

The legal regime of victims' rights provided for in Article 58(4) of the Criminal Procedure Code in criminal proceedings in the Republic of Moldova**Tatiana VIZDOAGĂ****Adriana EȘANU**PhD, associate professor, Moldova State University, e-mail: tatianavizdoaga@gmail.comPhD, associate professor, Moldova State University, e-mail: adriana.esanu@yahoo.com**Abstract**

The article examines the legal regime of vulnerable victims in the criminal procedural law of the Republic of Moldova, from the perspective of the evolution of the status of the victim of crime and the strengthening of the procedural guarantees granted to them. The analysis highlights the transition from the traditional concept, in which the victim was perceived primarily as a source of evidence, to the recognition of their importance as a participant in the criminal process, entitled to specific procedural rights. The study focuses on the legal particularities of vulnerable victims, taking into account the nature of the crimes committed, their psychological impact and the increased risks of revictimisation. It analyses the national regulatory framework, the obligations of the competent authorities in the field of victim protection and assistance, and the procedural mechanisms designed to ensure effective access to justice. At the same time, the article highlights the influence of European and international standards on national criminal procedure legislation and the need to harmonise it with current requirements for the protection of vulnerable victims. In conclusion, the importance of strengthening the legal regime applicable to these categories of victims is emphasised in order to ensure a fair and effective criminal trial.

Keywords: victim; criminal proceedings; procedural rights; access to justice; victim protection

Introduction

The concept of victim can be analysed from multiple disciplinary perspectives, such as criminal law, criminal procedure law, criminology, victimology, forensic psychology, forensic medicine and sociology. Each of these fields approaches, defines and interprets the concept of victim according to its object of study and specific purposes, thus contributing to the establishment of the truth and the fair resolution of criminal cases.

Within the criminal law system of the Republic of Moldova, protecting individuals against harmful acts is one of the essential functions of criminalising and punishing antisocial behaviour. The commission of a crime does not only affect the legal order, but also infringes upon fundamental social values such as life, physical and mental integrity, freedom, human dignity and property. In this context, the victim of a crime is the person

directly harmed by the criminal act, and the examination of their legal status becomes highly relevant both in theory and in practice.

Any crime, by its very nature, causes some form of harm, which can be suffered by both natural and legal persons. The rules of criminal procedure, enshrined in Article 58 of the Criminal Procedure Code of the Republic of Moldova, provide the procedural position of the natural or legal person who has suffered damage as a result of the crime, prior to its formal recognition, by means of an order or decision, as an injured party or civil party.

Materials and methods

The study draws on a complex range of normative, doctrinal, and empirical sources to analyse the legal regime governing vulnerable victims in the criminal process of the Republic of Moldova. The materials used include the national regulatory framework, in particular the Code of Criminal Procedure, specialist literature, international legal instruments and European Union directives on the protection of victims.

An essential component of the research is the complementary role of civil society, which supports victims through crisis intervention services, psychological counselling, rehabilitation, and multidisciplinary assistance. This dimension allows for an assessment of the actual effectiveness of legal and social protection measures, providing an integrated perspective on how victims' rights are guaranteed and respected in practice.

Various methods were used to achieve the objectives of the study: normative and comparative analysis to assess the compliance of national legislation with international standards and EU directives; investigation of ECtHR case law to capture the effective application of procedural rights; doctrinal analysis to clarify concepts and substantiate conclusions; logical-legal methods to construct deductive and inductive reasoning; and descriptive methods to identify trends in practice and assess the impact of the measures provided.

By combining these materials and methods, the research provides a comprehensive overview of the legal regime applicable to vulnerable victims, highlighting the role and contributions of the bodies conducting criminal proceedings, other authorities and civil actors involved in victim protection.

Results and discussion

A victim is considered to be any natural or legal person who has suffered moral, physical, or material damage as a result of a crime (Jitariuc and Calendari, 2025). This status derives from the legal relationship under substantive criminal law.

