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EXECUTIVE SUMMARY

We live in a time of exponentially increasing technological advancement. Artificial intelligence and high-tech systems are becoming increasingly integrated into people's lives. Scientific achievements offer solutions to more and more problems that were recently considered unsolvable. Just a few decades ago, some of these achievements would have been classified as science fiction, but today they are part of everyday life. We approached the preparation of this report with the curiosity to understand whether this progress is truly part of everyone's life and whether it permeates every sphere of public life. We focused on children with disabilities on one hand, and on how technologies are penetrating the justice system on the other - specifically, how and whether they are being used to overcome the barriers that this selected group of vulnerable children faces in accessing justice when they are victims of violence and crime.

This approach is based on the fact that since 2012, Bulgaria has been a party to the UN Convention on the Rights of Persons with Disabilities (CRPD), which guarantees such access. Implementing this in practice involves the introduction of so-called "procedural accommodations," which should be available to every person with a disability in their interactions with the justice system. These accommodations are owed regardless of the difficulties in creating them or their cost. If something is possible and it can guarantee access to justice, it must be available, actively offered, and usable for people with disabilities. Such accommodations include low-tech and high-tech means of augmentative and alternative communication (AAC). They hold enormous potential to change the situation of children with disabilities who have become victims of violence and crimes: they can aid in prevention, make reporting possible, facilitate investigation, and make justice accessible. But are they being used in the justice system?

To answer these questions, we examined the current legal framework, the state's recent political commitments to children with disabilities who are victims of crimes, as well as the actual situation of this group of children at present in terms of access to justice, including the use of low-tech and high-tech AAC tools in this context. We were also interested in how and whether modern technologies are being used by the justice system to provide the mandatory procedural accommodations for people with disabilities, as required by Article 13 of the CRPD, ensuring their effective access to justice.

The report offers an analysis of the above topics from various perspectives and identifies where the coordination breaks down between different agencies in their work with children with disabilities who have been victims of violence. It provides a basis for improving the interaction and integration of child protection systems in Bulgaria with the criminal justice system and highlights some possibilities for how modern technologies and scientific advancements can be incorporated into the activities of the justice system and the child protection system, so they become an integral part of the work process rather than a disruptive novelty.

In many cases, children with intellectual and/or psychosocial disabilities experience difficulties in communication. Some of these children are classified as "non-verbal" or having severe speech difficulties. However, this does not mean that they cannot express themselves in alternative ways. There are tools available to overcome communication difficulties, collectively known as "Augmentative and Alternative Communication" (AAC). Generally speaking, these tools support or compensate for permanent or temporary speech difficulties in people with severe expressive communication disorders. AAC compensates for functional communicative disorders and allows children to communicate.¹ Some AAC tools rely on modern technologies (high-tech AAC tools), while others do not require technology (low-tech AAC tools).²

We must note that Bulgaria is a country well-developed in terms of technology. Additionally, the potential of assistive technologies for augmentative and alternative communication (AAC) has long been recognized here. There are even political and practical steps aimed at integrating AAC into the lives of children with disabilities. On a theoretical and political level, a connection has even been made between the protection of children from violence and abuse and the use of AAC. This topic has been incorporated into the Action Plan for the implementation of the National Program for the Prevention of Violence and Abuse of Children (2023–2024).³

On a practical level, UNICEF Bulgaria⁴, through its "A Voice for Every Child" programme, and ASSIST – Assistive Technologies Foundation⁵ have made significant contributions to the promotion of AAC in the country, and to improving the access and the actual use of AAC by children with disabilities. As a result of the joint efforts of the two organisations, the catalogue "Assistive Technologies in Augmentative and Alternative Communication: Types and Applications"⁶ was published, which is a valuable reference guide to the technologies available to support communication.

Unlike UNICEF Bulgaria's "A Voice for Every Child" programme, which mostly seeks to improve the access of children with disabilities and special needs to the

¹ For details on the nature, characteristics and types of augmentative and alternative communication, see UNICEF and ASSIST Foundation's *Assistive Technologies for Augmentative and Alternative Communication: Types and Applications*, available at: <https://www.unicef.org/bulgaria/media/14651/file>.

² For types of AAC, see again here: <https://www.unicef.org/bulgaria/media/14651/file>

³ The Action Plan for the implementation of the National Programme for the Prevention of Violence and Abuse of Children 2023-2024 is available at: <https://sacp.government.bg/sites/default/files/2023-02/Plan%20nasilie%20i%20loupotreba%20deca%202023-2024%285%29.pdf>.

⁴ Detailed information about the work of UNICEF Bulgaria in the field of AAC is available at:

<https://www.unicef.org/bulgaria/%D0%BA%D0%B0%D0%BA-%D1%83%D0%BD%D0%B8%D1%86%D0%B5%D1%84-%D0%BF%D0%BE%D0%BC%D0%B0%D0%B3%D0%B0-%D0%BD%D0%B0-%D0%BD%D0%B5%D0%B2%D0%B5%D1%80%D0%B1%D0%B0%D0%BB%D0%BD%D0%B8%D1%82%D0%B5-%D0%B4%D0%B5%D1%86%D0%B0-%D0%B2-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D0%B8%D1%8F-%D0%B4%D0%B0-%D1%81%D0%B5-%D0%B8%D0%B7%D1%80%D0%B0%D0%B7%D1%8F%D0%B2%D0%B0%D1%82-%D0%B8-%D0%B4%D0%B0-%D0%BE%D0%B1%D1%89%D1%83%D0%B2%D0%B0%D1%82>.

⁵ Detailed information about ASSIST – Assistive Technologies Foundation is available at: <https://assistfoundation.eu/about/>.

⁶ The catalogue "Assistive Technologies in Augmentative and Alternative Communication: Types and Applications" is available at: <https://www.unicef.org/bulgaria/media/14651/file>.

education system in Bulgaria, ASSIST – Assistive Technologies Foundation is also actively involved in the issue of violence against children with communication difficulties and strives to look for international experience in the use of AAC for its prevention and investigation. The fifth and latest AAC Conference, organised by the foundation, included a dedicated panel on “The role of AAC in the prevention of violence against people with communication difficulties”.⁷ In October 2023, the foundation published the first communication dashboard for reporting violent incidents on its website.⁸

AAC is more widely known and more commonly used in the education system. In recent years, it has been increasingly recognised as a tool that can significantly improve the access to justice for children and people with communication disabilities in Bulgaria. A positive development in this direction are the measures and activities included in Operational Objective 4 of the Action Plan for the implementation of the National Programme for the Prevention of Violence and Abuse of Children 2023-2024.⁹

Despite all this, children with disabilities still have difficult and limited access to justice and there are very few cases in which this access has been made use of. The Bulgarian justice system is still ill-adapted to children in general and remains inaccessible to children with disabilities.¹⁰ AAC aids are completely unknown in the criminal justice system. As far as the child protection system is concerned, its potential to ensure full participation for child victims with disabilities in criminal proceedings remains unrecognised and unutilised. The cooperation between these two systems also leaves a lot to be desired for the benefit of children with disabilities. Based on the interviews with criminal justice professionals, we can conclude that the role of the child protection system in the criminal justice process is limited to providing social support and being present at the child’s hearing, as well as to collecting data in a type of social report, regardless of its actual title. None of the participants in the process seem to recognise the potential of child protection services to ensure full participation for child victims with disabilities. In the last year, there have been legislative changes that can potentially overturn this situation; however, at the time of writing this report, it is too early to assess their future impact.

The Criminal Procedure Code, which is the only procedural law establishing rules for conducting criminal proceedings, does not use the term “children with disabilities”. Nor does it contain provisions that could prevent any indirect discrimination that can potentially occur when trying to apply the general provisions of the law to children with communication difficulties. This has the practical effect of excluding such children from access to justice if they become

⁷ The agenda and videos of the panel are available at: <https://aac2023.assistfoundation.eu/24-%d0%bd%d0%be%d0%b5%d0%bc%d0%b2%d1%80%d0%b8-2023/>.

⁸ The dashboard for reporting violent incidents is available at: <https://assistfoundation.eu/blog/category/niskotehnologichni-dak/>.

⁹ The Action Plan is available at: <https://sacp.government.bg/sites/default/files/2023-02/Plan%20nasilie%20i%20zloupotreba%20deca%202023-2024%285%29.pdf>.

¹⁰ As affirmed by judges and criminal justice professionals.

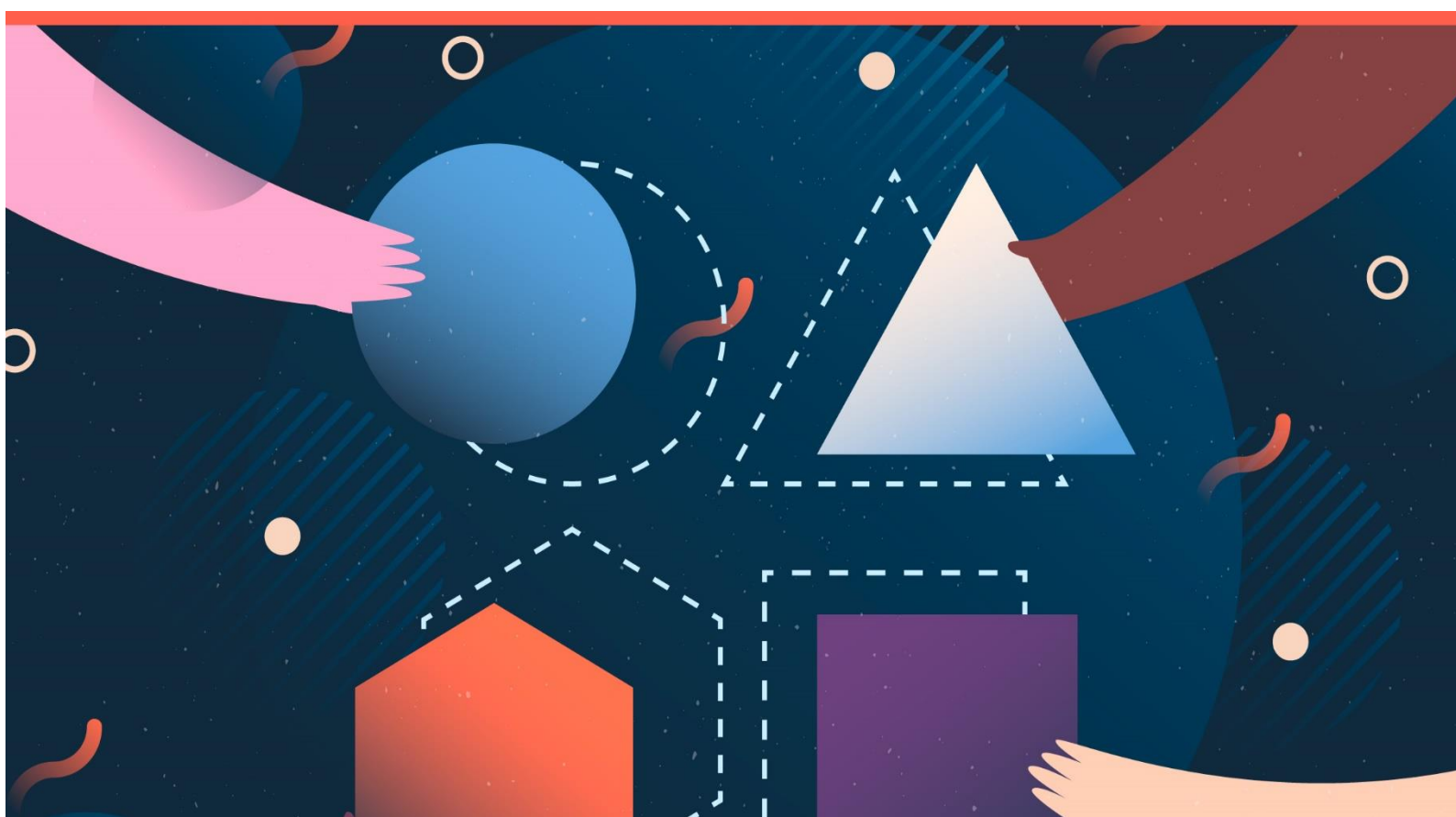
victims of crime. This study has clearly established that the cases of children with severe communication difficulties who have suffered violence or have been victims of crime do not reach the justice system.¹¹

