

Research Article

CRIMINAL LAW PROTECTION OF A CHILD BY MEANS OF SLOVAK CRIMINAL LAW AND EUROPEAN UNION LAW

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Summary: 1. Introduction. – 2. Child as a Protected Person Under the Slovak Criminal Code. – 3. Definition of Victim and Damaged. – 4. Child as a Particularly Vulnerable Victim. – 5. Child in the Process of Victimization. – 6. Concluding Remarks.

Keywords: Criminal law, Criminal Code, Criminal offence, Child, Victim, Damaged.

ABSTRACT

Background: *The contribution is focused on current challenges in the criminal protection of children field by means of criminal law in the Slovak Republic and the European Union. The authors define the term, “child,” in the applicable law. They examine in detail the legal regulation of the child’s position as a victim, especially as a particularly vulnerable victim in criminal law. Attention is given to the victimisation process in relation to the specifics of the child. The legal regulation of criminal law in the Slovak Republic, as well as within the European Union, reflects*

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the need for a special approach to the protection of children and youth, and adequate legal instruments are gradually being created and introduced.

Methods: *Legal comparison, content and functional analysis of legal acts, analysis of court decisions, historical analysis, and comparisons were used to process research data.*

Results and Conclusions: *The current criminal law regulation of the status and protection of children and youth in the Slovak Republic requires regulation to effectively respond to new threats and risks, primarily associated with the increase of criminal activity against children in the virtual world. New forms of criminal activity by using computer technology and social networks are constantly increasing. Prevention and education are irreplaceable aspects of the protection of children and youth from crime. It is more effective to have a good prevention system than to deal with the consequences. Based on our research, we recommend introducing a subject focused on the prevention and intervention of crimes of a sexual nature into the education of school-age children. At the same time, we recommend continual building of specialized workplaces within law enforcement bodies in the Slovak Republic.*

1 INTRODUCTION

The provision of Article 41 of the Constitution of the Slovak Republic³, sentence four, places special emphasis on the protection of children and adolescents, guaranteeing and emphasising their special protection. This constitutional principle is specified by the regulations of various legal sectors, in particular, civil and family law, administrative law, labour law, social security law, and, lastly, as it is also intended in this work, by the regulations of the criminal law sector. The state therefore considers it necessary to establish a legal basis for the protection of this vulnerable group of persons, so that their physical or psychological development is not affected in any negative way, guaranteeing children the most suitable conditions for their lives and future.

Crimes against children is a current phenomenon that is increasingly being discussed in public spheres and gaining society's attention. Society must be aware that children and young people are an extremely vulnerable group, with most not even realizing or admitting that they are more vulnerable than adults to become victims of crime. It is necessary to communicate openly with children both at home and at school, and in a manner appropriate to the child's specific age, to warn them of the potential danger of various crimes. Then, they can respond appropriately to potential dangers or critical situations from their beginning to ask for help from parents, friends, teachers at school, or experts. Children are born as defenceless and innocent, easily influenced and learning to distinguish right from wrong or black from white. They learn to live and adopt their own opinions and attitude about life. Each child is unique, holding the potential to make the world a better place, which is why it is often said that children are our future.

2 CHILD AS A PROTECTED PERSON UNDER THE SLOVAK CRIMINAL CODE

Pursuant to S. 127(1) of the Criminal Code⁴, the term 'child' means a person who is under 18 years of age, unless the Criminal Code provides otherwise; this term is part of the special

3 Constitution of the Slovak Republic No 460/1992 'Ústava Slovenskej Republiky' of 1 September 1992 (as amended of 26 January 2023) <<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460>> accessed 24 April 2023.

4 Criminal Code of the Slovak Republic No 300/2005 'Trestný zákon' of 20 May 2005 (as amended of 17 July 2022) <<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/300>> accessed 24 April 2023.

qualification term, 'protected person,' pursuant to S. 139(1a) of the Criminal Code. We speak about a child from the moment it is born, when the foetus begins to independently live as a human being. This also results from S. 146 of the Criminal Code, which discusses the crime of murder of a new born child at the time of its birth. A person ceases to be a child when reaching the age of 18. However, there may be a situation when the child reaches the age of majority earlier than on the day of their 18th birthday. This situation is the marriage of a person who is over 16 years of age, though to conclude such a marriage, the court's permission is needed pursuant to S. 11(1) of the Family Act⁵.

