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OF CYPRUS

51(I) of 2016.

**THE ESTABLISHMENT OF MINIMUM STANDARDS ON THE
RIGHTS, SUPPORT AND PROTECTION OF VICTIMS
OF CRIME LAW, 2016**
(English translation)

**Office of the Law Commissioner
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However useful the English translation of the Law is in practice, it does not replace the original text of the Law, since only the Greek text of the Law published in the Official Gazette of the Republic of Cyprus is authentic.

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**THE ESTABLISHMENT OF MINIMUM STANDARDS ON THE RIGHTS,
SUPPORT AND PROTECTION OF VICTIMS OF CRIME LAW 2016**

(L. 51(I)/2016)

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Number 51(I) of 2016

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF MINIMUM
STANDARDS IN RELATION TO THE RIGHTS, SUPPORT AND
PROTECTION OF VICTIMS OF CRIME

Preface.
Official Journal
of the EU:L315
14.11.2012,
p.57.

For purposes of harmonisation with the act of the European Community entitled: “Directive 2012/29/EU of the European Parliament and of the Council of 25th October 2012, for the establishment of minimum standards on the rights, support and protection of victims of crime, and for the replacement of the Council Framework Decision 2001/220/JHA”,

The House of Representatives enacts as follows:

Short title.
51(I)/2016.

1. This Law shall be cited as the Establishment of Minimum Standards on the Rights, Support and Protection of Victims of Crime Law, 2016.

PART I
INTERPRETATION AND SCOPE

Interpretation.

2. In this Law, unless the context otherwise requires-

‘audiovisual recording’ means the recording of moving images, with any apparatus, of any objects, facts, organizations and persons, whether these talk or move or not, which may be reproduced and be presented with the use of any technical means;

‘child’ means a natural person under the age of eighteen (18);

‘criminal proceedings’ means the procedure of investigation, filing of charges and trial of the case at Court until the sentencing, for any criminal offence committed against the victim;

‘European citizen’ means a person who has citizenship of a Member-State;

‘family members’ means-

- (a) the spouse of the victim;
- (b) the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis; and
- (c) the relatives in direct line, the siblings and the dependants of the victim;

‘gender based violence’ means violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, including-

- (a) violence in close relationships,
- (b) sexual violence, including rape, sexual assault and sexual harassment,
- (c) trafficking in human beings,
- (d) slavery, and
- (e) different forms of harmful practices, including forced marriages, female genital mutilation and so-called ‘honour crimes’;

‘member-state’ means a member state of the European Union;

‘non-governmental organization’ means a non-profit organization which operates according to its memorandum of incorporation, in the sectors of protection and support of victims of crime, and which is duly registered by virtue of the provisions of the Societies and Institutions Law or by virtue of the Companies Law;

55 of 1972
85(l) of 1977.
Cap. 113
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
41(l) of 1994
15(l) of 1995
21(l) of 1997
82 (l) of 1999
149 (l) of 1999
2(l) of 2000
135(l) of 2000
151(l) of 2000
76(l) of 2001
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167(l) of 2003
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117(l) of 2011
145(l) of 2011
157(l) of 2011
198(l) of 2011
64(l) of 2012
98(l) of 2012
190(l) of 2012
203(l) of 2012
6(l) of 2012
90(l) of 2013
74(l) of 2014
75(l) of 2014
18(l) of 2015
62(l) of 2015
63(l) of 2015
89(l) of 2015
120(l) of 2015.