In the course of the study, it was conclusively found that one of the biggest barriers faced by children with disabilities having become victims of crime is their inability to report the incident. There are also other barriers, which will be discussed below.

The study has identified a gap between the capabilities of modern technology, both high-tech and low-tech, to provide children with disabilities with access to justice and various procedural accommodations and the readiness of the justice system to embrace and make full use of those technologies.

Although possible, there are no projects and initiatives to use AI as a means to secure multidisciplinary collaboration and participation of children, including with intellectual and psychosocial disabilities, and users of communication aids (for example, through integration of assistive technologies). While there is a global understanding of the importance of the role of technology in combating inequality and discrimination, the justice system in Bulgaria still does not recognise the potential of AI in this regard.

There is no coordination between the judiciary and organisations that have made progress in the use and integration of modern technology. Even if there are signs of change at the political level, it cannot yet be determined whether this will lead to integration of technology into the justice system, more specifically in cases involving children with disabilities who are victims of crime.



01

INTRODUCTION

We live in very interesting and technologically challenging times. In January 2024, for the first time BCI¹² interface was implanted in a human patient. Shortly after the intervention the patient's neuron spikes were detected, and since then he has used BCI for various activities, such as playing chess online.¹³ The company behind this intervention defines their mission as creating a generalised brain interface to restore autonomy of those with unmet medical needs and unlock their human potential.¹⁴

At the same time, in January 2024, when asked what use the justice system makes of modern technology in relation to child victims with communication disorders, a judge presiding over criminal cases in a district court in Bulgaria said, *"in our practice, all this is just wishful thinking."*¹⁵

Not only is it now possible to use the rapidly developing potential of artificial intelligence and the methods of argumentative and alternative communication (AAC), which are already known worldwide, as well as in Bulgaria, but they are also very promising when it comes to addressing the major gaps in the justice, social and educational systems related to the inclusion of children in public life and their protection from violence.

Modern technology is capable to provide a variety of procedural accommodations for children with communication difficulties and disabilities, to ensure their access to justice. Is the Bulgarian justice system ready to take advantage of those capabilities and allow full use of technology? The number of cases of child victims with disabilities having reached the authorities in charge of criminal proceedings is still very low.

¹² A brain-computer interface (BCI) is a communication link between a human brain and a computer system.

¹³ A video showing the use of the BCI system is available at: <https://www.youtube.com/watch?v=lgCwXARu-lw>.

¹⁴ The company's mission is published on their website at: <https://neuralink.com/#n1>.

¹⁵ Based on an interview with a district court judge

02

**OBJECTIVES AND
METHODOLOGY**

In order to achieve the goals of this study, we focused on the issues of inequality and multiple discrimination on different grounds such as age, gender and disability, the difficulties and barriers associated with child participation in criminal proceedings, the shortcomings in the organisation and activities for child protection, and the issues of interinstitutional coordination and cooperation. There is no doubt that compared to all other groups of children and adults, these problems most frequently and to a much higher degree affect children with intellectual and/or psychosocial disabilities.

We made consistent efforts to reach AAC users aged between 12 and 17 who are victims of crime, i.e. the project target group. We sent a total of 46 interview invitations: 10 to courts, 8 to prosecutor's offices, 10 to regional directorates of the Ministry of the Interior (Moi), 8 to Child Protection Departments, 1 to the Director-General of the General Directorate for Control of Children's Rights at the State Agency for Child Protection, 5 to supporting organisations, 2 to lawyers; and we also filed requests under the Access to Public Information Act to the State Agency for Child Protection and the Ministry of Justice. In addition to clarifying the subject of study of the project, in each letter we asked for assistance and information as to whether any relevant professionals have dealt with cases of children with disabilities aged 12 to 17 who are victims of crime. The reason given for the interviews that were categorically declined was precisely the lack of experience with the project target group.

We spoke to representatives of two of the 10 Bulgarian courts that we had contacted for an interview; 4 did not respond and one wrote to us saying, *"Cases involving juvenile victims are distributed among all judges; therefore, as far as child victims of crime are concerned, there are no specific distinctions between the work of the criminal division of the district court and that of other courts."* Another court directly declined the interview explaining that, *"No judge is willing to be interviewed, which is a reasonable position considering that judges have no practical experience in handling cases involving this category of victims."* The Deputy of Administrative Affairs of one court – the largest district court in the country – responded by saying that they did not have much information to provide, as their Criminal Division was not aware of any such cases, *"and even if there are any, they cannot be tracked in the system."*

We spoke to a representative of one of the 8 prosecutor's offices that we had contacted for an interview; 4 did not respond, and one turned down the interview once we had clarified the group of victims the project was concerned with. In a telephone conversation, the prosecutor at this particular office said that there were no such cases and no relevant information to provide. A representative of one of the contacted prosecutor's offices informed us as follows, *"Following a check in the Unified Information System of the Prosecutor's Office of the Republic of Bulgaria and a canvass of the prosecutors having handled and supervised investigations involving juvenile victims in the past two years, it was found that none of the pre-trial proceedings falling into the category at issue that were supervised by the prosecutors at the [...] District Prosecutor's Office involved cases of juvenile victims who are children with disabilities. In view of the above, we would not be able to assist with any practical*

experience relevant to the interview questions you asked.” Another prosecutor’s office declined the interview because, “we are unable to find participants.”¹⁶

We spoke to representatives of three of the 10 regional directorates of the Ministry of the Interior that we had contacted for an interview. With two others we ran focus groups including three participants per directorate. Six directorates did not respond at all, and one informed us over the phone that they did not wish to take part in an interview.

Seven of the 8 Child Protection Departments of the Directorates for Social Assistance (DSA) that we had contacted for an interview did not respond. We interviewed only one representative of one department.

In response to our invitation to the Director-General of the General Directorate for Control of Children’s Rights at the State Agency for Child Protection, we received a request from the Agency’s Press Office representative asking us to submit the interview questions in writing in order to receive a written response. We sent the questions in the required format on 11 January 2024, but no response followed. We therefore sent a reminder that we were expecting one on 22 February but have not received any response since then.

Two of the 5 supporting organisations that we had contacted nominated representatives, whom we interviewed. We had a meeting with UNICEF Bulgaria, where we introduced the project and its target group. We received detailed information both during the meeting and after it, via email. We were given a list of resources, more specifically UNICEF’s published materials on the topic.

None of the organisations were aware of specific cases of children with disabilities who had been victims of crime and had gone through the criminal justice system. One organisation undertook to share details about the project, help us identify specific cases, and inform its entire network of volunteers, but we never received any concrete information.

The representatives of one of the organisations that we had contacted for an interview refused to take part.

We did find a case involving a child with disabilities who had been trafficked under another project implemented by Kera Foundation, and we interviewed the child. However, during the preparation of this report, it was not possible to redo the interview in order to avoid re-traumatisation, nor was it possible to obtain informed consent from the child to use the interview, as such had been refused. Nevertheless, the findings of the study for which the interview was taken have been taken into account in the preparation of this report.¹⁷

We filed requests under the Access to Public Information Act to the State Agency for Child Protection and the Ministry of Justice. We sent the following questions to the Chairperson of the State Agency for Child Protection: what is the relative share of the

¹⁶ All quotes are taken from letters received from the respective court or prosecutor’s office.

¹⁷ The project referred to here is “Dis-connected: Disability-based connected facilities and programmes for prevention of violence against women and children in Bulgaria”. Information about the project is available at: <https://www.kerafoundation.com/disconnected/>.

child population in Bulgaria; what is the number and the share of children with disabilities; what is the number and the share of children with intellectual and psychosocial disabilities; what is the number and the share of children with speech disabilities or loss of speech; what is the number and the share of children with disabilities using AAC aids; what is the total of child victims of crime or violence and how many of them are with disabilities, specifying that we were looking for data valid as of 31 December 2023; how many times has the Coordination Mechanism for cooperation on cases of children who are victims or are at risk of violence and for cooperation during crisis intervention been activated in the last five years¹⁸; as well as how many of the cases when the Mechanism was activated involved children with disabilities; how many of these cases involved children with disabilities who had been victims of crime and how many of them involved initiation of criminal proceedings against the perpetrator; how many cases ended with a verdict of guilty.

In response to our request, the Chairperson of the State Agency for Child Protection informed us that the Agency only keeps records on the number of activations of the Coordination Mechanism in cases of violence¹⁹, but not on whether those involve children with disabilities, whether criminal proceedings against the perpetrator have been initiated or whether they have ended with a verdict of guilty.

Since the State Agency for Child Protection does not keep records on the share of the child population, this part of our request was referred for response to the National Statistical Institute.²⁰

Since the State Agency for Child Protection does not keep records on the share of children with disabilities, the share of children with intellectual and psychosocial disabilities and the share of children with speech disabilities or loss of speech, this part of our request was referred for response to the Ministry of Health. The Ministry responded that they did not have the requested information and referred the request to the competent authority, the National Expert Medical Commission.²¹

The State Agency for Child Protection does not keep records on the share of children using AAC and is not aware where such records are kept. This question remained unanswered, as we did not receive a response from either the Ministry of Health or the National Expert Medical Commission.