In contemporary criminal law, the concept of the victim is becoming increasingly relevant, as it reflects the human dimension of crime and highlights the concrete consequences of antisocial behaviour for the injured party. While, in the traditional view, criminal law was mainly focused on the offender and the applicable sanctions, legislative and doctrinal developments have led to a gradual reconfiguration of this perspective, emphasising the role of the victim and strengthening their legal status in criminal proceedings.

The victim is considered to be the trigger for the criminal proceedings. As a rule, criminal proceedings are initiated following a complaint lodged by the injured party, informing the competent authorities that a crime has been committed.

Filing a complaint is a way of exercising the right of access to justice, enshrined in both national legislation and international instruments in the field of human rights protection.

Through this complaint, the victim requests the intervention of the state in order to restore the rule of law that has been violated and to protect their legitimate interests.

In this context, the role of the victim is not limited to initiating criminal proceedings, but extends to active participation in the proceedings by providing relevant information, presenting evidence and making requests aimed at contributing to the legal and fair resolution of the case.

Free access to justice is a fundamental right, and the victim of a crime acquires the status of holder of this right from the moment the damage occurs. By reporting the crime to the competent authorities, the victim seeks not only to hold the perpetrator criminally liable, but also to remove or repair the harmful consequences of the crime.

The effective exercise of the right of access to justice requires cooperation between the victim and the state authorities, based on the full and loyal communication of all information relevant to the clarification of the case. The victim has a direct interest in identifying the perpetrator of the crime and establishing the actual circumstances of its commission, as the outcome of the criminal proceedings has direct legal effects on their situation.

In criminal proceedings, the victim of the crime is no longer conceived exclusively as a secondary element of the criminal legal relationship, but is recognised as an indispensable participant, holder of procedural rights of their own, autonomous from those of the state and the accused. The evolution of the concept of victim reflects significant changes in the philosophy of criminal justice, mainly influenced by international human rights law and European criminal policy guidelines focused on the protection of the individual.

In the traditional view, criminal proceedings focused almost exclusively on the relationship between the state and the offender, with the victim essentially reduced to the role of a source of evidence. Today, such an approach is considered incompatible with the requirements of a fair criminal trial, which presupposes respect for human dignity and the guarantee of the legitimate interests of all participants in the proceedings. The rights of the victim are thus integrated into the system of fundamental principles of criminal proceedings, such as legality, equality of arms, adversarial proceedings and effective access to justice.

Recognising and strengthening the rights of victims does not imply restricting the defendant's right to defence. On the contrary, the judicial authorities are obliged to ensure a fair balance between the interests of the victim and those of the accused, avoiding both the marginalisation of the victim and the violation of the presumption of innocence. Maintaining this balance is one of the most sensitive and complex challenges of contemporary criminal proceedings.

Strengthening the legal status of victims involves recognising and effectively guaranteeing their rights, including through the establishment of measures for protection, assistance and respect. The status of victims of crime is inextricably linked to developments in criminal law and human rights standards. In this regard, the recommendations and conventions of the Council of Europe, as well as the legal instruments adopted within other

international organisations and the , constitute essential benchmarks in the development of a coherent and unified regulatory framework for the protection of victims.

The increased mobility of persons within Europe, driven by freedom of movement for work, study or residence, has led to an increase in the number of situations where persons become victims of crime in a country other than their country of origin. In such cases, victims often face specific difficulties, such as not knowing the official language of the country in which they find themselves or lacking information about their rights, particularly their procedural rights. In response, the European Union has promoted the adoption of legislative instruments designed to provide assistance and protection to victims of crime at European level (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 Council Framework Decision 2001/220/JHA; Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings; Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order; Directive 2024/1385/EU of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence, etc.), and Member States have harmonised their national legislation with international standards in this area in order to make criminal proceedings more efficient.