‘proceedings’ includes, in addition to the criminal proceedings all the contacts made by the victim with every authority, public service or organization for support of victims, in relation to his/her case, before or after the criminal proceedings;

‘prosecution authorities’ means the Attorney-General of the Republic or/and the Police;

‘services involved’ means the Legal Service of the Republic, the Ministry of the Interior, and its relevant competent services, the Police, the Ministry of Foreign Affairs and its relevant competent departments and its diplomatic missions, the Ministry of Labour, Welfare and Social Insurance and its relevant competent services, the Ministry of Health and its relevant competent services and the Ministry of Education and Culture and its relevant competent services;

“victim” means-

- (a) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (b) 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:

Provided that, a person shall be considered to be a victim, regardless of whether an offender is identified, apprehended prosecuted or convicted and regardless of the familial relationship between the said person and the offender;

‘victim of terrorism’ means a person who has suffered attack, whose ultimate purpose was to harm the society;

‘violence in close relationships’ means violence which is committed by a person who is a current or former spouse, or partner or other family member of the victim, whether or not the offender shares or has shared the same household with the victim, and includes physical, sexual, psychological or economic violence and anything which may result in physical, mental or emotional harm or economic loss.

Scope.

3. This Law shall apply in relation to criminal offences committed in the territory of the Republic as well as in relation to criminal proceedings taking place in the Republic and shall afford rights to the victims of criminal offences committed in third countries only in relation to criminal proceedings taking place in the Republic and the rights provided for herein shall be applied without discrimination and independently of the status of his/her stay in the Republic:

Provided that complaints submitted to services involved outside of the Republic, such as embassies, shall not trigger the obligations provided for in this Law.

Obligations of the services involved and of the non-governmental organizations.

4.-(1) Every service involved and/or non-governmental organization, while applying the provisions of this Law shall-

- (a) Recognize and treat the victim with respect, sensitivity, tailored, professional and without discrimination approach, in every contact of the victim with the victim support services or the prosecution or judicial authorities operating within the context of criminal proceedings;
- (b) see that the enjoyment of measures for the protection and advancement of the rights of the victims is ensured, without discrimination of any kind based on

any ground including gender, race, colour, language, disability, religion, political or other beliefs, ethnic or social origin, membership of a national minority, property, birth, or any other status of the victim;

- (c) where the victim is a child, ensure the best interest of the child which is assessed on an individual basis, taking into consideration his/her age, level of maturity views, needs and concerns of the child:

Provided that the child or the holder of parental responsibility or other legal representative of the child, if any, shall be informed about any measures or rights specifically relating to the child;

- (d) ensure that the victims with disabilities are able to benefit fully from the enjoyment of their rights, on an equal basis with others, facilitating, inter alia, the accessibility to premises where criminal proceedings are conducted and their access to information;

- (e) where the victim is a person with disability, which has difficulty or does not have the ability to defend himself/herself, ensure the best interest of such person, which shall be assessed on a individual basis, taking duly into consideration his/her age, his/her disability, his/her difficulties and limitation, his /her views, his/her needs and concerns:

Provided that this person and/or his/her legal representative, if any, shall be informed of any measures or rights specifically relating to this person;

- (f) take particular consideration of the needs of the victims of

terrorism and take all necessary measures to ensure their dignity and security;

(g) ensure that a person who was the victim of gender-based violence is afforded with special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence;

(h) where violence is committed in a close relationship, provide special protection measures for the victim, especially in the case of a woman who is dependent on the offender economically, socially or as regards her right to residence.

PART II

PROVISION OF INFORMATION AND SUPPORT

Victims' right to understand and to be understood.

5.-(1) The Police shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, as well as to understand the information provided by that authority.

(2) The Police shall ensure that communication with the victim is given in simple and understandable language, orally or in writing, taking into account the personal characteristics of the victim, including any disability, which may affect the ability to understand or to be understood:

Provided that the communication, oral or written, is in accessible form for persons with disability, including, where necessary, the Braille form or sign language.

(3) During the first contact with the Police, the victim may be able to be accompanied by a person of his/her choice, where, due to the impact of the criminal offence the victim requires assistance to understand or to be understood, unless this is contrary to the interests of the victim or unless the course of proceedings would be prejudiced:

Provided that, where the victim is a person with disability, he/she may be accompanied by a person of his/her choice throughout the investigation process.

Right to receive information from the first contact with the service involved.