Since the State Agency for Child Protection does not keep records on the total of child victims of crime or violence and the number of such children with disabilities, this part of our request was referred for response to the Ministry of the Interior. The Ministry responded as follows, *“Upon verification, it was found that the automated information systems administered by the structures of the Ministry of the Interior do not collect specific data on children with disabilities who have been victims of crime.”* Therefore,

¹⁸ For information about the aims and functions of the Coordination Mechanism see section 3.1.2 of the report.

¹⁹ The information provided by this institution under this procedure has been used and quoted in the report.

²⁰ The information provided by this institution under this procedure has been used and quoted in the report.

²¹ The information provided by this institution under this procedure has been used and quoted in the report.

the statistical data provided by the Ministry are based on crimes against children under the Criminal Code.²²

We contacted the Ministry of Justice with the following questions: what e-justice systems are in place and what is their current stage of implementation and operation; what technology is used by criminal justice professionals, Child Protection Departments/professionals and court clerks to share information about the progression of cases in the criminal justice system; what technology and systems are in use in the criminal justice system to inform citizens or to assist them in filing appeals with courts or in obtaining information on their cases, rights and proceedings; are there projects to use artificial intelligence in the civil and criminal justice systems that will improve victims' access to justice; technical accessibility for persons with disabilities: what solutions are in place to improve the accessibility of the systems for users with disabilities; what solutions are in place for users with disabilities; are e-justice systems accessible for AAC users and is the information provided via the digital system suitable for children to understand their rights, cases and the nature of proceedings; have magistrates and judicial clerks been trained to use e-justice systems.

The response from the Ministry of Justice said that they did not have the requested information and would refer the request to the competent authority, the Supreme Judicial Council (SJC). The SJC provided detailed responses to the questions about the e-justice systems, their stage of implementation, the way system users can make inquiries and perform procedural actions on cases, as well as the training delivery to judges and judicial clerks to use those systems.²³ No answers were given to our questions about technology for sharing information with child protection professionals, the existence of projects to use artificial intelligence that will improve victims' access to justice, the accessibility of e-justice systems for persons with disabilities and for children, including children with disabilities and child users of AAC. As regards the questions of whether e-justice systems are accessible to AAC users and whether the information provided via the digital system is suitable for children to understand their rights, cases and the nature of proceedings, the SJC does not consider that they constitute public information that is generated and kept by the Council.²⁴

In the fieldwork part of our study, we spoke to law administration practitioners, including judges, prosecutors, investigating police officers and investigators, as well as to system administrators, representatives of the child protection system and adult survivors of violence against children. We conducted a total of 17 interviews, two focus groups²⁵ and a number of additional talks and consultations with stakeholders to complement and deepen our understanding of the subject.

²² The information provided by this institution under this procedure has been used and quoted in the report.

²³ The information provided by this institution under this procedure has been used and quoted in the report.

²⁴ The response of the Secretary General of the SJC on those issues was as follows, *"The issue of the access of children to and their participation in proceedings does not constitute public information that is generated and kept by the SJC. The questions asked are such that concern the application and interpretation of regulatory acts, and the answer to each is therefore to be found in the relevant texts of those regulatory acts and in the applicable case law, whereas any law enforcement body or legal practitioner may deliver an opinion on their application and enforcement."*

²⁵ There were 3 participants in each of the two focus groups. Each group consisted of a police inspector, a pedagogue from the Juvenile Delinquency Unit and a psychologist from regional police directorates in 2 Bulgarian cities.

The participants in the study in Bulgaria were: children with intellectual and psychosocial disabilities (N=2: females); criminal justice professionals (N=11: 4 males and 7 females); professionals from the social services system and supporting organisations (N=4: females). The interviews and the focus group sessions were held between November 2023 and February 2024. The data were analysed using content analysis. A combination of the key findings from the study and the fieldwork is presented in chapters three, four and five.

When reviewing the available information on the subject, we studied relevant statistical data provided by the institutions under the above-mentioned terms in accordance with the Access to Public Information Act, the current legislation, legislative proposals, programmes and policies officially published by the responsible institutions. We also reviewed criminal case law.

Unfortunately, in the local context, it is very rare, if not impossible, that children from the project target group who use AAC have access to justice. The project methodology originally included a study of experiences of children from this group who had witnessed crime, considering the strong impact crime can have on child witnesses and the fact that victims often act as witnesses in criminal proceedings. No children with disabilities having witnessed crime were identified. It should be noted that there are numerous prejudices concerning those children, and they are rarely, if ever, questioned as witnesses. To ensure the validity of the study, we did a review of case law relating to the access to justice of adults with disabilities and children without disabilities in order to explore the possibility of applying the experience found in those cases to the target group.

03

**LEGISLATIVE AND
POLICY FRAMEWORK
FOR SUPPORT,
ACCESSIBILITY, AND
MULTIDISCIPLINARY
COOPERATION**

01 International framework for children with disabilities victims of crime in criminal proceedings

The UN Convention on the Rights of the Child (CRC)²⁶ is a fundamental international instrument that regulates the basic principles and standards States should abide to when drafting laws and developing policies and practices affecting children.²⁷ The CRC does apply in Bulgaria and is often used as a justification of various activities related to the protection of children's rights. The progress made by States Parties in respecting the children's rights is monitored by the Committee on the Rights of the Child.

On 15 March 2024, the Committee published its Concluding observations on the combined sixth and seventh periodic reports of Bulgaria²⁸. In the “General measures of implementation (arts. 4, 42 and 44 (6) of the Convention)” section of the Concluding observations, the Committee indicated that it remained “*deeply concerned about the lack of progress*” in the adoption of the National Strategy for the Child 2024–2030²⁹, highlighted the need to improve the collection, quality and analysis of data on violence against children, child justice and the situation of children in disadvantaged situations, including children with disabilities.³⁰ The Committee recommended that Bulgaria should ensure that all children have access to appropriate complaint mechanisms, as well as adequate information and legal support.³¹ The Committee noted the persistent discrimination against children with disabilities and urged Bulgaria to implement targeted policies and programmes to eliminate discrimination. The Committee is of the opinion that discriminatory stereotypes exist with regard to children with disabilities. It pointed out that it is important for them to be accepted as full subjects, rights holders.³² It recommended that Bulgaria should ensure that the principle of the best interests of the child is consistently applied in all policies, programmes and legislative, administrative and judicial proceedings affecting children, including in relation to child justice. It requested to strengthen the capacity of all relevant professionals involved with children, including through systematic training, to assess and determine the best interests of the child as a primary consideration.³³ Noting that children’s views are not

²⁶The UN Convention on the Rights of the Child was ratified by a decision of the Grand National Assembly on 11.04.1991, in force as of 3.07.1991. The text of the Convention in Bulgarian is available at <https://mlsp.government.bg/uploads/35/sv/kpd-1-3.pdf>.

²⁷ The Convention is complemented by three Optional Protocols that provide even more detailed protection for children from various forms of violence. The third Optional Protocol regulates a complaints procedure, explicitly protecting children's right to seek legal protection to redress their violated rights. It has been in force since 14. 04.2014, but **has not been ratified** by the Republic of Bulgaria. The other two Protocols are: the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ratified by law, passed by the 39th National Assembly on 31.10.2001; the Optional Protocol on the Involvement of Children in Armed Conflict, ratified by law, passed by the 39th National Assembly on 31.10.2001. Additional information on the Convention, presented in accessible, non-legal language, can be found in the Compass training manual: <https://www.coe.int/bg/web/compass/children>. There is also a child-friendly version, prepared by UNICEF and distributed by a number of NGOs and state authorities, such as the State Agency for Child Protection, available at:

<https://sacp.government.bg/sites/default/files/basicpage/dazd-file-451.pdf>

²⁸ The Concluding observations were adopted by the Committee at its ninety-fifth session (15 January–2 February 2024), published on 15 March 2024 and may be accessed in English at the following link: <https://www.ohchr.org/en/documents/concluding-observations/crcbgrco6-7-concluding-observations-combined-sixth-and-seventh>

²⁹ These findings and recommendations are included in §7 of the Concluding observations.

³⁰ These recommendations are set out in § 10 of the Concluding observations.

³¹ These recommendations are set out in § 11 of the Concluding observations.

³² These recommendations are set out in § 17 of the Concluding observations.

³³ These recommendations are set out in § 18 of the Concluding observations.

systematically taken into account in decisions affecting them, the Committee recommends that Bulgarian authorities promote the meaningful and empowered participation of all children, including children below 10 years of age, and children with disabilities; ensure the right of all children to express their views and to have them taken into account in all decisions affecting them, including in courts and relevant administrative and judicial proceedings; develop procedures and guidelines for relevant professionals on ensuring that proceedings are child-friendly and that due weight is given to the views of children, and ensure that they receive appropriate training on the right of the child to be heard; ensure that information on child-related laws and policies is available in a child-friendly language.³⁴ The Committee urges the law enforcement authorities to promptly and effectively investigate and intervene in all cases of violence against children, including domestic violence and the sexual abuse and exploitation of children in and outside the home, in the digital environment, and in educational and alternative care settings, and to ensure that perpetrators are brought to justice; to ensure that all children who are victims or witnesses of violence have prompt access to child-sensitive, multisectoral and comprehensive interventions, services and support, including forensic interviews, medical evaluation, counselling and psychosocial support, with the aim of preventing secondary victimisation of those children; establish as standard procedure the audiovisual recording of child victim statements made in child-friendly premises during the investigation phase.³⁵ The Committee recommends that Bulgaria continue its efforts to adopt a human rights-based approach to disability; conduct awareness-raising campaigns to combat the stigmatization of children with disabilities and to promote a positive image of them as rights holders; set up a unified, multi-institutional system for collecting data on the number of children with disabilities, the type of disability and their specific needs to develop effective policies with the aim of ensuring access to the appropriate services.³⁶

Bulgaria is also a party to the UN Convention on the Rights of Persons with Disabilities (CRPD) since 2012.³⁷ The Convention is intended to lay the foundations for an understanding of the fundamental rights of persons with disabilities that takes into account the specific barriers this group of people face. The Convention rejects the previously dominant medical model of understanding disability and lays the foundation of a rights-based model. Equality, accessibility, community-based living, full access to rights are the key principles. The Convention pays special attention to children with disabilities³⁸ by obliging State Parties to take all necessary measures to ensure the full enjoyment by children with disabilities of all their rights and freedoms, without exception. The primary consideration in all actions concerning children with disabilities should be the protection of their interests. States Parties should ensure that children

34 These recommendations are set out in § 20 of the Concluding observations.

35 These recommendations are set out in § 26 of the Concluding observations.

36 These recommendations are set out in § 32 of the Concluding observations.

37 The Convention was adopted on 13.12.2006 by the United Nations and entered into force on 03.05.2008. Ratified by law on 26.01.2012 and in force for the Republic of Bulgaria since 21.04.2012. The text in Bulgarian is available at:

<https://www.mlsp.government.bg/uploads/38/khu/normativni-dokumenti/-1643283708.pdf> An easy-to-read format in Bulgarian was not found in the search performed (on 27.01.2024).