Not all victims of crime are in a similar situation in terms of their degree of vulnerability. Judicial practice and studies in the field (Strulea and Vidaicu, 2012; Renița, Gh., 2022; Vizdoaga, T. 2022) highlight the existence of categories of victims who are at increased risk of revictimisation, intimidation or exclusion from criminal proceedings. These situations require the establishment of a differentiated legal regime, adapted to the nature of the crime, the psychological impact of the act and the social position of the victim.

In this context, international and European law have enshrined the concept of "vulnerable victim", which refers to persons affected by particularly dangerous crimes or complex criminal phenomena, such as human trafficking, torture, sexual violence or domestic violence. The increased protection afforded to these victims is not a privilege, but a necessary measure to guarantee the effective exercise of procedural rights and to prevent retraumatisation and revictimisation.

Criminal procedure legislation (Art. 58(4) of the Criminal Procedure Code of the Republic of Moldova), in conjunction with international instruments ratified by the Republic of Moldova, identifies several categories of victims who benefit from increased protection, including: *victims of particularly serious and exceptionally serious crimes against the person, victims of torture, inhuman or degrading treatment, victims of sexual offences or domestic violence, victims of human trafficking and victims of child trafficking.*

Regardless of their formal recognition as an injured party or civil party, victims have a number of specific procedural rights designed to ensure their effective participation and protection during criminal proceedings. These include:

✓ *The right to be advised by a solicitor throughout the criminal proceedings, like the other parties to the proceedings.* This means that the victim may request the advice of a solicitor both at the pre-trial stage of the criminal proceedings, in order to understand the procedures, rights and obligations arising from their participation in the criminal investigation, to receive up-to-date information on the progress of the case, possibilities for intervention, protective measures, as well as during the trial phase, in order to be supported

during the hearing and participation in other procedural actions, the formulation of requests, etc.

This right not only aligns the victim with the other parties in the proceedings, but also **compensates for the informational and psychological imbalance** caused by the damage suffered as a result of the respective categories of crime.

In practical terms, ongoing consultation with a lawyer ensures **clarity and understanding of the procedures**. Victims will be informed of their right to file complaints, to invoke and propose evidence, to make requests and to request the application of protective measures. Another equally important aspect is **protection against revictimisation**. **In this regard**, the lawyer intervenes in situations where the hearing procedure or court hearings may cause excessive emotional stress or expose the victim to intimidation. In order to mitigate the impact, **support** will be provided **in the exercise of procedural rights**, ensuring that the victim can express their position, objections and requests without pressure from the participants in the proceedings.

The victim thus has **a status equivalent to that of the main parties** to the criminal proceedings. This is a concrete manifestation of the principle of **equality of arms**.

Thus, the right to consult with a lawyer throughout the proceedings is not merely a formality, but an **active measure to protect** the victim, which contributes to **the effective exercise of procedural rights**, reduces the risk of **confusion, loss of information or errors in statements** and, without a doubt, ensures that **the victim's interests are constantly represented and defended** before the criminal investigation authorities and the courts.

✓ *The right to be assisted, under the law, by a lawyer who provides state-guaranteed legal aid.* Legal aid supports the victim in understanding and exercising their rights, as well as in actively and safely participating in the criminal proceedings. The role of the representative lawyer becomes even more crucial in complex cases, such as **human trafficking and child trafficking, sexual offences, torture**, inhuman or degrading treatment, where pressure and intimidation can limit the victim's ability to participate effectively in the proceedings. Ongoing consultation with a lawyer allows the victim to be informed of their procedural rights and obligations, to make requests for special protection or compensation, and to challenge procedural actions that affect their interests.

The Law on State-Guaranteed Legal Aid (Art. 19) includes the following categories of persons entitled to guaranteed assistance victims who have filed a complaint about domestic violence or a sexual offence; children who are victims of crimes, victims of domestic violence and victims of crimes against sexual life, regardless of income.

Qualified legal aid shall be provided regardless of income level, pursuant to Article 20 of the Law, to victims of crimes of torture, inhuman and degrading treatment and victims of human trafficking.