6.-(1) Every service involved, shall provide the victim, from his/her first contact with it, without unnecessary delay and in a language understood by the victim including Braille form or sign language, the following information:

- (a) the type of support the victim can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
- (b) the procedures for making complaints with regard to a criminal offence and the role of the victim in connection with such procedures;
- (c) the manner and the conditions under which the victim can obtain protection, including protection measures;
- (d) the manner and the conditions under which the victim can access compensation;
- (e) the way and the conditions under which the victim is entitled to interpretation and translation services;
- (f) where the victim resides in a Member State other than the Republic where the criminal offence was

committed, and the first contact with the service involved is made in the Republic, any special measures, procedures or arrangements, which are available to protect the victim's interests in the Republic;

- (g) the available procedures for making complaints where the rights of the victim are not respected by the service involved;
- (h) the contact details of the competent officer of the service involved for communication purposes about his/her case; and
- (i) the manner and the conditions under which expenses incurred as a result of his/her participation in the criminal proceedings can be reimbursed.

(2)(a) The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the criminal offence.

(b) Every service involved may provide additional information at a later stage, depending on the needs of the victim and the relevance, at each stage of proceedings, of such information.

(c) Every service involved or non-governmental organization shall provide the information referred to in subsection (1) and in every case it deems or has reasonable grounds to believe that any person may be a victim under the provisions of this Law.

Right of victims when making a complaint.

7.-(1) Upon the filing of a complaint by the victim, the Police shall provide the victim with a written acknowledgement of the formal complaint made by him/her, stating the basic elements

of the criminal offence concerned.

(2) Where the victim wishes to make a complaint with regard to a criminal offence and does not understand or speak the official language of the Republic, he/she shall make the complaint in a language that he/she understands or shall receive the necessary linguistic assistance.

(3) Where the victim does not understand or speak the official language of the Republic, shall receive, if he/she so requests, translation free of charge, of the written acknowledgement of his/her complaint, in a language that he/she understands:

Provided that, where the victim has a visual disability, translation of the document in Braille form shall be provided, free of charge.

Right of victims to receive information about their case.

8.-(1) The Police, without unnecessary delay, shall notify the victim of his/her right to receive, upon request, the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence, suffered by the victim:

- (a) Any reasoned decision not to proceed with or to end an investigation or not to prosecute the offender;
- (b) the time and place of the trial, and the nature of the charges against the offender;
- (c) any final judgment in a trial;
- (d) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification, following a reasoned decision of the Attorney-General of the Republic.

(2) The information provided under paragraphs (a) and (c) of subsection (1) shall include the reasons or a brief summary of the reasons for the decision referred to in the paragraphs concerned.

(3) The Police shall notify the victim, without unnecessary delay for the possibility to request to be informed, at least in cases where there is a danger or an identified risk of harm to him/her, unless there is an identified risk of harm to the offender which would result from the notification of such information about-

(a) the release or escape of a person remanded in custody, prosecuted or sentenced for a criminal offence relating to the victim,

(b) any relevant measures decided for the protection of the victim, in case of release or escape of a person remanded in custody, prosecuted or sentenced for a criminal offence relating to the victim.

Right to
interpretation
and translation.

9.-(1) The Police and/or the Court shall ensure that, upon request, free of charge interpretation, is provided to a victim who does not understand or speak the language of the criminal proceedings, at least during any interviews or questioning of the victim as a witness, during criminal proceedings before investigative and judicial authorities, including during police questioning:

Provided that where the victim is a person with a hearing disability, free of charge interpretation is provided in sign language.

(2) Without prejudice to the rights of the defence and in

accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victim to properly exercise his/her rights or to understand the proceedings.

(3) The Police or/and the Court shall provide, upon request, free of charge translations, to the victim who does not understand or speak the language of the criminal proceedings concerned, where the victim is participating as a witness, of information essential to the exercise of his/her rights in criminal proceedings in a language that he/she understands, to the extent that such information is made available to the victim:

Provided that where the victim is a person with visual disability, this information shall be available in the Braille form.