According to the Civil Code⁶, the age of majority acquired in this way is not terminated by the possible dissolution of the marriage, nor by the declaration of marriage as null and void. Thus, we understand a child is a person under the age of 18, and such an understanding of the term 'child' is in accordance with the requirements arising from the Convention of the Council of Europe on the Protection of Children against Sexual Exploitation and Sexual Abuse⁷, as well as with the obligations of the Slovak Republic under Art. 2(a) of Directive 2011/92/EU,⁸ which defines a child as any person under the age of 18. According to that international law, the fact that a child reaches the age of majority before the age of 18 by marriage does not constitute grounds for restricting the scope of the criminal protection of that child in criminal proceedings.⁹ It should be noted that a minor child becomes an adult gradually because they acquire certain rights or responsibilities sooner or later, depending on reaching a certain age, i.e., in proportion to their intellectual and volitional maturity.¹⁰

3 DEFINITION OF VICTIM AND DAMAGED

The first international document defining the concept of *victim* (from Latin *victima*) is the EU Council Framework Decision of 15 March, 2001, on the standing of victims in criminal proceedings (2001/220/JHA)¹¹ that describes the victim as a natural person who has suffered harm, including psychological and physical harm, emotional suffering, or economic loss which was directly caused by an act or omission that violates the law of the Member States.¹¹ At the same time, Article 2 of that Decision required the Member States to provide the appropriate status for the victim in their criminal law systems. Following the Decision, the Council Directive 2004/80/EC was drafted. However, it should be noted that there is still no uniform and generally accepted definition of a victim of crime, resulting in inconsistencies in its definition at both international and national legislation levels.¹²

5 Act of the Slovak Republic No 36/2005 On family 'Zákon o rodine a o zmene a doplnení niektorých zákonov' of 19 January 2005 (as amended of 1 January 2023) <<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/36/20230101>> accessed 24 April 2023.

6 Civil Code of the Slovak Republic No 40/1964 'Občiansky zákonník' of 26 February 1964 (as amended of 1 December 2019) <<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1964/40>> accessed 24 April 2023.

7 Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse (Signed 25 October 2007) [2007] CETS 201.

8 Directive 2011/92/EU of the European Parliament and of the Council 'On combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA' (13 December 2011) [2011] OJ L 335.

9 Jozef Čentéš a kol, *Trestný zákon: Veľký komentár* (2 aktualiz vyd, Eurokódex 2015) 239.

10 Robert Vlček a Zdenka Hrubešová, *Sociálnoprávna ochrana maloletých: Vybrané aspekty* (Epos 2006) 11.

11 Council Framework Decision 2001/220/JHA 'On the standing of victims in criminal proceedings' (15 March 2001) [2001] OJ L 82.

12 Jiří Jelínek, Tomáš Gřivna a kol, *Poškozenej a obět trestného činu z trestněprávního a kriminologického pohledu* (Leges 2012) 109.

Member States' legislation was, to a large extent, inadequate because of the incompleteness and partiality, which opened room for the adoption of the Directive 2012/29/EU of the European Parliament and of the Council, aimed to improve Member States' legislation to protect victims, and to pay particular attention to, protect, and support all victims, including victims of terrorism.¹³