State-guaranteed legal aid is essential to prevent a lack of financial resources from constituting an obstacle to the exercise of the victim's procedural rights.

The victim's lawyer performs multiple functions, in particular legal protection, ongoing consultation, support in obtaining compensation and indirect psychological protection by reducing stress and preventing procedural revictimisation. Therefore, legal aid is not a privilege, but an **indispensable guarantee for the victim's active and effective participation in criminal proceedings**, in accordance with national and international human rights standards, as well as the case law of the ECtHR, which emphasises the obligation of states to ensure victims' effective access to justice and the right to effective

protection (*C.A.S. and C.S. v. Romania*, no. 26692/05, para. 71, 20 March 2012; *M.G.C. v. Romania*, no. 61495/11, para. 54, 15 March 2016). This contributes to achieving a balance between the rights of the victim and the rights of the defendant, while respecting the fundamental principles of criminal proceedings.

✓ *The right to be accompanied by a trusted person, alongside their lawyer, during all investigations, including closed hearings*, in order to ensure psychological protection and effective participation in the criminal proceedings.

Victims of human trafficking and torture suffer severe psychological trauma, which manifests itself in memory disorders, insomnia, agitation, anxiety and other psychosomatic reactions. For this reason, **the presence of a trusted person** at all investigations and closed hearings helps to increase the victim's self-confidence; supports them in maintaining the consistency of their statements; reduces the risk of procedural revictimisation; and prevents intimidation by the defendant or their entourage.

The trusted person does not have the role of legally representing the victim, which remains the prerogative of the lawyer, but rather of providing **emotional and psychological support**.

In the Republic of Moldova, psychological support and crisis assistance for victims of human trafficking, torture and inhuman or degrading treatment are provided, in addition to the public system, by specialised civil society organisations such as **the Centre for Assistance and Protection of Victims and Potential Victims of Human Trafficking; the International Centre for the Protection and Promotion of Women's Rights "La Strada"; the Rehabilitation Centre for Victims of Torture "Memoria"; the Association "Promo-LEX"** and others, which carry out crisis intervention, psychological counselling, rehabilitation and multidisciplinary assistance activities.

✓ *The right to receive a court decision on material compensation for the damage caused by the crime* is one of the fundamental guarantees of their procedural status and reflects the reparatory function of criminal justice. This right is not limited to establishing the guilt of the perpetrator, but directly aims to restore, as far as possible, the situation prior to the commission of the crime or to compensate for the negative consequences suffered by the victim.

Compensation for damage caused by a crime involves the award of material and, where appropriate, moral compensation, proportionate to the seriousness of the offence and its impact on the victim's legitimate rights and interests. By issuing a court decision to this effect, the court officially recognises the existence of the damage and establishes the defendant's legal obligation to repair it, thus enshrining the victim's right to effective reparation.

From a procedural perspective, the victim's right to obtain a decision on compensation for damage is closely linked to effective access to justice and the principle of equality of arms. The victim must have a real opportunity to bring a civil action (Article 61 of the Criminal Procedure Code of the Republic of Moldova) by bringing a civil action in criminal proceedings (Articles 219-226 of the Criminal Procedure Code of the Republic of Moldova) and by exercising the procedural rights recognised by law (Article 62 of the Criminal Procedure Code of the Republic of Moldova), without being required to file a claim in civil proceedings. This approach contributes to the efficiency of judicial proceedings and avoids revictimisation through multiple judicial requests.

At the same time, the award of damages by court decision is of particular importance for vulnerable victims, such as victims of human trafficking, sexual violence or torture, for whom the damage suffered often goes beyond the financial dimension, having profound consequences on their physical and mental health, dignity and personal integrity. In such cases, material compensation is not only a means of financial reparation, but also a form of official recognition of the suffering endured.