(4) Information translated under the provisions of subsection (3) shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a brief summary of reasons for such decision.

(5) A victim who is entitled to information about the time and place of the trial in accordance with the provisions of paragraph (b) of subsection (1) of section 8 and who does not understand the language used by the Court or the Police, as the case may be, is provided, upon request, with a translation of the information to which he/she is entitled.

(6) The victim may submit to the Court or the Police, as the case may be, a reasoned request to consider a document as essential:

Provided that, there shall be no right to claim a translation of an extract of essential documents which do not contribute to the active participation of the victims in the criminal proceedings.

(7) Without prejudice to the provisions of subsections (1), (3), and (4) a written translation may be provided instead of an oral translation or oral summary of the essential documents on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

(8)(a) The victim has a right to submit an oral objection to the Court-

(i) for a decision thereof, against a decision to provide determining that the provision of a translation of a document or/and convert a document in Braille form or/and provision of translation or/and the provision of interpretation in sign language, according to this Law,

(ii) that, according to this Law, any provided translation of a document and/or interpretation provided, is insufficient, to ensure the conduct of a fair trial.

(b) The Court shall decide, without unnecessary delay, on any objection submitted under the provisions of paragraph (a) registering in the records of the proceedings, the oral objection and its own decision thereon.

(c) In case the Court decides in favour of the objection submitted under the provisions of paragraph (a), it shall take all necessary measures to provide translation or/and interpretation, as required in accordance to the provisions of

this section.

(9) The interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation pursuant to the provisions of this section, shall not unreasonably prolong the criminal proceedings.

Right to access
victim support
services.

10.-(1) After the complaint of the victim, every service involved or non-governmental organization, where it deems and/or has reasonable grounds to believe that any person may be a victim pursuant to the provisions of this Law, may inform the Social Welfare Services accordingly, who shall ensure for the provision of free and confidential victim support services, in accordance with his/her needs, before, during and for an appropriate time after criminal proceedings, including services provided by non-governmental organizations, who may provide special support.

(2) The following persons shall have access to the services provided for in subsection (1):

(a) The victim, irrespective of the official complaint with regards to the criminal offence and in accordance with his/her needs; and

(b) the family members of the victim, in accordance with their needs and the degree of harm suffered as a result of the criminal offense committed against the victim.

(3) Competent authority for the coordination and supervision of all the services involved in the effective implementation of the provisions of this section, are the Social Welfare Services.

(4) The Social Welfare Services may assign their competences under subsection (1) to a non-governmental organization who is dedicated to the protection and assistance of victims, or/and the authorities of local administration, based on a protocol for cooperation or special agreement between them.

Support from victims support services.

11.-(1) The Social Welfare Services shall ensure that the victim receives-

(a) information, advice and support relevant to the exercise of his/her rights, including, inter alia-

(i) actionable right to compensation against the offender, for criminal offences committed against him/her; and

(ii) his/her role in the criminal proceedings including preparation for participation attendance at the trial as a witness in cooperation with the Mental Health Services and the prosecution authorities,

(b) information about any existing relevant specialist support services in place or from referral thereof,

(c) emotional support and, where needed, psychological support, referral to the Mental Health Services or/and Educational Psychology Service of the Ministry of Education and Culture, where the victim is a student,

(d) networking with other services, such as psychological support services, housing, financial support and medical services.

(2) The Social Welfare Services shall–

- (a) where the victim is a student, in cooperation with the Mental Health Services and the Educational Psychology Service of the Ministry of Education and Culture shall assess with particular attention to the special needs of the victim who suffered considerable damage due to the gravity of the offence, and ensure for the provision of a targeted holistic support, including post-traumatic and consultation support, where he/she is a victim with special needs, such as a victim of sexual exploitation, sexual abuse, gender based violence, or a victim of close relationship violence and/or where the victim is a person with disabilities;
- (b) ensure for the establishment of shelters, pursuant to the provisions of the Regulations made under the provisions of section 25;
- (c) inspect the registration and operation of shelters by virtue of the provisions of the Regulations made under the provisions of section 25.