The expression *victim of crime* under the Slovak law was enshrined in the Act No. 274/2017 Coll. on Victims of Crime, which was approved on 12 October, 2017.¹⁴ The adoption of this law significantly improved the status of victims of crime and their access to justice. The Act was enacted on 1 January, 2018, and on that date, the Act No. 215/2006 Coll. on compensation to persons injured by violent crimes was repealed as not being comprehensive.¹⁵ The Act's subject covers three main areas, which include the *definition of the rights of victims of crime*, the scope of assistance, support, or services to which victims are entitled (S. 4 - 9), *compensation of victims of violent crimes* (S. 10 - 22), and *relations between the state and entities that provide assistance to victims* (accreditation, subsidies, register of entities that provide assistance S. 23 - 32).¹⁶ However, the Act on Victims of Crime was initially criticised for using the term 'victim' because its definition does not coincide with the term 'victim' used in the Code of Criminal Procedure. This problem was subsequently solved by the provision of S. 3(6) of the Act on Victims of Crime, which regulates the victim's procedural status in criminal proceedings so that the victim is granted the *status of a whistle-blower, injured party, or witness*, and includes their rights and responsibilities provided for in the Code of Criminal Procedure as related to that status.¹⁷

4 CHILD AS A PARTICULARLY VULNERABLE VICTIM

Pursuant to the provisions of S. 2(1c) of the Act on Victims of Crime, a child is considered to be a *particularly vulnerable victim*. A child, for the purposes of this Act, is a person under the age of 18. If the age of the person is unknown and there is reason to believe that the person is a child, such person shall be considered a child until proven otherwise. Here, we would like to point out a legislative error committed by the Slovak legislator, because they did not link the definition of a particularly vulnerable victim, and thus, a child, to the fulfilment of the conditions or signs of the victim in general, pursuant to S. 2(1b). Therefore, the definition of a 'particularly vulnerable victim' may appear to be self-explanatory without the need for investigation as to whether or not harm was caused to a person who is a particularly vulnerable victim.¹⁸ A more appropriate way to express this definition of a particularly vulnerable victim would be including the word '*victim*' clearly, or referring to the previous provision on the victim within the meaning of S. 2(1b), for example, by formulating '*under the conditions specified in the provision of S. 1(b)*'.

In general, all victims of crime are vulnerable, but some are *particularly vulnerable* to further victimisation by the accused or suspected person. Such persons, in this case, a child, need

13 Jozef Čentěš a kol, *Trestný poriadok: Komentár*, 1 d (CH Beck 2020) 254.

14 Jaroslav Holomek, *Viktimológia* (Aleš Čeněk 2013) 19.

15 Čentěš a kol (n 13) 255.

16 Jozef Záhora, *Zákon o obetiach trestných činov: Komentár* (Wolters Kluwer 2018) 43.

17 Natália Hangáčová, 'Vybrané aspekty postavenia obetí/poškodených v podmienkach Slovenskej republiky' (Ústavnoprávne, zákonné a kriminologické atribúty o obetiach trestných činov: Bratislavské právnické fórum 2018, Bratislava Univezita Komenského, Právnická fakulta, 22-23 februára 2018) 83.

18 Jaroslav Ivor, Peter Polák a Jozef Záhora, *Trestné právo hmotné: Všeobecná časť* (Wolters Kluwer 2016) 116.

special protection and support because there is a risk that they could suffer further harm during the criminal proceedings. By *victim vulnerability*, we mean the victim's condition, as conditioned by the victim's personality traits, health problems, or behaviour. Vulnerability is comprised of either one or more of these traits, expressing a person's vulnerability to being a victim of crime. The issue of the child as a particularly vulnerable victim is regulated, for example, in Directive 2011/92/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography¹⁹, or in Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting victims of trafficking, which mainly concerns adult victims, but also includes measures concerning child trafficking victims.²⁰ It is a generally accepted view that a child involved in criminal proceedings, whether as a victim, witness, or accused person, requires a special need for protection, as provided for in Article 22(4) of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October, 2012, on minimum standards on the rights, support, and protection of victims of crime.²¹

The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child, in Article, 8 obliges Member States to take measures to protect child victims' rights and obligates them to recognise the vulnerability of these victims, adapting procedures to account for the specific needs and rights of children.²² Such special care for child victims is conditioned by the unfinished development of the child's personality, given that the child is not yet experienced or educated enough to effectively exercise all their rights in criminal proceedings while the child experiences enormous stress during the criminal proceedings, which may affect their testimony. There is also a particular emphasis on criminal liability towards the offender who committed the offence against the child.²³