✓ *The right to be informed about the support services available (medical assistance, psychological counselling, shelter services, legal assistance) and the general conditions for granting them* is an essential component of their procedural status and an indispensable guarantee for the effective exercise of their rights recognised by law. Accurate, complete and accessible information for the victim is a prerequisite for real and effective protection, especially in the case of persons in a situation of heightened vulnerability.

From the perspective of individual procedural guarantees, the obligation of the prosecution and the court to inform the victim about the support services available reflects one of the purposes of victim-centred criminal proceedings, which goes beyond the exclusively repressive dimension of criminal law. The victim is not just a participant in the proceedings, but a person who may urgently need medical assistance, psychological support, temporary shelter or legal advice in order to cope with the immediate and long-term consequences of the crime.

A specialised legal framework for victim support is established by **Law No. 137 of 29 July 2016 on the rehabilitation of victims of crime**, which supplements the procedural regulations of the CCP of the Republic of Moldova.

Information on medical assistance services aims to protect the physical integrity and health of the victim by ensuring their access to urgent or specialised care. Psychological counselling also plays a fundamental role in preventing long-term trauma, managing post-traumatic stress and avoiding revictimisation, especially in cases of violent crime, exploitation or abuse. Temporary shelter services are essential for victims who are in imminent danger or lack safety, and legal counselling allows victims to understand procedural mechanisms, their rights and how to exercise them in practice.

The obligation to provide information is not limited to a simple formal mention, but involves providing clear and intelligible information on the nature of the services available, the institutions or organisations that provide them, the general conditions of access and any limitations or administrative procedures. This obligation falls mainly on the investigating officer, the prosecutor and the judge, from the moment the victim first contacts the competent authorities, i.e. from the moment the complaint is filed.

In this regard, informing the victim about the support services available is one of the positive obligations of the state under the CoEDO, especially in cases involving inhuman or degrading treatment, domestic violence or human trafficking.

✓ *The right to be heard in the presence of a lawyer, in conditions of dignity and privacy.* Hearing the victim in criminal proceedings is a highly important evidentiary procedure, as their statements are often an essential means of evidence for establishing the truth and holding the perpetrator criminally liable. In cases involving human trafficking or torture, inhuman or degrading treatment, this action takes on increased significance, given the heightened vulnerability of victims and the profound impact of the trauma suffered on their ability to recount the facts coherently.

In this context, the victim's right to be heard in the presence of a lawyer is a fundamental guarantee of respect for their procedural rights and the protection of their legitimate interests. The presence of a lawyer not only serves to provide legal assistance, but also to prevent possible abuse, pressure or inappropriate conduct on the part of the prosecution or other participants in the proceedings. The lawyer contributes to maintaining a balanced procedural framework, ensures compliance with the legal rules on hearings and may intervene when the questions asked of the victim exceed the limits necessary to establish the truth or affect their dignity.

At the same time, the hearing of the victim must be conducted in conditions that ensure full respect for human dignity and privacy. The victim may not be subjected to degrading, humiliating or intimidating treatment, and questions concerning intimate aspects of their life must be strictly necessary for the resolution of the case and formulated in an appropriate manner. Respect for privacy also requires limiting access to persons not directly involved in the case, using appropriate premises for the hearing and, where appropriate, conducting the hearing in closed session.

From the provisions of Article 11(3) of the Criminal Procedure Code of the Republic of Moldova, we note that in criminal cases where there is a risk of prejudice to the private life of the victim or the injured party, particularly in cases of sexual offences, the law imposes express restrictions on the administration of evidence relating to their alleged character or personal history. Thus, the defendant and his or her defence counsel are prohibited from presenting such evidence, except in cases where the court expressly grants permission to do so. Thus, the defendant and his defence counsel are prohibited from presenting such evidence, except in cases where the court expressly grants permission to do so.

In order to obtain such permission, the defendant has the right to submit a request to the presiding judge, asking for authorisation to present evidence relating to the alleged character or personal history of the victim or injured party. The request shall be examined in a closed session, a procedure designed to protect the privacy and dignity of the injured party. During this session, both the defendant and the prosecution shall have the opportunity to present their arguments.

