communication with a minor during criminal proceedings or if the performer of an investigative action deems it necessary, the minor shall be interrogated in the presence of a pedagogue or a psychologist. The representative of a minor has the right to participate in interrogation if the minor does not object thereto. The referred to person may ask the person being interrogated questions, with the

permission of the performer of the investigative action. If a psychologist indicates to the person directing the proceedings that the psyche of a person who has not reached 14 years of age or the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is financially or otherwise dependent, a victim of human trafficking or criminal offence against morals or sexual inviolability, may be harmed by repeated direct interrogation, such direct interrogation shall be conducted only with the permission of the investigating judge, but in a court - with a court decision.

According to the Section 153 of the CPL if a psychologist considers that the psyche of a person who has not reached 14 years of age or the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is financially or otherwise dependent, a victim of human trafficking or criminal offence against morals or sexual inviolability, may be harmed by a direct interrogation, it may be performed with the intermediation of technical means and a psychologist. If an investigator or prosecutor does not agree, the direct interrogation shall be performed only with the permission of the investigating judge, and in a court - with a court decision. The person directing the proceedings and another person invited by him or her shall be located in another room where technical means shall ensure that the person to be interrogated and the psychologist may be seen and heard. The person being interrogated shall be located together with the psychologist in a room that is suitable for a conversation with a minor, and in which it has been technically ensured that the questions asked by the person directing the proceedings are heard only by the psychologist. If a person to be interrogated has not reached 14 years of age, a psychologist, complying with the specific conditions, shall explain to the minor the necessity of the operations taking place and the meaning of the information provided by such minor, ascertain personal data, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof. If the person to be interrogated has reached 14 years of age, the person directing the proceedings shall inform a minor, with the intermediation of a psychologist, regarding the essence of the investigative action to be performed, ascertain the personal data of such minor, explain his or her rights and duties, and notify of the liability for the non-execution of the duties thereof, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.

The Section 450, Paragraph 2 of the CPL (Openness of the Trial of a Criminal Case) provides that a criminal case regarding a criminal offence against morality and sexual inviolability and regarding a criminal offence committed by a minor or committed against a minor, as well as a criminal case in which it is necessary to protect the State or adoption secret, shall be adjudicated in a closed court session.

The Section 522 (Support for a Child Victim of Violence) of the Law on the Protection of the Children's Rights provides that in order to provide support to child victims of violence and their non-abusive relatives and also to ensure the possibility to take criminal procedural action, the interinstitutional cooperation programme "Barnahus" is

implemented and it is ensured by the State Inspectorate for Protection of Children's Rights. The Section came into force on 1 June 2023.

The interinstitutional cooperation programme "Barnahus" has the following objectives:

- 1) to ensure in one place intervention measures corresponding to the best interests of a child victim of violence, including the assessment of the child's needs and risks, medical, psychological, and social support for the child and his or her non-abusive relative;
- 2) to ensure the possibility to take criminal procedural action for children who have suffered from criminal offences against morality and sexual inviolability and also from the criminal offences referred to in Section 125, Paragraph 2, Clause 9, Section 126, Paragraph 2, Clause 7, Section 130, Paragraph 3, Clause 6, and Section 174 of the CL;
- 3) to coordinate and ensure that competent authorities exchange information, process the necessary data of a child victim of violence and of other persons related to him or her, including special categories of personal data required to exercise the powers of the competent authorities when leading the case of abuse against a child without repeated gathering of one and the same information from the child (repeated questioning of the child etc.), and also to ensure the retention of the information received and to create statistical analysis.

Barnahus offers a child-friendly, safe environment for children, bringing together all relevant services under one roof:

- forensic interviews are carried out according to an evidence based protocol;
- the evidentiary validity of the child's statement is ensured by appropriate arrangements in line with the principles of due process. The aim is to prevent the child from having to repeat his/her statement during court proceedings if an indictment is made;
- medical evaluation for forensic investigative purposes, as well as to ensure the child's physical well-being and recovery, is made available;
- psychological support and short- and long-term therapeutic services for trauma to the child and non-offending family members and caretakers are made available;
- assessment of the protection needs of the victim and potential siblings in the family is made; and follow up is ensured.

The interinstitutional cooperation programme "Barnahus" has been developed taking into account the Barnahus Quality Standards, an internationally recognised set of underlying principles, specific activities and institutional arrangements that enable child-centred and effective, collaborative actions (<https://www.barnahus.eu/en/the-barnahus-quality-standards/>) with the aim to provide child victims and witnesses of violence rapid access to

justice and care. The Barnahus Quality Standards are globally promoted by the PROMISE Barnahus Network with the headquarters placed at the Secretariat of the Council of Baltic Sea States (<https://www.barnahus.eu/en/>).