Under S. 5 of the Act on Victims of Crime²⁴, the victim also has *the right to receive professional assistance*. The entities providing such assistance shall provide the victim with general or, in the case of a particularly vulnerable victim, specialised professional assistance. Specialized professional assistance is understood as the provision of classic general professional assistance as it is provided to the victim; this includes the provision and explanation of information provided by a police officer or other entities providing assistance to victims, legal assistance for the exercise of the victim's rights, psychological assistance or counselling assistance relating to the risk and prevention of repeated victimisation. In addition, specialized professional assistance also includes the provision of crisis psychological intervention, evaluation of whether or not there is a threat to life or health, mediation of the social services provided in emergency housing facilities, or mediation of specialized social counselling in the event of an immediate threat to the life or health of a particularly vulnerable victim.

Subsequently, it follows from the provisions of S. 6 of the Act on Victims of Crime that a particularly vulnerable victim must be provided for by the entity providing such assistance,

19 Directive 2011/92/EU (n 8).

20 Directive 2011/36/EU of the European Parliament and of the Council 'On preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA' (5 April 2011) [2011] OJ L 101; Záhora (n 16) 64.

21 Directive 2012/29/EU of the European Parliament and of the Council 'Establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA' (25 October 2012) [2012] OJ L 315.

22 UNGA Res 54/263 'Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography' (16 March 2001) UN Doc A/RES/54/263.

23 Záhora (n 16) 71.

24 Act of the Slovak Republic No 274/2017 On victims of crime 'Zákon o obetiach trestných činov a o zmene a doplnení niektorých zákonov' of 12 October 2017 (as amended of 1 April 2023) <<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2017/274>> accessed 24 April 2023.

on request, without any undue delay and free of charge, while providing assistance for a period of 90 days, even if the criminal complaint has not been filed or regardless of the active participation of such a victim in the criminal proceedings. After a period of 90 days, it is possible to continue providing assistance to a particularly vulnerable victim with regard to their needs or the harm caused by the crime, throughout the criminal proceedings, and for a reasonable period afterwards. Regarding *legal aid* within the meaning of S. 7 of the Act on Victims of Crime, we understand it as providing legal information related to ensuring protection and exercising the rights of the victim, or legal representation of the victim in criminal and civil proceedings. Such assistance is provided by the Legal Aid Centre, the victim assistance entity, and the victim's lawyer. Pursuant to S. 4 of the Act on Victims of Crime, the victim also has the *right to protection against secondary or repeated victimisation*, and within this protection, law enforcement authorities, the court, and entities that provide assistance to the victim must proceed so that their activities do not cause the victim and their family members secondary victimisation and take measures to prevent repeated victimisation. It is necessary to use suitably adapted office rooms or to provide for measures to prevent contact between the offender and the victim. If in criminal proceedings, there is a particularly vulnerable victim who was interrogated as a witness by the victim of the crime, the Code of Criminal Procedure provides in S. 134(4 and 5) 5 rules and methods of questioning.

The interrogation must be carried out with care and content so that it does not have to be repeated by using technical devices designed to record sound and images. The law enforcement authority shall ensure that interrogations in pre-trial proceedings are conducted by the same person, provided that the conduct of the criminal proceedings is not thereby impaired. It is necessary to recruit a psychologist or expert who conducts the interrogation in the correct manner, considering the subject of the interrogation, if there is a risk that the interrogation could adversely affect the physical integrity or mental integrity of the victim, or expose the victim to the risk of secondary victimisation. When a particularly vulnerable victim is heard as a witness in criminal proceedings relating to a criminal offence against human dignity, an offence of trafficking in human beings, or an offence of mistreatment of a close person and a person entrusted, the hearing in pre-trial proceedings shall, generally, be conducted by a person of the same sex, unless there are compelling reasons to the contrary. In accordance with S. 262a of the Code of Criminal Procedure, during the examination of such victim at the main hearing, the President of the Chamber shall examine the victim so there is no visual contact with the defendant which is ensured, in particular, by technical devices intended for the transmission of sound.²⁵

5 CHILD IN THE PROCESS OF VICTIMISATION

Due to their young age, immaturity, increased suggestibility, or their physical fragility, one of the most vulnerable groups at risk of crime, especially violence, is children who are targeted by the content of this rigorous work.