The court will only allow this evidence if it's convinced that it's relevant to the case and that not allowing it could really hurt the defendant's right to a defence, potentially affecting the outcome of the criminal trial. Even under these conditions, the admission of evidence is not unlimited, as the court has the obligation to establish, through the presiding judge, the specific limits within which it may be administered, as well as the framework within which the related questions may be asked.

This regulation reflects the need to strike a fair balance between protecting the privacy and dignity of the victim and guaranteeing the defendant's right to defence, avoiding revictimisation and unjustified exposure of the injured party in criminal proceedings.

Hearing victims, especially minors, is an essential part of criminal proceedings, serving both to gather truthful evidence and to protect the injured party from revictimisation. Minors and traumatised victims are in a particularly vulnerable situation, marked by fear of the aggressor, post-traumatic stress and difficulty in coherently expressing their experiences. In these circumstances, the hearing must be conducted in a setting that ensures respect for the dignity, privacy and psychological safety of the victim, minimising the risk of further harm (Articles 109-110⁽¹⁾ of the Criminal Procedure Code of the Republic of Moldova).

A fundamental element of the hearing under special conditions is the victim's right to be assisted by a lawyer throughout the proceedings. The presence of a lawyer guarantees legal advice, protection of procedural rights and the necessary support for the free expression of experiences suffered. The hearing must be conducted by trained personnel who are familiar with the traumatic mechanisms and psychology of victims, applying techniques adapted to each person's pace and ability to concentrate, so that information is obtained without pressure and in a manner that reduces anxiety and fear.

International models, such as **Barnahus** (Integrated Assistance Service for Child Victims/Witnesses of Crime), demonstrate the effectiveness of an integrated framework for interviewing child victims. In these centres, children are interviewed in a safe, non-judicial environment, with psychological and legal support, and their statements are audio-video recorded for later use in court, without the need for traumatic re-interviews. This model allows for the protection of the victim, improved quality of evidence and effective coordination between authorities and social services.

Specialised centres offer protected interview rooms, equipped to international standards, with staff qualified in psychology, social work and legal support, ensuring the complete protection of victims from their aggressors and reducing the negative impact of legal proceedings. During these hearings, the focus is on respecting the victim's right to privacy, avoiding intrusive questions and applying tactical methods that allow for the coherent and complete expression of experiences.

✓ *The right to be informed, without delay, if the detained, arrested or convicted person is released or escapes from detention, with explanations of the necessary protection measures.* The victim's right to be informed without delay of the release or escape of a detained, remanded or convicted person is an essential guarantee of personal safety and effective protection in criminal proceedings. This right is enshrined in order to prevent the risk of revictimisation and to ensure that the victim is able to take appropriate self-protection measures in situations that may pose an imminent danger.

Promptly informing the victim in such circumstances is a positive obligation of the competent authorities, which stems from the need to protect the fundamental rights of the individual, in particular the right to life, physical and mental integrity, and security. In the absence of such information, the victim may be exposed to increased risks, especially in cases involving serious crimes committed with violence, human trafficking, sexual offences or acts of torture, inhuman or degrading treatment.

At the same time, the right to information is not limited to simply communicating the fact of release or escape, but also involves providing clear and accessible explanations regarding the protection measures available to the victim under the Law on the Protection of Witnesses and Other Participants in Criminal Proceedings. In this regard, the authorities are obliged to inform the victim about the possibility of requesting special protection measures, such as protection orders, restrictions imposed on the perpetrator, supervision of the perpetrator or other mechanisms provided for by national legislation, aimed at reducing the risk of further violations of their rights.

This right is particularly important in the case of vulnerable victims, for whom the release or escape of the perpetrator can have a severe psychological impact, causing fear, anxiety and feelings of insecurity. By providing immediate and comprehensive information, the state fulfils its obligation of increased diligence towards these categories of victims,

contributing to restoring confidence in the justice system and ensuring a climate of real protection.