³⁸ see Article 7 of the Convention on the Rights of Persons with Disabilities.

with disabilities have the right to express their views freely on all matters affecting them. Furthermore, children shall be provided with disability- and age-appropriate assistance to realise that right.

In order to ensure accessibility in all aspects of life, the Convention³⁹ pays special attention to the obligation of States Parties to take appropriate measures, which include the identification and elimination of obstacles and barriers to accessibility for persons with disabilities. Promoting access for persons with disabilities to new information and communication technologies and systems, including the Internet, has been specifically identified as such a measure.⁴⁰

The Convention contains a specific provision on access to justice, requiring the access to be effective through the provision of procedural and age-appropriate accommodations, in order to facilitate persons with disabilities as direct and indirect participants in all legal proceedings.⁴¹ In addition, the Convention refers to the right to freedom of expression and the freedom of access to information, and among the measures to be taken by States Parties are: providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost⁴²; accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions.⁴³

In the analysis of the international standards in force for Bulgaria and relevant for understanding the problems of access to justice for children with disabilities is also the Convention on the Elimination of All Forms of Discrimination against Women.⁴⁴ In the context of this report, the Convention is of significant importance in terms of protection from domestic violence. Also relevant is the General recommendation adopted by the Committee on the Elimination of Discrimination against Women No. 19: Violence against women⁴⁵, which calls for improved legislation as well as provision of support services for women who are victims of violence and for collection of reliable statistics.⁴⁶

Bulgaria is also a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁴⁷ In the context of the topic under study, it should be borne in mind that the deprivation of child victims of crime from access to justice,

³⁹ see Article 9 of the CRPD

⁴⁰ see Article 9(2)(g) of the CRPD

⁴¹ see Article 13 of the CRPD

⁴² see Article 21(a) of the CRPD

⁴³ see Article 21(b) of the CRPD

⁴⁴ The Convention was adopted by the United Nations on 18 December 1979, ratified in Bulgaria by Decree No. 1944 of 18 September 1981, and entered into force for Bulgaria on 10 March 1982. Available in Bulgarian here:

<https://www.mlsp.government.bg/uploads/41/ravni-vzmozhnosti/dv02-03-2010.pdf>

⁴⁵ Recommendations 1 to 25, including the cited one, are available in Bulgarian here:

<https://www.mlsp.government.bg/uploads/1/konventsii-i-protokoli-na-oon/genrec-cedaw.pdf>

⁴⁶ In a number of its recommendations, the Committee recommends that States Parties take special measures for women and girls with disabilities, such as ensuring that older women have access to health services that address the problems and disabilities associated with ageing, that health services meet the needs of women with disabilities and respect their human rights and dignity. The Committee also recommends a number of measures in the area of health.

⁴⁷ The Convention was ratified by a law passed by the National Assembly on 31.07.1992, in force for the Republic of Bulgaria since 7.09.1992. Available in Bulgarian here: https://www.echr.coe.int/documents/d/echr/convention_bul

due to the lack of an adapted and accessible judicial system (as a combination of physical and legal accessibility), as well as the lack of procedural accommodations, constitutes not only a violation of the right to access to justice, guaranteed by Article 6 of the ECHR, but also of a number of other fundamental human rights.

Also of relevance is Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA⁴⁸, which aims to establish minimum rules on the definition of offences and penalties in the field of sexual abuse and sexual exploitation of children, child pornography and contacting children for sexual purposes. In addition, it introduces provisions to strengthen the prevention of these offences and the protection of their victims.⁴⁹ With regard to the implementation of this Directive in Bulgarian legislation, the European Commission (EC) has initiated an infringement procedure against Bulgaria for partial incorrect implementation of its requirements.⁵⁰

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 2001/220/JHA is also applicable.⁵¹ The Directive aims to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.⁵² The Directive requires Member States to ensure that, in its application where the victim is a child, the best interests of the child are a primary consideration and are assessed on an individual basis. A child-sensitive approach shall be adopted which is duly adapted to the child's age, maturity, views, needs and concerns. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.⁵³

The history of transposition of the requirements of this directive into our national legislation is long and accompanied by serious expert and political debate. Bulgaria had to transpose its requirements by 16 November 2015, but this was not done. This led to infringement proceedings against our country, which in turn led to some legislative efforts, but not to the full transposition of the directive.⁵⁴ On 16 November 2023, the European Commission notified Bulgaria that it would bring an action before

⁴⁸ Directive 2011/93/EU of the European Parliament is available at: <https://eur-lex.europa.eu/legal-content/BG/TXT/?uri=CELEX:32011L0093>

⁴⁹ See Article 1 of the Directive.

⁵⁰ Infringement Procedure No 2019/2136 for partial incorrect implementation of the requirements of Directive 2011/93/EU. A legislative initiative has been taken in relation to the procedure, details of which are available on the Public Consultation Portal maintained by the Council of Ministers, available at: <https://www.strategy.bg/publicconsultations/View.aspx?lang=bg-BG&Id=7958>

⁵¹ Available here: <https://eur-lex.europa.eu/legal-content/BG/TXT/?uri=celex%3A32012L0029>

⁵² See Article 1.1 of the Directive.

⁵³ See Article 1.2 of the Directive.

⁵⁴ The EC started such procedures in 2016 and in 2020. In 2020, there is an expectation in the public sphere that efforts for legislative reform leading to full transposition of the Directive will be successful. This has not happened and the infringement procedures against Bulgaria continue. More information on the Directive can be found in the Bulgarian Centre for Not-for-Profit Law's report "Can Justice be Child-friendly?", available at: https://bcnl.org/uploadfiles/documents/Child-Friendly_Justice_Bulgaria_Report_BG.pdf. See page 36 and the next.

the Court of Justice of the European Union for the incomplete transposition of the Directive.⁵⁵

In connection with the procedure initiated by the European Commission against Bulgaria for partial incorrect implementation of the requirements of both directives mentioned above, at the end of April 2024 the National Assembly of the Republic of Bulgaria passed a Law Amending and Supplementing the Criminal Code.⁵⁶

02 Intersectionality in the national legal framework

At the national level, the basic law is the Constitution of the Republic of Bulgaria. As regards the topic of this study, it is essential to bear in mind that the **Constitution**⁵⁷ proclaims the importance of children, stating that they enjoy the special protection of the State and society.⁵⁸ Another key aspect to understanding the national legal system and the position of international treaties within it is Bulgaria's adopted approach to give international treaties which the country has ratified primacy over any conflicting provision of the domestic legislation.⁵⁹

The Child Protection Act (CPA)⁶⁰ is the main special law in the Bulgarian legislation system regulating the state policy towards children. It governs the fundamental rights of the child – right to protection, protection against violence, protection of the child's personality, right to freedom of expression, information and consultation, participation in procedures etc.,⁶¹ – established in the UN Convention on the Rights of the Child, as well as the measures and actions to be taken by child protection authorities if the rights and the interests of the child have been violated.⁶² The CPA regulates the right of the child to protection from violence and involvement in activities that are harmful.⁶³ The concept of violence and the different types of violence are defined in the Implementing Regulation of the Child Protection Act.⁶⁴ The child protection legislation prohibits all discrimination, including on the grounds of disability.⁶⁵ Beyond this and the provisions concerning the use of social services, the national legislation does not contain specific provisions to assist law enforcement agencies in understanding how to avoid direct and indirect discrimination against children with disabilities, including children with communication difficulties, coming in contact with different systems, including the

⁵⁵ Information in this regard was published in the media. See e.g. publication dated 16.11.2023 here: <https://defakto.bg/2023/11/16/%D0%B5%D0%BA-%D0%B8%D1%81%D0%BA%D0%B0-%D0%BE%D1%82-%D1%81%D1%8A%D0%B4%D0%B0-%D0%BD%D0%B0-%D0%B5%D1%81-%D0%B4%D0%B0-%D0%BD%D0%B0%D0%BB%D0%BE%D0%B6%D0%B8-%D0%B3%D0%BB%D0%BE%D0%B1%D0%B0-%D0%BD%D0%B0/>

⁵⁶ Information about the bill and the vote on it is available on National Assembly website, here: <https://www.parliament.bg/bg/bills/ID/165296>.

⁵⁷ Constitution of the Republic of Bulgaria, in force since 13 July 1991.

⁵⁸ See Article 14 of the Constitution of the Republic of Bulgaria.

⁵⁹ See Article 5 (4) of the Constitution of the Republic of Bulgaria.

⁶⁰ Promulgated 13 July 2000, available at: <https://lex.bg/laws/ldoc/2134925825>.

⁶¹ See Chapter Two, Articles 10-16, CPA.

⁶² See Chapter One, Articles 4-9, CPA.

⁶³ See Article 11, CPA.

⁶⁴ The Implementing Regulation is available at: <https://lex.bg/bg/laws/ldoc/2135469520>.

⁶⁵ See Article 10 (3), CPA.

justice system. AAC is only vaguely mentioned in the legislation,⁶⁶ mainly in the field of education and social services, however not in the CPA and the procedural legislation governing the handling of civil and criminal cases.

A Coordination Mechanism for cooperation on cases of children who are victims or are at risk of violence and for cooperation during crisis intervention was set up in Bulgaria in 2010 and has been in operation since then.⁶⁷ Article 36 (d) of the CPA regulates interinstitutional cooperation and the formation of a multidisciplinary team to prepare an action plan for child protection or violence prevention. The action plan contains health, social and educational services for prevention of violence or recovery of the child. It also specifies the authority of social workers to notify the court or a prosecutor to take competent measures with regard to the perpetrator, among others. The Coordination Mechanism should apply to all children, regardless of disabilities. However, there are no specific provisions to ensure that when a child with a disability needs support from such multidisciplinary body, age- and condition-appropriate measures will be applied.

The same applies to the provision of police protection to children who are victims of crime, whose life and health are immediately threatened, who risk being involved in the commission of crime, or who are lost or are in an otherwise helpless or unsupervised situation.⁶⁸ The measures that can be taken for the benefit of such children are: to remove the child from the environment or the persons having a harmful influence on him/her; to identify the circumstances that have led to the child being in this situation; and to take measures together with social workers from the Directorates for Social Assistance (DSA) to eliminate the causes and conditions posing a threat to the physical, mental or moral development of the child.⁶⁹ In this case too, the special needs of children with disabilities are not regulated.

The national legal framework also governs public relations associated with the provision of social services and ensuring access to rights for persons with disabilities. The two fundamental laws in this regard are the Social Services Act (SSA)⁷⁰ and the Persons with Disabilities Act (PDA).⁷¹

The SSA aims to ensure equal access to social services for all people in accordance with their individual needs, to guarantee the quality and effectiveness of social services

⁶⁶ For example, in Ordinance No. 24 of 10 September 2020 on the physical environment and information and library provisions to kindergartens, schools and centres for personal development support and the National Programme "Support for the Personal Development of Children and Students".