PART III

PARTICIPATION IN CRIMINAL PROCEEDINGS

Right to be heard.

12.-(1) Every victim may participate as a witness in criminal proceedings and provide evidence in accordance with the criminal procedure rules and the rules of the law on evidence in force in the Republic.

(2) The prosecution authorities, as well as any other service involved, shall take all the appropriate measures to ensure, in

coordination between them, that the victim is examined and questioned only where this is necessary for the purposes of criminal proceedings and in accordance to the criminal procedure rules in force in the Republic.

Right to reimbursement of expenses.

13. The Republic shall afford the victim who cooperates with the prosecution authorities as a witness in criminal proceedings, reimbursement of expenses incurred, as a result of his/her active participation in criminal proceedings.

Right to the return of property.

14. The Court, following delivery of its judgment, may issue an order for the return of recoverable property of the victim, which is seized in the course of criminal proceedings, to him/her, without delay, unless required for the purposes of criminal proceedings.

Right of victims to compensation.

15.-(1) Without prejudice to any other judicial proceedings or damages provided for under the provisions of any other law or regulations, any person who is a victim pursuant to this law, shall have an actionable right to compensation in the course of the civil proceedings against an offender, for any criminal offence committed against him/her, and the offender shall have a respective civil law responsibility to pay special or general compensation to the victim.

(2) In case of the death of the victim, actionable right to compensation shall have the family members of the victim, as these are defined in section 2.

Right of victims resident in another Member State.

16.-(1) Where the victim is a resident of another member state, the prosecution authorities, in order to minimise the difficulties faced, particularly with regard to the organisation of the proceedings shall-

25(III) of 2004
9(III) of 2008.

- (a) take a statement from the victim immediately after the complaint with regard to the criminal offence;
- (b) have recourse to the extent possible to the provisions on video conferencing and telephone conference calls in accordance to the Council Convention based on article 34 of the Treaty of the European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union, and its Protocol (Ratification) Law, for the purpose of hearing victims who are resident abroad.

(2) Where the victim of a criminal offence committed in the Republic is a resident in another member state, he/she may make a complaint to the competent authorities of the member state of residence, provided that he/she is unable to do so in the Republic or, in the event of a felony, if he/she does not wish to do so in the Republic.

(3) Where the victim files a complaint with the prosecution authorities of the Republic about the commission of a criminal offence in another member state, the prosecution authorities of the Republic shall, if the competence to institute the proceedings has not been exercised by them, transmit it without delay to the competent authority of the member state where the criminal offence was committed.

PART IV

PROTECTION OF VICTIMS AND RECOGNITION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS

Right
to protection.

17.-(1) A victim wishing to cooperate with the prosecution authorities, in the context of the criminal proceedings, shall be

considered as a witness in need of protection within the meaning given to it by the Witness Protection Law and, where necessary, shall be placed in the Witness Protection Scheme and Co-operators of Justice.

(2) Subject to the provisions of the Witness Protection Law and without prejudice to the rights of the defence, the Court, in assessing the individual and personal situation of the victim, shall ensure that the victim is afforded special treatment which protects the victim from secondary and repeat victimisation, caused by questions about his/her private life and irrelevant questions, as well as protection from the risks of emotional, sentimental or psychological harm, and to protect the dignity of victim.

(3) The prosecution authorities shall ensure, when it is deemed necessary under the circumstances, the provision of appropriate protection to the victim against possible revenge or retaliation, especially during and after the investigation and prosecution of the offender.