Whether a child becomes a victim of crime in the future, and thus can be considered a child at risk, is conditioned by two factors, biological and educational socialization.

Biological factors include: 1) *Premature child or a child with low birth weight* as these children need more care from their parents, which often leads to depression and anxiety; 2) *Unmanageable temperament of the child* as a child suffering from hyperactivity may evoke a feeling that they intentionally do not control their behaviour and instead provoke

²⁵ Záhora (n 16) 69.

the environment, which can prompt aggression towards the child at home and at school;
3) *Chronic illness or congenital physical or mental defect* as these children are absolutely dependent on the person who provides them with care, therefore, if they become a victim of crime committed by the parent, it is primarily the result of unmanaged care and improper ambitions of the parent.

The educational-socialization factors include improper upbringing, when children are led to obey an adult in every situation; the absence of one of the parents in the family; the child's ignorance, inability to defend and help themselves; the lack of interest from parents or teachers; the inability to confide in another person or entrust the child to the care of another person.²⁶ The gender of the child is also an important factor in certain crimes. Girls are more likely to be victims of sexually-motivated crimes while boys are more often victims of violent crimes. Children often face violence from adults, but also from one another in the form of bullying. Many times, the most serious forms of violence occur in the child's home environment when the child becomes a victim of abuse, torture, or neglect. Child abuse is closely related to socio-economic factors occurring in the child's living environment, and in particular, unemployment, poverty, poor housing or no housing conditions, lack of care, upbringing, or education. All these factors threaten and harm the child's mental and physical development and, in extreme cases, may also cause their death. It should be noted that child abduction offences are also multiplying; the abductor may be one of the parents or a person whose aim is to blackmail the parents to obtain a ransom for the child.²⁷

A home environment that should be a safe place for the child, though the abused child experiences a feeling of helplessness in an environment of fear and suffering, whether physical or psychological, and cannot seek help on their own. It usually takes a long time for the unlawful acts to be discovered. Thus, in the future, resulting from such treatment in childhood, the child victim may become a violent personality who will continue as a perpetrator of domestic violence, thus regaining a sense of superiority or power. The suggestibility or manipulation of children creates suitable conditions for perpetrators of sexually-motivated crimes who can easily coerce children into various sexual practices, often originating from the child's immediate surroundings, and may be a coach, educator, neighbour, etc.

Many perpetrators also influence children through the virtual world when they try to lure children to a physical meeting, exploit them, or force them to expose the body in front of a webcam for the purpose of producing pornography, mostly under threat of blackmail, which is also a criminal offence. In such cases, the risk of becoming a victim of crime increases if the child adds a number of photos and other posts from their private lives to social networks or is active on various online dating sites. In the school environment, children are often victims of bullying, when the perpetrator selects a child that stands out from other children specifically as a victim, and the perpetrator of such bullying has the urge to relieve tension and a sense of inferiority by gaining an advantage over the weaker child by bullying. The child also often becomes a victim of theft crimes in cases of small pocket theft, for example in a bus or school, a robbery crime, when violence against the victim is used and the victim is assaulted, with the intention of stealing, for example, a mobile phone or a bicycle; there are an increasing number of cases when minors assault younger children in this way. Clearly, the most brutal crime where a child can also be a victim is murder, whether by relatives as the culmination of a torture process, for the purpose of depriving the child because it is a burden on the family, or if the child becomes a victim of a sexually-oriented murderer, but there are also cases where the child witnessed a crime and was murdered, as well as the murder of a child out of revenge, hatred, or envy.