⁶⁷ On 15 March 2010, an Agreement for cooperation and coordination of the work of the territorial structures of the child protection authorities in cases of children who are victims of violence or are at risk of violence and during crisis intervention was signed between the Minister of Labour and Social Policy, the Minister of Interior, the Minister of Education, Youth and Science, the Minister of Justice, the Minister of Foreign Affairs, the Minister of Culture, the Minister of Health, the Chairperson of the State Agency for Child Protection, the Executive Director of the Agency for Social Assistance, and the Chairman of the Managing Board of the National Association of the Municipalities in the Republic of Bulgaria.

⁶⁸ Ordinance No. I-51 of 12 March 2001 on the conditions and procedure for granting police protection to children. The document is available at: <https://lex.bg/laws/ldoc/-549175804>. It was issued by the Ministry of the Interior. Its scope is specified in Article 3.

⁶⁹ See Article 4 of Ordinance No. I-51.

⁷⁰ In force since 1 July 2020; available at: <https://lex.bg/laws/ldoc/2137191914>.

⁷¹ In force since 2019; available at: <https://lex.bg/bg/laws/ldoc/2137189213>.

and to promote an integrated approach to support provision. Implementing regulations and other by-laws have been adopted in addition to this law.

The PDA regulates the integration of persons with disabilities. Children and students with disabilities are provided with support for personal development. This can be general or additional, and its provision is based on an individual assessment of each child. Articles 65-67 of Section V are particularly relevant, as they establish the institution of supported decision-making. Another pertinent section concerns the right of persons with disabilities to a comprehensive individual assessment.⁷²

Nevertheless, it should be noted that in general there are no well-established links between the regulatory acts⁷³ on children's general rights and those on the rights of persons with disabilities, including children.⁷⁴ In principle, insofar as the CPA is a special law that applies to all children, it should also apply, without discrimination, to children with disabilities. However, the obvious lack of procedural provisions indicating how to apply the general law to cases of children with disabilities to overcome specific barriers leads to legislative gaps and problems that the special law on the right of persons with disabilities and the provision of social services is unable to address.

The lack of relevant legislation and guarantees that the rights of children with disabilities will be protected in case they fall victim to crime causes major and often insurmountable obstacles to their access to justice. There are no specific accommodations that are guaranteed by law and are practically available to children with disabilities.⁷⁵ Consequently, a child with communication difficulties who is a victim of violence has no means to report the incident in the first place, or the report may not be understood, or it may not reach and be registered by the relevant authorities.

Where there is conflict of interest, the legislation generally permits the appointment of a special representative. This provision should also apply to children with disabilities. Further details about the appointment of special representatives in criminal proceedings will be provided below.

03 National framework to provide information, procedural accommodations and support for children with disabilities who are victims of crime

In the Bulgarian legal system, only the Criminal Code (CC)⁷⁶ determines which act shall qualify as a crime. Crimes are investigated and court proceedings in criminal

⁷² See Article 20, PDA

⁷³ This conclusion was also confirmed in the interviews with various experts working with child victims of crime.

⁷⁴ For example, the individual assessment under Article 20, PDA could be linked with the provisions of Article 144 (3), CPC; however, this would mostly act as a bridge across legislative gaps (which can also be bridged through direct application of the conventions to which Bulgaria is party) rather than effectively meet the needs related to the access to justice for children with disabilities.

⁷⁵ These conclusions arise from the interviews with experts working with child victims of crime.

⁷⁶ The Criminal Code is available at: <https://lex.bg/laws/ldoc/1589654529>

cases are governed by the rules of the Criminal Procedure Code (CPC).⁷⁷ The CPC also regulates the specific rules for interviewing underage witnesses, as victims usually have the status of witnesses in the trial.

Bulgarian criminal law uses the term "victim" to refer to victims of crime.⁷⁸ Pursuant to Article 74, paragraph 1 of the Criminal Procedure Code, "*A victim is a person who has suffered material or non-material damage as a result of a crime*". Every victim has a number of rights⁷⁹: be informed of his/her rights within the criminal proceedings; obtain protection with regard to his/her personal safety and the safety of his/her relatives; be informed of the progress of the criminal proceedings; take part in the proceedings in accordance with the provisions of this Code; furnish requests, note and objections; file appeals with regard to the acts resulting in the termination or suspension of criminal proceedings; have a counsel; be accompanied by a person designated by him/her; receive a translation of the resolution terminating or suspending the criminal proceedings if he/she does not have command of the Bulgarian language; request seeding up of pre-trial proceedings in the cases provided for in this Code. There are no specific rules that specify how this is done in cases where the victims are persons with disabilities - either children or adults - and how disability-related barriers shall be overcome for these rights to be implemented.

In court proceedings, the victim of the crime may participate as: a civil claimant in order to be awarded compensation for the damage suffered; a private prosecutor (having the same rights as the prosecutor in terms of collecting evidence and appealing the court's decision) where the crime is publicly prosecuted; or a private complainant where the crime is prosecuted on the complaint of the victim of the crime.⁸⁰ The Criminal Procedure Code provides that where the victim, due to helpless state or dependency on the perpetrator of the crime, cannot defend his/her rights and lawful interests, the prosecutor may join the proceedings initiated⁸¹ or directly institute criminal proceedings⁸² of his/her own motion *ex officio* for crimes that are prosecuted on the grounds of complaint by the victim. This rule should also apply in general to children, especially children who are deprived of parental care and children in residential care, and in general to persons with disabilities, including children who are dependent on the perpetrator. However, the legislation lacks sufficient guarantees that this will happen. This norm is currently more of a wishful thinking than serving to overcome the specific barriers that prevent persons with disabilities, including children, from accessing justice when they are victims of violence. Furthermore, it should be noted that offences categorised as inflicting "trivial bodily injury" and "moderate bodily injury" on a relative of ascending and descending line are prosecuted on the grounds of a

⁷⁷ CPC in force since 29.04.2006, available at: <https://lex.bg/laws/ldoc/2135512224>

⁷⁸ For more detailed information on the legal situation of persons with disabilities who are victims of crime under Bulgarian law, see the report *Voices for Justice: People with Disabilities in Bulgaria, victims of crime* available at https://nie.expert/wp-content/uploads/2023/01/National-finding-report-Bulgaria_bg-220421-1.pdf

⁷⁹ See Article 75(1) of the CPC

⁸⁰ See Articles. 75-88 of the CPC on the rules on how the victim could participate in the court proceedings as a private prosecutor, private complainant or civil claimant

⁸¹ See Article 48 of the CPC

⁸² See Article 49 of the CPC

complaint by the victim,⁸³ which goes some way to explaining why only extreme acts of violence, and rarely at that, are prosecuted where the victims are persons with disabilities, whether adults or children.⁸⁴

04 Individual assessment

The Law on Assistance and Financial Compensation for Victims of Crime⁸⁵, adopted to transpose Directive 2012/29/EU, imposes an obligation on the authorities of the Ministry of the Interior, investigators and victim support organisations to immediately notify victims and their family members of: their options for accessing medical care, the organisations they can turn to for free psychological help and support, and any specialised assistance they can receive; their right to legal aid, the authorities to which they can turn to exercise that right, and the conditions and procedures for providing free legal aid; the authorities to whom a report of the offence may be made, the procedures following the reporting and the options available to victims under the terms and conditions of those procedures; the authorities to which a report may be made in the event of a violation of their rights by the competent authority acting in the framework of criminal proceedings; their rights in the criminal proceedings and the possibilities for their participation therein; the authorities they may turn to to get protection for themselves and their relatives, and the conditions and procedures for obtaining such protection;

the authorities they may turn to get financial compensation from the State, the conditions and procedures for obtaining such compensation.⁸⁶

The supervising prosecutor is responsible to ensure that the investigating authorities fulfil these obligations.⁸⁷ With the recent amendments to this law was adopted a new provision⁸⁸, pursuant to which victims of crime are entitled to an individual assessment, the purpose of which is to determine their physical and mental condition as a result of the crime committed and to identify any possible specific protection needs.⁸⁹ According to the same provision, it must be presumed that special protection needs exist always where the victim is a child or a person with disabilities. In this case, an extended

⁸³ See Article 161 of the Criminal Code

⁸⁴ In this regard and in general about the many problems faced by persons with disabilities who are victims of crime, see the report of the Chance and Support Association "People with disabilities who are victims of crime", available in Bulgarian and English at: <https://validity.ngo/projects-2/voices-for-justice/publications-and-resources/>

⁸⁵ In force since 22.12.2006, last amended: 6.10.2023. Available at: <https://lex.bg/laws/ldoc/2135540550>

⁸⁶ A brief analysis of the law from the perspective of child victims of crime is included in an article published by the National Network for Children, available at: <https://nmd.bg/pobedi-li-kauzata-na-nmd-za-sthadyastho-pravosadie-za-deczata-zhertvi-na-prestapleniya/>. The article points to the fact that child victims of crime have been singled out as a separate category of victims, as well as the fuller transposition of Directive 2012/29/EU, as successes. On the negative side is the fact that the Ministry of the Interior is tasked with all assessment work, with no provision for assessments to be carried out by organisations that have made initial contact with the child victim, and the lack of explicit guidance on referral to psychological support.

⁸⁷ See Article 6 of the Law on Assistance and Financial Compensation for Victims of Crime

⁸⁸ See Article 7a of the Law on Assistance and Financial Compensation for Victims of Crime, effective as of 1 September 2023.