The moment at which the victim acquires their specific procedural rights is when they file a complaint or report the crime to the competent authority. The authority competent to receive the report is required to officially record this moment by registering the complaint and issuing a written confirmation, which must include the essential elements of the reported crime, the case number, and the date, time and place of the complaint (Article 24 of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012). This formalisation is an important procedural guarantee for the victim, ensuring recognition of their procedural status and the activation of legal protection mechanisms.

The obligation of the competent authorities to register the complaint and confirm its receipt guarantees that the reported crime will be investigated and ensures that the victim has effective access to justice. This guarantee is all the more relevant in the case of victims who are in a country other than their country of origin, as they can be sure that the competent authorities will respond promptly to the complaint, regardless of their nationality or legal status.

Late submission of a complaint cannot constitute grounds for refusal to register it by the competent authorities. Particularly in the case of crimes against human dignity, the victim's reluctance to report the crime to the law enforcement authorities is often due to fear of the perpetrator, psychological vulnerability or lack of information. Therefore, the authorities have an obligation to receive and register the complaint, regardless of when it is made.

However, late reporting may have consequences for the effectiveness of the criminal investigation, in the sense that it makes it more difficult to identify the perpetrators and administer evidence. In this context, the authorities have a duty to inform the victim, throughout the criminal proceedings, about the progress of the case, the procedural steps taken and any other relevant information, so that the victim can effectively participate in the proceedings and fully exercise their procedural rights recognised by law.

In the same vein, the Constitutional Court of the Republic of Moldova found (Decision No. 31 of 29 November 2018 on the exception of unconstitutionality of certain provisions of the Criminal Code and the Code of Criminal Procedure) when examining complaint No. 113g of 9 August 2018, that simply informing the victim of the decisions taken in the case is not sufficient to ensure effective participation in the criminal investigation, because the right to information also implies access to the evidence on which these decisions were based. The absolute prohibition of access to the case file until the completion of the criminal investigation violates this standard and is not proportionate, especially since the state already has alternative mechanisms for protecting confidentiality (including non-disclosure warnings). The Constitutional Court held that the victim's access to the case file may be restricted only in exceptional cases, by reasoned order of the prosecutor, if all of the following conditions are met: (i) the restriction is temporary and reasonable, (ii) it concerns only certain procedural acts, and (iii) there is a real and concrete risk of prejudice to the investigation. The restriction must be proportionate and well-reasoned, and the risk invoked cannot be theoretical.

Conclusions

Victims of crime, especially those of particularly serious crimes such as human trafficking, torture or inhuman or degrading treatment, are in a particularly vulnerable position, both physically and mentally. Their procedural rights – to be informed, protected, heard under special conditions and supported by a lawyer – are essential to ensure effective access to justice, to protect their dignity and privacy, and to achieve the purpose of criminal proceedings, namely to find out the truth and punish the perpetrators.

The victim must be heard with tact, professionalism and respect, using techniques adapted to their psychological vulnerability and the trauma they have suffered, in specially designed environments and with legal and psychological assistance, so that their statements are complete, truthful and do not aggravate the trauma. In addition, victims have the right to be informed in a timely manner about the progress of the proceedings, the necessary protection measures and the possible implications of presenting evidence, including in cases of exceptions concerning their personal history or character.

Respect for procedural rights is not only a formal obligation of the authorities, but also a pillar of a fair, efficient and humane criminal trial, which protects victims and ensures that the purpose of the criminal trial is achieved. It aims to protect individuals, society and the state against crime, as well as to ensure the fair punishment of illegal acts committed by persons with responsibilities in the investigation of crime. Any guilty person must be punished according to their guilt, and no innocent person may be held criminally liable or convicted (Art. 1(2) of the Criminal Procedure Code of the Republic of Moldova).

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