26 Luboslava Sejščová, *Deti a mládež ako obeť násilia* (Album 2001) 72.

27 Luboslava Sejščová, *Dieta ako obeť násilia* (Album 2010) 78.

Victimisation is undoubtedly one of the most traumatic experiences that children can go through in their lives. The consequences that victimisation can cause vary, with some consequences occurring immediately after the offence has been committed, and others occur later. The duration of these consequences can be short- or long-term, in the worst cases even lifelong. Physical abuse of a child can cause very serious health damage to a child, and in extreme cases, even death. An older child often deals with such a situation by running away from home, absences from school, early departure from home, or a complete interruption of contact with the family. These are often a sign of a problematic family environment, if the physical traces of abuse have not been detected (injuries, bruises, burns). In order to detect physical abuse, it is necessary to pay attention to unusual injuries for a child's age, such as fractures in infants, and seeking medical help late for a child's injury is also suspicious. The child may be passive, closed, fearful, and may also show signs of aggression, destruction, or violence. Serious consequences of victimisation in adolescents are suicide attempts, depression, self-harm, eating disorders, or sleep disorders.

Children also react differently to psychological abuse, depending on the intensity and duration of the abuse. A certain group of children reacts with tightened behaviour, becoming anxious, fearful, crying easily, and lowering self-confidence, so it can be observed that they give up in advance and are difficult to enforce. However, as with physical abuse, some children show signs of aggression. In both groups, we can identify a problem in communication with people, in interpersonal relationships, these children often begin to lie, skip school, and run away from home. Physical reactions to psychological abuse can manifest in headaches and abdominal pain, eczema, psychosomatic difficulties, or unexplained temperatures.²⁸

When neglecting a child, their mental retardation or emotional deprivation may gradually manifest, physical long-term neglect of the child may cause anaemia, the child may become malnourished, their growth may stop, and in extreme cases, the death of the child may occur. We can state that victimisation in general, including children, manifests itself in the form of various consequences; whether psychological or health-related, it is possible to observe changes in the existing lifestyle in connection with social consequences.

Psychological consequences and their intensity are related to the course of victimisation, the child's personality, and available help. Feelings of anxiety, fear of repetition of victimisation, anger towards the perpetrator, society in general, and the judicial system in general, feelings of sadness, injustice, guilt, feelings of humiliation, and distrust of the environment are common. Children often suffer from sleep disorders, cannot concentrate, constantly return to the traumatic experience (intrusion), or experience the opposite, they do not remember certain details of the crime, they feel nervous, irritable, or easily become scared, proving that stress persists in them. In the extreme case, depression, suicidal tendencies, and post-traumatic stress disorder can also develop, and long-term psychological strain can result in problems in the body through the form of various diseases.²⁹

Health consequences include various types of injuries that the victim suffered directly during the crime, such as wounds, fractures, bruises, or those occurring after the crime was committed due to stress and somatization, such as headaches, stomach problems, and in the case of victims of sexual violence, can be diseases associated with the genitourinary system, not originating from injuries caused during the attack. Serious injuries are those that limit the movement of the victim, for example, if a child is hit by a drunk driver, or in the worst

28 Jiří Dunovský, Zdeněk Dytrych a Zdeněk Matějček, *Týrané, zneužívané a zanedbávané dítě* (Grada 1995) 47.

29 Ludmila Čírtková, Petra Vitoušová a kol, *Pomoc obětem (a svědkům) trestných činů: Příručka pro pomáhající profese* (Grada 2007) 14.

case, if the child loses a limb resulting from this situation; it will have an impact on their family members who must change their lifestyles in order to take care of the victim.

In terms of *financial harm or material damage*, these include damages or loss of the victim's property, and include the costs associated with crime. A child, because of their fragile body structure and naivety, can easily become a victim of larceny, especially in cases of pickpocketing, such as in a bus or school, or robbery, when violence against the victim is used. The person is attacked with the intention to steal, for example, a mobile phone, bicycle, or anything else valuable that the child owns would be stolen, if there were injuries present, this represents for the victim, and in particular, for their relatives, the cost of treatment, treatment with absence from school. The society incurs expenses related to the judiciary, police, and rescue services, expenses for services provided to victims, or possible imprisonment of perpetrators. As a result of these consequences, the quality of life of the victim can be reduced, because simply their presence at the scene of the crime can cause the child to lose feelings of security in any area of their lives. If a child was the victim of violent crimes, this is even more true because they may develop very severe trauma, mental disorders, and syndromes that would greatly affect their future life. Prevention of victimisation is generally understood as a summary of all activities aimed at preventing crime or reducing the occurrence of crimes by eliminating the causes of their occurrence, as well as creating measures that will reduce the scope and severity of crime.³⁰