(4) Where the victim is a child, the prosecution authorities shall-

(a) ensure that the investigation or institution of criminal proceedings is not dependent upon the submission of a complaint by the victim or his/her representative, and that the criminal proceedings may be continued even if this person withdraws its deposition;

(b) continue prosecution even after the child becomes an adult.

victim and offender.

necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within the premises of the Court where criminal proceedings are conducted, unless the criminal proceedings require such contact.

Right to protection of victims during criminal investigations.

19. Without prejudice to the rights of the defence, and according to the rules of judicial discretion, the prosecution authorities, shall, during criminal investigation, ensure the following:

- (a) the interview of the victim is conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the Police;
- (b) the number of interviews of the victim is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;
- (c) the victim may be accompanied by his/her legal representative and a person of his/her choice, unless a reasoned decision has been made to the contrary;
- (d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

Right to protection of privacy.

20.-(1) During the criminal proceedings, the prosecution authorities shall take all necessary measures to protect the privacy of the victim, including personal characteristics of the victim taken into account in the individual assessment provided for under section 21, and images of the victim and of his/her family members.

(2) The prosecution authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.

(3) The privacy and identity of the victim shall be protected by any service involved, and the processing of personal data shall always be made in accordance with the provisions of the Processing of Personal Data (Protection of Individuals) Law.

138(I) of 2001
37(I) of 2003
105(I) of 2012.

Individual
assessment
of victim
to identify
specific
protection
needs.

21.-(1) The Police shall proceed with a timely individual assessment of the victim, in order to-

(a) identify his/her specific protection needs; and

(b) decide whether and to what extent the victim may benefit from special measures in the course of criminal proceedings, as provided for under sections 22 and 23 due to his/her particular vulnerability to secondary and repeat victimisation, intimidation and to retaliation.

(2) Depending on the result of the assessment referred to in subsection (1), the Police shall cooperate, where necessary, with the Social Welfare Services, the Mental Health Services and the Health Services for further assessment of the victim's needs, in accordance with the provisions of section 11.

(3) For the individual assessment, the following criteria shall be mostly taken into account:

(a) the personal characteristics of the victim;

(b) the type or nature of the crime; and

(c) the circumstances of the crime.

(4) In the context of the individual assessment, the

prosecution authorities in cooperation with the Social Welfare Services, the Mental Health Services and the Health Services, shall pay particular attention to victims who have suffered considerable harm due to the severity of the crime, to victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics, to victims whose relationship to and dependence on the offender make them particularly vulnerable, especially victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities.

(5) For the purposes of this Law, where the victim is a child, it shall be presumed that the child victim has specific protection needs and in order to determine if and to what extent it would benefit from special measures as provided for under sections 22 and 23, the child victim shall be subject to an individual assessment as provided for in subsection (1).

(6) The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

(7) The individual assessment shall be carried out with the close involvement of the victim and shall take into account his/her wishes including where he/she does not wish to benefit from special measures as provided for under sections 22 and 23.

(8) If the elements that form the basis of the individual assessment have changed significantly, the services involved shall ensure that it is updated throughout the criminal proceedings.

22.-(1) Without prejudice to the rights of the defence, and according to the rules of judicial discretion, the victim with specific protection needs who benefits from special measures identified as a result of an individual assessment in accordance with the provisions of subsection (1) of section 21, may benefit from the measures provided for in subsections 2 and 3 of this section:

Provided that, a special measure envisaged following the individual assessment shall not be made available, if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.

(2) During criminal investigations, the following measures shall be available to a victim who is identified as a victim with specific protection needs, accordance with the provisions of subsection (1) section 21:

- (a) every interview with the victim shall be carried out in premises designed or adapted for that purpose;
- (b) every interview with the victim shall be carried out by or through professionals trained for that purpose;
- (c) every interview with the victim shall be conducted by the same persons unless this is contrary to the good administration of justice; and
- (d) every interview with a victim of sexual violence, gender-based violence or violence in close relationships, shall be conducted by a person of the same sex as the victim,

if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.