⁸⁹ Within the meaning of §1, paragraph 4 of the supplementary provisions of the Criminal Procedure Code, "Specific protection needs" exist when it is necessary to apply additional means of protection against secondary and repeated victimisation, intimidation and retaliation, emotional or psychological suffering, including the preservation of the dignity of victims during interrogation.

individual assessment⁹⁰ shall be carried where the authorities of the Mol or the investigators shall, without undue delay, form a team involving representatives of the Directorate for Social Assistance and the local authorities.⁹¹ As a result of the information gathered, the team members shall decide on the protection measures to be taken in respect of the child.⁹² The individual assessment shall take into account: the type and nature of the offence and the circumstances surrounding it; the type and extent of the harm suffered; the age, intellectual development, emotional and social maturity and education of the victim, as well as other personal characteristics of the victim⁹³. This assessment shall be carried out by the Mol authorities or investigators who made the initial contact with the victim, without undue delay, on the basis of a conversation with the person. They may, at their discretion, request assistance from a psychologist, doctor or other relevant professional.⁹⁴ If new circumstances arise which may have a significant impact on the victim's personality, the individual assessment shall be updated. Where the victim is a child, the authority or organisation carrying out the assessment shall immediately inform the Child Protection Department at the Directorate for Social Assistance at the child's current or permanent address.⁹⁵

Following the adoption of the latest amendments to the Act, the obligation to notify has been extended to include the individual assessment. These amendments have also introduced the requirement of an age-, disability- and condition-sensitive approach to the notification of victims.⁹⁶ Although the provision is relatively concise, it still requires that notification be made "*in a clear and understandable manner, verbally or in writing on a standard form, in a language that persons [...] understand.*"⁹⁷

This provision is the first of its kind to introduce the requirement to take into account the age and condition of the victim when informing them of their rights. In the light of the recent adoption of the amendments to the Act, it is too early to conclude whether and to what extent the new provisions will have the potential to ensure access to justice for children with disabilities. Based on what was shared during the interviews conducted under the project, it became clear that there is a lack of uniform practice and an unambiguous understanding of the individual assessment on the part of the professionals involved in the criminal justice system - judges, prosecutors, police officers and social workers. While the required content of this type of assessment was not explicitly stated as a reason for confusion, based on what was shared and discussed together in the context of the legislation examined, the conclusion is that there is a confusion regarding the concept of "individual assessment". The Social Services Act, for example, provides for preparation of an individual needs assessments

⁹⁰ See Article 7c (5) of the Law on Assistance and Financial Compensation for Victims of Crime

⁹¹ See Article 7d (1) of the Law on Assistance and Financial Compensation for Victims of Crime

⁹² See Article 7d (5) of the Law on Assistance and Financial Compensation for Victims of Crime

⁹³ See Article 7b of the Law on Assistance and Financial Compensation for Victims of Crime

⁹⁴ See Article 7c (1) of the Law on Assistance and Financial Compensation for Victims of Crime

⁹⁵ See Article 7c (2) of the Law on Assistance and Financial Compensation for Victims of Crime

⁹⁶ See Article 6a of the Law on Assistance and Financial Compensation for Victims of Crime.

⁹⁷ See Article 6a (2) of the Law on Assistance and Financial Compensation for Victims of Crime. The law does not detail what is to be understood by "in a clear and comprehensible manner" and "in a language that persons understand".

of persons with disabilities, and the procedure and content of these assessments are regulated in the Implementing Regulation of the Social Services Act.⁹⁸

The Child Protection Act also provides for the preparation of an assessment, specifically regulated by the Implementing Regulation of the Social Assistance Act.⁹⁹ With regard to the individual assessment under the Law on Assistance and Financial Compensation for Victims of Crime, such specification is still lacking, therefore, by analogy, the judicial authorities resort to one of the above-mentioned assessments.¹⁰⁰

When it comes to witnesses with specific protection needs, some new amendments to the CPC have added additional measures for interviewing such witnesses - the interview should be conducted in specially equipped premises designed for this purpose, in the presence of an educator or a psychologist (the presence of such a specialist is mandatory when the witness with specific needs is a minor), and by the same investigative authority if repeated interview is necessary. These measures shall be applied, provided that they will not seriously impede the criminal proceedings.¹⁰¹

Additionally, the interview of a minor witness¹⁰² shall be conducted in the presence of an educator or psychologist and, where necessary, in the presence of the parent or guardian. When interviewing minors, such persons may be present at the discretion of the relevant authority. In addition, children under 14 years of age shall not be warned against perjury but shall be made aware of the need to give truthful testimony. Interviewing may take place when measures are taken to avoid contact with the defendant, including in specially equipped premises or by videoconference.¹⁰³ It is explicitly provided that the testimony from the interview of a minor or a child with special needs before a judge in the pre-trial proceedings may be read out in the trial phase in order to avoid its repetition.¹⁰⁴ Where a minor witness has to be interviewed by the court, he/she may be interviewed in closed session.¹⁰⁵

Beyond these provisions, however, the CPC does not provide for special procedural accommodations for children with disabilities.

The Criminal Procedure Code also provides for the hypothesis of conflict of interest, where the interests of the minor victim and his/her parent, guardian or custodian are conflicting or the parent, guardian or custodian do not fulfil their obligations under the Family Code (FC).¹⁰⁶ In this case, the relevant authority shall appoint a special representative, a child's lawyer, who shall participate in the criminal proceedings as counsel. However, for this provision to apply, criminal proceedings must have been

⁹⁸ See Article 1(3) of the Implementing Regulations of the Social Services Act. Even more specifically, these issues are developed in the Methodology for Determining Individual Needs, approved by the Executive Director of the ASA and available at: <https://asp.government.bg/bg/deynosti/sotsialni-uslugi/metodiki-i-metodicheski-ukazaniya/>

⁹⁹ See Art. 9 (1) et seq. of the Implementing Regulations of the Child Protection Act.

¹⁰⁰ As was mentioned, the Law on Assistance and Financial Compensation for Victims of Crime is relatively new. Perhaps in the future the problem will be solved, either through a legislative initiative or through uniformity of practice.

¹⁰¹ See Article 139a of the CPC

¹⁰² See Article 140 of the CPC

¹⁰³ See Article 140a of the CPC

¹⁰⁴ See Article 281(1)(6) of the CPC

¹⁰⁵ See Article 263(3) of the CPC

¹⁰⁶ For these obligations see Article 125, Article 129, 164 and 168 of the FC, available at <https://lex.bg/bg/laws/ldoc/2135637484>.

initiated. If this is not the case, one of the above-mentioned provisions of the Criminal Procedure Code applies, according to which the public prosecutor may initiate criminal proceedings.

Pursuant to Article 15 of the CPA, for children over the age of 10 it is mandatory to be heard in all judicial and administrative procedures that affect them. This rule may be waived only if it is considered that the hearing may be harmful to them. However, if the child's developmental level allows a hearing and it would not be to his/her detriment, such may be undertaken, at the discretion of the authority, even if the child is under 10 years of age.¹⁰⁷ When hearing the child, the authority should provide the child with an appropriate setting, with the necessary information and secure the presence of a social worker and another professional if necessary. A relative of the child shall also be present at the hearing unless the authority considers that it is not in the child's best interest.¹⁰⁸ How this provision applies in criminal proceedings involving children with disabilities cannot be stated due to the very scarce number of such proceedings being initiated. Children with disabilities are often participants in cases for placement in residential care. A review of the case law shows that children with disabilities are often not heard, with the courts assuming that this is "not in their best interests". Thus, the discretion given by law to magistrates to avoid a hearing because of special circumstances relating to the best interests of the child becomes an excuse for not making an effort to establish an opportunity to communicate with a child with a disability.

05 Information Provision and Coordination

In principle, in criminal proceedings, victims should be informed both of the course of proceedings and of their specific rights. However, where persons with disabilities are concerned, particularly children with disabilities, the problems associated with the extreme formalism of the law become apparent. Indeed, as explained in detail above, under recent amendments to the Law on Assistance and Financial Compensation for Victims of Crime, an obligation arises for the authorities to notify victims of their various rights. Beyond the requirement that this be done *"in clear and understandable language,"*¹⁰⁹ no other legal prescriptions are available.

The operation of the Coordination Mechanism, which should work in close cooperation with the criminal justice system, in the case of a child victim, including a child with a disability, has been detailed above. However, there is no provision in the Criminal Procedure Code that spells out how professionals from the justice sphere connect with those from the child protection sphere, how information is exchanged, what guarantees are in place that the child will be adequately heard and included in this process. In the few cases of this nature, coordination is needs-based - professionals from the justice

¹⁰⁷ See Art. 15, (1) (2) of the CPA

¹⁰⁸ See Art. 15, par. 3-5 of the CPA

¹⁰⁹ As stated above, the law does not specify what is meant by this concept.

sector liaise with those from the child protection sector to establish the child's situation and family history and environment. They have the right to request information and reports. This is the pathway to make contact and exchange information. There are no specific rules that can be referred to, and that address children with disabilities and their specific needs.

In terms of future development, the policy steps taken to change the situation of children with disabilities, including children with communication problems, regarding their access to justice are very important. In 2023, progress was made at the policy level through the adoption of the National Programme for the Prevention of Violence and Abuse of Children (2023-2026).¹¹⁰ It presents the framework for the coordination of the actions of the authorities involved in the work on prevention of violence and abuse of children and shall be valid until the end of 2026: The strategic objectives of the programme¹¹¹ include:

- I. Ensuring effective protection from violence and harmful influence on children in the environment, guaranteeing the right to protection to children with disabilities and/or special educational needs (SEN), children with complex communication needs (with impaired or no functional speech) and guaranteeing the protection of child victims and witnesses of violence and ensuring effective access to legal remedies and appropriate redress.
- II. Ensuring an appropriate legal framework for protection of children against all forms of violence and exploitation – to be achieved through review and updating of the legal framework and monitoring by means of ongoing data collection and analysis.
- III. Effective response and investigation of cases of violence and exploitation - to be implemented by ensuring access to quality services for child victims or witnesses of violence; ensuring the rights of child victims of violence in terms of fair, lawful and child-friendly treatment in administrative, civil and criminal proceedings; developing a system to support the recovery and social reintegration of victims of violence.
- IV. Improving inter-institutional cooperation and collaboration to protect children from violence - by strengthening national coordination mechanisms; coordinating the actions of responsible institutions from different sectors to prevent and promptly report violence against children; working with academia, government institutions and the civil sector to implement a unified

¹¹⁰ Adopted by Decision No. 51 of 23.01.2023 of the Council of Ministers as of 26.01.2023 Available at <https://sacp.government.bg/sites/default/files/politics/nacional-program-nasilie-i-zloupotreba.pdf>

¹¹¹ According to § 8 of the Programme, it has five strategic objectives: I. Ensuring effective protection from violence and harmful influences on children in the environment II. Ensuring an appropriate legal framework for child protection against all forms of violence and exploitation III. Ensuring effective response and investigation of cases of violence and exploitation IV. Improving the professional capacity of professionals working with children and the awareness of children and their families. Supporting parents V. Improving inter-institutional cooperation and collaboration to protect children from violence.

approach to data collection on child-related violence and research on the topic.

Among the Programme target groups¹¹² children with disabilities and/or SEN, children with complex communication needs (with impaired or missing functional speech), parents of such children, as well as professionals working with children in the justice system, law enforcement and social sphere, are explicitly mentioned.

Among the weaknesses¹¹³ identified in the process of implementation and enforcement of the previous National Programme for the Prevention of Violence and Abuse of Children (2017-2020)¹¹⁴ are: the lack of national surveys on violence against children plus the lack of the necessary administrative data on violence against and by children from the different systems, maintained by the different competent authorities, which should be collected regularly and following clear methodologies and indicators; identified need to improve the mechanisms for coordination between the different sectors, both in the development of action plans and in the implementation of the envisaged measures and activities. Everything mainly relies on the activity of a single lead institution, without any initiative on the part of partnering institutions and organisations.