Prevention of victimisation, i.e., prevention directed precisely at victims of crime, emphasises that, in the future, a person does not become a potential victim of crime. Such prevention shall aim at preparing for the adoption and application of preventive measures through training, where the participants will learn how to react safely and appropriately in certain situations. We distinguish between primary, secondary, and tertiary prevention. The essence of *primary prevention* is to affect the general public (public officials, parents, educators, psychologists, doctors, and even children themselves), who may not experienced crime thus far, in order to suppress crime as much as possible in its early beginning; in the case of children, it is implemented mainly by political parties, churches, health care, cultural institutions, civic associations, schools, or media, which should place an emphasis on making the public more sensitive to children's needs and interests to reduce any danger to this group. With regard to *secondary prevention*, this is based on knowledge of children at-risk, adults, families, and specific situations. In this procedure, certain groups of people who can be expected to become victims of crime, such as children, are selected on purpose, and this prevention can be carried out in the form of lectures at school (sex education) or at home with parents in interviews. Finally, *tertiary prevention* is aimed at those who have already been victims of crime in the past and is carried out through other parties (doctor, pedagogue, psychologist, parent) who prevent repeated violence or minimize violence against the child. Resources such as various crisis centres, counselling centres, or helplines can aid these victims as part of this prevention.³¹

6 CONCLUDING REMARKS

However, it should be noted that preparing a child for a potential encounter with the offender is difficult. Because children tend to distrust strangers, they are more cautious, but paradoxically, children are more often threatened by crime by perpetrators within their

30 Sejšťová (n 27) 170.

31 Tomáš Strémy, 'Obete kriminality a ich prevencia' (Obete kriminality: Medzinárodná konferencia, Paneurópskej vysokej školy v Bratislave, 25 november 2010) 279.

direct surroundings.³² It is extremely important that the child is adequately informed about sexuality or sex life, which will ensure that, in the future, such a child will be able to defend themselves, protect their rights, or seek professional help. A child who does not have any information in this area, or very little, becomes an easier victim of possible sexual abuse as they are unable to recognize the threat. On the other hand, an informed child is able to recognize the attacker's intention and can better respond to possible sexual aggression. Nowadays, on modern computer technologies and internet social networks, many sex offenders interact with the children first through the internet, i.e., in the digital space. They try to lure children to meetings on various social networks and sexually abuse them there, or force children to expose themselves in front of a webcam for the purpose of producing pornography. If such a meeting through an electronic communication service is proposed for a child under the age of 15 for the purpose of sexual abuse, it is a crime that we also classify as sexually-motivated, namely sexual abuse, although the victimisation began with an 'innocent' communication on the internet. In modern day, children are the main victims of *sexting*, *grooming*, and *sexual solicitation*.

By *sexting*, this refers to receiving or exchanging messages with sexually explicit content via a mobile phone, where there are images shared of intimate parts of the body, or video or audio recordings of sexual activities. These are often unsolicited, harassing messages that children cannot effectively defend themselves against and are accepted or even disseminated, either by their own initiative or under peer pressure to fit in.

In the case of *sexual solicitation* and *grooming*, it is the induction of sexual activities via the internet, consisting in inappropriate and unsolicited suggestions or in communication with a sexual undertone addressed to the child by an adult. The aforementioned may also result in a physical meeting of the offender with the child, which is already considered an aggressive form of induction on sexual activities used by sexual predators. Even in such cases, in order to prevent victimisation, the parent should communicate openly with the child about the pitfalls of the virtual world and set certain limits on the use of the internet and social networks. The child should know that they must not accept any requests for friendship from strangers, must not reply to any messages from an unknown person, their profiles on any social network should only be visible to their friends, family, and only people they know, and they should be warned not to, under any circumstance, add or send photographs where they are nude, be it photos from childhood or current photographs.