(3) During Court proceedings, the following measures shall be available for a victim who is identified as a victim with specific protection needs, in accordance with the provisions of subsection (1) of section 21:

- (a) measures to avoid visual contact between victim and offender including during the giving of evidence, by appropriate means such as the use of communication technology;
- (b) measures to ensure that the victim may participate in the hearing taking place in the courtroom without being present, in particular through the use of appropriate communication technology;
- (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
- (d) measures allowing a hearing to take place without the presence of the public.

23.-(1) Where the victim is a child, in the context of criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in accordance with the provisions of the law on Evidence.

Right to protection of child victims and persons with a serious mental or psychosocial disability during criminal proceedings

Cap.9.
42 of 1978
86 of 1986
54(I) of 1994
94(I) of 1994
32(I) of 2004
108(I) of 2006
122(I) of 2010
170(I) of 2011.

119(I) of 2000
212(I) of 2004
172(I) if 2015.
91(I) of 2014.

(2) Where the provisions of subsection (1) are applied, the conditions and rules provided for in the Protection of Witnesses Law, in the Violence in the Family Law and in the Prevention and Combating of Sexual Abuse and Sexual Exploitation of Children, and Child Pornography Law, shall be applied, and more specifically-

- (a) The Court may order that, where the child victim is a witness, to be cross examined without he/she being present in the courtroom, with the use of appropriate technical apparatus;
- (b) provided it is for the best interest of the child victim or child witness, the Court, as well as the prosecution authorities, in order to protect the privacy, identity and image of the child, shall discourage the publication of information that might lead to his/her identification, and every examination of the child victim shall be audiovisually recorded and such recorded interviews may be used as evidence during criminal proceedings;
- (c) in the context of criminal investigations and criminal proceedings before the Court-
 - (i) where the holders of parental responsibility, in accordance with the Laws of the Republic, are precluded from representing the child as a result of a conflict of interest between them and the child victim, the Director of the Social Welfare Services shall be appointed as the child's representative in order to represent him/her in the context of the proceedings; or
 - (ii) where the child victim is unaccompanied child or

separated from his/her family, the Director of the Social Welfare Services shall be appointed as the child's representative in order to represent him/her in the context of the proceedings; or

(iii) where the child victim is unaccompanied child, the Director of the Social Welfare Services shall be appointed as the child's representative, in cooperation with the Commissioner for the Protection of Children's Rights in order to represent him/her during the exercise of his/her rights in the context of the criminal investigations and proceedings;

(d) where the child has a right to a lawyer, he/she has the right to legal advice and representation, in his/her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility; and

(e) where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Law, be presumed to be a child.

(3) Without prejudice to the rights of the defence of the offender, the prosecution authorities shall ensure that, in the context of criminal proceedings, the interviews with the child victim shall be-

(a) carried out, without unnecessary delay from the moment the facts were reported to the prosecution authorities;

- (b) carried out, where necessary, in premises designed or adapted for this purpose;
 - (c) carried out, where necessary, by a practitioner specially trained for this purpose or with his assistance or with the assistance of a person of the same sex as the child;
 - (d) where possible, carried out, by the same person;
 - (e) carried out only where this is strictly necessary for the purposes of criminal investigations and proceedings and the number of interviews with the child is as limited as possible;
 - (f) the child victim may be accompanied by his/her representative or, as the case may be, by an adult of his/her choice, unless there is a reasoned decision for the contrary in relation to this person.
- (4) The provisions of this section shall also be applied in the case of a victim with serious mental or psychosocial disability.

Training of public officers.

24. The Republic shall provide the necessary recourses to the services involved for both general and specialist training of their officers who are involved in any procedure provided for in this Law, or come into contact with victims or potential victims, with special emphasis on the needs of especially vulnerable victims, in order to increase their awareness of the needs of the victims and to enable them to deal with victims in an impartial, respectful and professional manner.

Regulations.

25. The Council of Ministers may make Regulations for the better implementation of the provisions of this Law.