The Programme (2023 - 2026) should be implemented through two-year plans, and an Action Plan for the implementation of the National Programme for the Prevention of Violence and Abuse of Children (2023 – 2024) has been adopted for the period 2023-2024.¹¹⁵ In this plan, as a sub-objective of the strategic objective “Guaranteeing the right to protection to children with disabilities and/or SEN, children with complex communication needs”, the following relevant measures and activities are envisaged:

1. Development of a system for registration, monitoring, and support for children with complex communication needs (CCN) for violence prevention, including working to develop the necessary communicative and social competencies enabling reporting and protection from violence, and creation of the tools necessary for Augmentative and Alternative Communication (AAC) and training of professionals to work with them – the expected results of the system are 1) creation of a database of all children aged 0-17 years, with information on diagnosis, disability, level of communication skills, etc. and 2) developed AAC materials on the topic of violence as a basis for reporting violence and giving of evidence of violence, as well as for educating children with CCN about possible forms of violence and ways to protect themselves.

The deadline for the implementation of this measure is 01.10.2023 - 31.10.2024.

¹¹² See §9 of the Programme

¹¹³ See §11 of the Programme

¹¹⁴ Adopted by Decision No 115 of the Council of Ministers of 09.02.2017.

¹¹⁵ The programme is available at <https://sacp.government.bg/sites/default/files/politics/plan-nasilie-i-zloupotreba-deca-2023.pdf>. It contains a substantial analytical section which is a useful source of information on the situation of children at the time of its drafting.

2. Establishing a system to guarantee the right to communication and education for children with complex communication needs through early assessment of Augmentative and Alternative Communication (AAC) needs, selection of an appropriate AAC system and its provision and putting in place free of charge. Such a system will be fundamental for the prevention of violence against children with complex communication needs as it will ensure the ability to disclose violence and give evidence – as expected results of this measure are pointed out legislative changes to ensure that children with complex communication needs have access to the AAC systems they need and that the necessary services are provided to be used in a sustainable manner. The system is intended to cover the period from diagnosis and identification of functional speech disorders and to accompany the child to and during his/her study in inclusive education, acquiring a profession and social fulfilment.

The implementation period for this measure is 01.05.2023 – 31.12.2024.

06 Child protection

There is a complex child protection system in place in Bulgaria. Child Protection Departments (CPD) are in place, on the one hand. They are part of the Directorates for Social Assistance (DSA) - territorial units in the structure of the Agency for Social Assistance (ASA).¹¹⁶ The Directorates for Social Assistance perform child protection activities: they refer to social services; make placements in services, including in residential type ones, by issuing an administrative order pending the court decision; they prepare individual assessments. In the case of a child victim of violence, whether with or without disabilities, the child is considered to be at risk and a specific needs assessment is carried out.¹¹⁷ These assessments can be used in the criminal proceedings; and the judicial and investigative authorities may assign specific tasks to the CPDs, with regards to the preparation of the assessments. However, this is not specifically stipulated in the legislation and is informed by the general rules of the law.

The Child Protection Departments do not themselves provide social services. The latter fall within the remit of licensed service providers, which are either municipal structures or are run by private entities. Services are developed at local level, with the mayors and experts in the municipalities and the regional centres being expected to initiate the development of services in response to the needs of the population living in the respective municipality or region. However, as mentioned earlier, there is no data

¹¹⁶ There is such a directorate in each municipality, and a Regional Directorate for Social Assistance in the each regional centre. They exercise administrative control over the activity of the local Directorates for Social Assistance. The central control body is the Agency for Social Assistance, which in turn is subordinated, in terms of hierarchy, to the Ministry of Labour and Social Policy but it has its own budget and operates independently. For further details, please see the Rules of Organisation of the Agency for Social Assistance (2003), available at: <https://lex.bg/bg/laws/ldoc/2135463381>.

¹¹⁷ This kind of assessment is carried out based on a Case Management Methodology for Children at Risk by a Child Protection Department, developed in 2021 to response to the requirements of Art. 4, Para 2 and Art. 6, Para 3 of Regulation (EU) 2016/679. Available at: <https://www.bartbg.com/2019/02/25/%D0%BC%D0%B5%D1%82%D0%BE%D0%B4%D0%B8%D0%BA%D0%B0-%D0%B7%D0%B0-%D0%B8%D0%B7%D0%B2%D1%8A%D1%80%D1%88%D0%B2%D0%B0%D0%BD%D0%B5-%D0%BD%D0%B0-%D0%B8%D0%BD%D0%B4%D0%B8%D0%B2%D0%B8%D0%B4%D1%83%D0%B0%D0%BB/>

available about the children with disabilities, nor even about their proportion of the general child population. There is no information either on the children with disabilities who were victims of violence and crime. This results in failure to recognise and address the need of support services for children with disabilities, who are victims of crime.

In Bulgaria, along with the child protection system within the structure of the ASA described above, operates also the State Agency for Child Protection (SACP). SACP is an independent authority, which ensures that children's rights are respected in different structures, such as the education and social systems. At present, it cannot be said that there are provisions in the legislation, stipulating a link between SACP and the criminal justice, however, it could be expected that in the future, the Agency would play an active part in identifying violations related to the access to rights of children who are in contact with the criminal justice system. SACP does not provide services either.

For the sake of completeness of information, we should point out that both representatives of Child Protection Departments and of SACP, take part in the Coordination Mechanism, mentioned above. It may include representatives of the prosecutor's office, the municipality, service providers and others. Even though the mechanism ensures certain cross-sectoral work, it takes place at individual level, it concerns individual cases and does not address systemic issues, such as lack of support services for child victims with disabilities and/or assessment of gaps in legislation.

07 Training for Professionals

The National Institute of Justice (NIJ) was established in 2003.¹¹⁸ Pursuant to the Judicial Systems Act, the Institute is responsible for the delivery of a number of compulsory trainings of magistrates, including a compulsory induction training of the candidate junior judges, junior prosecutors and junior investigators, etc. It also offers trainings to maintain and enhance the qualification of the judges, prosecutors and investigators, the judicial and prosecutorial assistants, court clerks, jurors, the inspectors at the Inspectorate with the Minister of Justice and of other employees of the Ministry of Justice. Pursuant to the Persons with Disabilities Act¹¹⁹, the curricula of the National Institute of Justice and the Academy of the Ministry of the Interior include training programmes for working with persons with disabilities. While not central, topics

¹¹⁸ In accordance with the Judicial System Act. NIJ maintain a website, with further details available there. The website is available at: <https://nij.bg/%d0%b7%d0%b0-%d0%bd%d0%b8%d0%bf> The activities of NIJ are regulated by the Regulations on the Organisation and Activity of the National Institute of Justice and its Administration, available at: https://vss.justice.bg/root/f/upload/24/PRAVILNIK_za_organizaciata_na_dejnostta_na_Nacionalniq_institut_na_pravosydiето_i_na_negovata_admini.pdf

¹¹⁹ See Art. 67. Para 2 of the Persons with Disabilities Act, which came into force on 01.01.2019, available at: <https://lex.bg/bg/laws/doc/2137189213>

on the rights of persons with disabilities, including victims of violence, appear on the NIJ calendar.¹²⁰

During the interviews held with judges and police officers, some of them pointed out the need of further and specialised training on communicating with children with speech difficulties and on what approaches they should apply to the children when the latter are required to take in court proceedings.

UNICEF Bulgaria is an organisation which has delivered trainings of trainers for the introduction and implementation of augmentative and alternative communication (AAC).¹²¹ According to information placed on the organisation's website, 765 teachers, professionals and parents were trained in working with assistive technologies for AAC. The trained professionals provide direct support to over 150 children with complex communication needs, who need AAC. One hundred children with communication difficulties received devices. The trained trainers, on their part, hold free training meetings to introduce the topic of AAC to professionals: kindergarten and school teachers, parents, relatives and other stakeholders.

In the course of 2023, a training for communication facilitators was held in Bulgaria, meant for professionals in the field of communication (speech therapists) and their practical activity was launched.¹²² The trained professionals can be assigned to court cases, including also to pre-trial proceedings. The focus of their work is on communication with adults in criminal cases, in their capacity either as witnesses, defendants or victims¹²³, but the model may be modified in the future for working with children as well.

¹²⁰ E.g., a training on safeguarding the rights of persons with disabilities, who are victims of violence was delivered on 28.11.2023. The information is available at: <https://nij.bg/6-%d0%bf%d1%80%d0%be%d0%b5%d0%ba%d1%82%d0%b8/%d0%bf%d1%80%d0%be%d0%b5%d0%ba%d1%82%d0%b8-%d0%bf%d0%be-%d0%bd%d1%84%d0%bc/%d0%bf%d1%80%d0%b5%d0%b2%d0%b5%d0%bd%d1%86%d0%b8%d1%8f-%d0%bd%d0%b0-%d0%bd%d0%b0%d1%81%d0%b8%d0%bb%d0%b8%d0%b5%d1%82%d0%be-%d1%81%d1%80%d0%b5%d1%89%d1%83-%d0%b6%d0%b5%d0%bd%d0%b8>

¹²¹ See: <https://www.unicef.org/bulgaria/%D0%B3%D0%BB%D0%B0%D1%81-%D0%B7%D0%B0-%D0%B2%D1%81%D1%8F%D0%BA%D0%BE-%D0%B4%D0%B5%D1%82%D0%B5>

¹²² Information on how communication facilitators operate is available on the website presenting their activity: <https://communication-facilitators.bg/>. A request form is placed on the website, which can be used by justice authorities in order to make contact with such a professional. It has been a very short while since the training of communication facilitators was completed (in the beginning of 2024), so it is still difficult to draw any conclusions on the way their expertise would be recognized and used by the judicial authorities.

¹²³ The work of a communication facilitator as an expert assigned to a case, involves several stages:

- 1) Assessment of the communicative abilities and specifics of the person the court or the criminal justice professionals are to establish communication with – the assessment conducted by the communication facilitator aims to establish the person's ability to give an account, to understand questions and other speech, their attention span, as well as what type of resources will keep their attention. The skills specified are assessed objectively, without being associated in any way with the facts or any other specific case-related information.
- 2) Producing a report with recommendations to the investigating bodies or the court for the conduct of an effective communication with the person – the communication facilitator drafts a brief report, describing the results from the assessment under item 1 and makes recommendations to the body who assigned them on how and where the communication with the person should take place to ensure that it is an efficient one. Guidance and ways for communication facilitation, such as: communication pace and tone of voice; simplifying the questions and the vocabulary and grammar used; duration and breaks; questions related to orientation, time and space; questions related to the level of literacy; additional support to facilitate the person when giving an account of an event – technical, visual, presence of a supporting person (significant other, relatives); organising the physical space, where the communication will take place – sitting arrangement, lighting the premises, venue, etc. At the end of the report, the CF makes also recommendations on whether there is a need or not of a communication facilitator taking part in the legal proceedings in the future and facilitating the communication in real time. In case the recommendation made says that there is no further need of a communication facilitator, it is assumed that the guidance provided in the report on communicating with the person is sufficient for the authority to conduct a successful communication on their own.