That said, however, we would like to state that in this rapidly changing area of the digital space, it is necessary to support the lifelong learning of parents, as well as pedagogical and professional staff, workers with children and youth, so that they can subsequently educate and transmit information to children. It is also necessary to financially support digital services and content that help create a more trustworthy, secure, and accountable digital space for children with effective protection against child victimisation. This could include the creation of effective age verification systems on websites or the development of parental control applications to ensure that children are protected from certain digital products, services, and content. A call for an increase in the production of audio-visual programmes is needed to raise awareness aimed at protecting children from harmful digital content and preventing them from engaging in illegal online activities, or to call on all media, and in particular public law, to address the issue of protecting children in the digital space, thereby raising the level of media literacy.

In regard to victim assistance, we can generally state that assistance can be provided on several levels, including *lay aid*, *psychological*, *social*, or *legal* assistance. As we have already mentioned, the vicinity of the victim greatly influences the victim's coping with trauma,

32 Sejščová (n 27) 170.

especially when processing feelings of guilt. The victim must understand and accept any feelings that help them cope with the crisis, and these feelings should not be underestimated, although they may be incomprehensible to an impartial observer. The surroundings should normalize the consequences of victimisation, and the victim should ensure that whatever they are experiencing is a normal reaction to the negative situation they experienced. It is important that the victim feels a sense of security and trusts their loved ones, as it often happens that a person hides inside and limits their social contact as a result of victimisation. The victim should be encouraged as much as possible to express the emotions that have accumulated during the victimisation, whether fear, anger, or sadness, because the ventilation of all these emotions consumes the accumulated negative energy.³³

Victims should be encouraged to engage in activities that are within their abilities to cope, or in activities that they themselves want to perform, because often a victim ceases to believe that their activities are meaningful and that they can continue to influence their fate.

Psychological assistance from experts also plays an indispensable role in helping the child victim. This assistance can take place directly at the scene of the crime and is provided by psychologists, doctors, paramedics, or police when it is necessary to mentally stabilize the victim as soon as possible, postulate the necessary information to the victim, provide intervention in the form of reducing stress, and strengthening their own resources to overcome trauma. The subsequent care of psychologists is also important, consisting in prolonged contact with the victim, if they were assessed as endangered or vulnerable, or if the victim themselves requires such assistance.³⁴

During research, the authors of this paper have further confirmed their opinion that children belong to one of the most vulnerable people groups in our society. A key role in the child's predisposition to become a victim of crime is tied to age, mental maturity, or their physical structure. Also, children do not have sufficiently developed critical thinking skills, are easily influenced, are not aware of the risk of possible danger, or are not adequately informed about it. Therefore, we appeal to the need for prevention and intervention, not only in pedagogical terms at schools or the need for prevention carried out by the helping professions, but we appeal particularly to the parents of minor children to communicate openly with them about the possible pitfalls of the world in the form of various crimes of which they can easily become victims. It is the early experience of the child that shapes his individual development and personality, which will greatly affect the prognosis of the future life of such a person. Especially when we talk about the prevention and intervention of crimes of a sexual nature, we propose the introduction of a compulsory subject of sex education into the educational process. In this subject, there would be time and space for communication with children and young individuals about biological and psychological maturity in the sexual sphere, but also contact between a child and a specialist could contribute to the early detection of sexual offences committed against children.

We are convinced that the processing of this issue has clarified not only the legal terms and legal provisions of substantive criminal law, but also enriched us with theoretical bases in the criminological and psychological field. By analysing this topic, we have managed to capture its meaning and are able to provide answers to questions about a child acting as a victim of a selected crime, as the child or youth is most at risk in our opinion.

33 Čírtková, Vitoušová a kol (n 29) 20.

34 Holomek (n 14) 87.

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