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ICT AND AI IN CRIMINAL JUSTICE SYSTEM FOR ACCESSIBILITY AND

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- 3) In case it is necessary, the communication facilitator participates in the legal proceedings in real time and facilitates the communication with the person.
The communication facilitator may specify in the report under item 2 that there is no need for him/her to further engage in the proceedings. The final decision on whether a communication facilitator should participate is made by the assigning authority.

MULTIDISCIPLINARY COOPERATION

01 Technologies used in criminal justice by magistrates, child protection specialists, and court officials for sharing information related to case proceedings.

The Electronic Government Act (EGA)¹²⁴ was adopted in 2020, regulating the work of administrative authorities with electronic documents, exchange of such documents, keeping of electronic registers, use of information and communication technologies.¹²⁵ However, this Act is not applied with regards to exchange of documents and information at the Ministry of the Interior, and its divisions respectively, except for the purposes of exchange of documents among administrative authorities.¹²⁶

With regards to the courts' activity, back in 2016, the Judicial Systems Act (JSA)¹²⁷ was supplemented with a new chapter, regulating the making of statements in an electronic form and legal proceedings in an electronic form.¹²⁸ An Ordinance was also adopted, specifically regulating the organisation and terms for the management of electronic case files and the access to those.¹²⁹ In 2021, amendments were made also to the Civil Procedure Code (CPC)¹³⁰, with a new section being added, regulating procedural steps and acts in an electronic form.¹³¹ There were also amendments to the Criminal Procedure Code, regulating the conduct of criminal proceedings. An option was made available for the expert witness engaged in the court proceedings to submit their conclusions in an electronic form¹³²; rules on electronic service of summons and papers have been adopted.¹³³ The opening of an electronic case was also regulated.¹³⁴

¹²⁴ The Act is available at: <https://lex.bg/laws/ldoc/2135555445>

¹²⁵ See Art. 1 (1) of Electronic Government Act (EGA).

¹²⁶ See Art. 1 (4) of EGA.

¹²⁷ The Act is available at: <https://lex.bg/bg/laws/ldoc/2135558368>

¹²⁸ Chapter 18a of the JSA, in force as of 9.08.2016

¹²⁹ See ORDINANCE No 5 of 01.06.2017 on the organisation and terms for conduct, storing and access to the electronic case files and the method of storing evidence and means of evidence, as well as the internal exchange and storage of other information, processed by the court administration. The Ordinance is available at: <https://lex.bg/bg/mobile/ldoc/2137237729>

¹³⁰ The Code is available at:

¹³¹ See Chapter 11 a of the Civil Procedure Code, came into force 30.06.2021.

¹³² See Art. 143 (3) Criminal Procedure Code (CPC),

¹³³ See Art. 180 (8) CPC.

¹³⁴ See Art. 247a of the CPC, came into force 30.06.2021

The legal amendments and supplements specified above have been adopted for the implementation of the Electronic Justice Concept¹³⁵, which sets out the principles, goals and stages of e-Justice introduction. The Concept is considered an integral part of the overall judicial reform in Bulgaria. An underlying document was drafted with a view to its implementation: Strategy for Implementation of e-Governance and e-Justice in the Justice Sector 2014-2020¹³⁶, developed in accordance with the programmes of the Government of the Republic of Bulgaria for the development of e-governance and the i2020 initiative of the European Commission. The Strategy's main goal is enhanced efficiency in the Justice Sector by the use of electronic documents not only by the judicial authorities but also by all authorities operating in the Sector, as well as in their interaction with other administrative authorities, organisations, citizens and businesses.¹³⁷ The Strategy's specific goals include electronic services development and provision for the citizens and businesses, access to information for the citizens and stakeholders, creating an opportunity for the citizens to refer an issue to the judicial authorities by using all available legal actions (complaints, applications, etc.) by electronic means¹³⁸, enhanced development of the registry reform, including adherence to the principle of once-only collecting and multiple times providing the information, introducing the open-data approach and provision of full access to information (open data – Directive 2013/37/EU on the re-use of public sector information)¹³⁹, encouragement and access, including encouraging the use of electronic means for access to services by the citizens instead of the conventional ones, promoting the electronic portals for access to services and interaction with the judicial authorities, promoting alternative means for legal disputes resolution, provision of information about the court cases.¹⁴⁰

The accelerated development of electronic justice is identified in the Strategy as one of the main priorities of the institutions in the Justice Sector. In parallel, organisational changes and the acquisition of new knowledge are foreseen to improve public services and facilitate policy making and implementation in the administration of justice.

The Strategy defines the policies, goals and activities that are to be conducted by the Ministry of Justice (MJ) and the Supreme Judicial Council (SJC) in implementing the stages of the Electronic Justice Concept.¹⁴¹ An Interinstitutional Council for e-Justice, composed of representatives of the MJ and the SJC, is foreseen to oversee the ongoing implementation of the Strategy. The MJ, in coordination with the SJC, shall develop a Roadmap for the implementation of the Strategy¹⁴², with a distribution of responsibilities for achieving the objectives and outcomes, timelines and the necessary financial provision.

¹³⁵ Adopted by the Government, Decision of 21.11.2012, the Concept is available at:

<https://mis.bg/api/part/getblob?hash=FCa891B2ED68312546C30EA6A6D0BACB>.

¹³⁶ The Strategy is available at: <https://www.strategy.bg/FileHandler.ashx?fileId=4873>

¹³⁷ The goals of electronic justice and governance are set out in detail in Chapter IV of the Strategy.

¹³⁸ § 4.2.4. of the Strategy

¹³⁹ § 4.2.5. of the Strategy

¹⁴⁰ § 4.2.6. of the Strategy

¹⁴¹ MJ and SJC look at the introduction of electronic justice and electronic governance in the Sector as a set of interconnected means, enabling the following:

- judicial authorities working with electronic cases and documents;

Neither in legislative context, nor in terms of development of strategic documents is the topic of assistive technologies for augmentative and alternative communication discussed.¹⁴³ These are not officially recognised as means supporting the communication and access to the electronic justice systems of people with communication disorder. Nor is there an option envisaged to support the access of persons with disabilities to these systems. They are not formally recognised as a means to support communication and access of people with communication disorders to the electronic justice systems, nor is provision made to support access of persons with disabilities to these systems. Despite the obligation of the judiciary and all state institutions to ensure that persons with disabilities have effective access to justice on an equal basis with everyone else¹⁴⁴, no provision has been made for any accommodations for persons with disabilities to access information about cases or papers by using the information and electronic systems already in place.

At present, each of the criminal procedure bodies maintain their own electronic case management system.¹⁴⁵ A limited access to the Prosecution's system is granted to the investigating authorities, enabling them to track a case. Social services also have their own internal case management system, with only their staff having access to it. The professionals from the Child Protection Departments themselves do not have access to the cases, apart from the publicly available information.

A Unified Court Information System (UCIS) was established within the court system. Following a decision of the Supreme Judicial Council (SJC) of December 2020, by 30.06.2021, UCIS was gradually introduced in all courts by appellate districts, with the exception of the administrative courts and the Supreme Administrative Court, which fall outside the scope of the project. The System is a centralised web-based application for organising case management processes electronically. UCIS integrates the entire case management process, from the registration of the initiating documents, through to the initiation of a case, the random distribution of cases, management of court sittings, adjudication and annulment of acts, court statistics, automatic calculation of judges' caseloads, financial management of the cases, management of summons activity, including via the available mobile application for summoners. All activities are

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- electronic access to the national registers in real time;
 - improved interaction and integration of the information systems of the legislative, judicial and executive powers in the Republic of Bulgaria;
 - provision of electronic administrative services
 - linking our national legislation and registers with identical European registers and structures;
 - enhancing the general legal culture of the citizens;
 - achieving technological and semantic compatibility by expanding the scope and maximum implementation of the internal and international classifications in accordance with the Strategy for the Development of Electronic Governance in the Republic of Bulgaria 2014-2020, the European electronic justice and the adopted Road Map, as well as the commitments the Sector made to the EU initiatives;
 - justice, which aims at maximum improved access and which benefits the citizens and businesses;

¹⁴² <https://www.eufunds.bg/sites/default/files/2018-11/e-justiceRM.pdf>

¹⁴³ There are a number of more general provisions in the Persons with Disabilities Act, which are not focused on the access to justice. Pursuant to Art. 53 (1) of the Act, the persons with disabilities are entitled to equal access to the physical living, working environment and one enabling rest, personal mobility, transport, information and communication, including access to information and communication systems and technologies, as well as to all the other public facilities and services available in urban territories. And Para 2, item 6 of the same Article stipulates that access is secured by identifying and removing all obstacles and barriers to accessibility, with regards to provision of information in an accessible format to people with various types of disabilities, including in Bulgarian sign language, Braille and an easy read format.

¹⁴⁴ See Art. 67 (1) of the Persons with Disabilities Act.

¹⁴⁵ No analyses were found on how technologies facilitate the coordination between criminal justice and the child protection systems. This is probably due to the fact that the systems are not fully developed yet.

brought together due to the option available to perform them in a unified information system. Being a web-based information system, UCIS enables an optimal and reliable electronic case management, while guarantying the required information security to protect the information processed and exchanged by the judicial authorities.¹⁴⁶

UCIS makes use of registry data from external systems and registers. It was integrated with numerous external systems and registers, among which are the Unified Information System to Counter Crime (UISCC), Integrated e-Justice Portal (IEJP), Central Web-based Interface for Publishing Judicial Acts (CWBIPJA), National Legal Aid Bureau (NLBA), Information System for Insolvency Proceedings (ISIP), National Population Database, Commercial Register and Register of Non-Profit Legal Entities, BULSTAT Register, Information System of the National Revenue Agency, Information System of the National Social Security Institute, Automated Information System for the Bulgarian Identity Documents.

In 2020, judges and court staff attended trainings in working with UCIS.¹⁴⁷

02 Technology in use in criminal justice in order to inform the citizens or to support citizens' filing criminal complaints to courts or obtain information about their case, rights or proceedings

Electronic Justice in the Court System.

The Integrated e-Justice Portal (IEJP) was launched in Bulgaria in December 2019.¹⁴⁸ In essence, the Portal is an electronic database of the court cases, handled by all courts in the Republic of Bulgaria. It provides an opportunity for everyone to access general information about all court cases with free public access.

In addition, IEJP provides an opportunity for registered access to the full electronic file of a particular court case, including to all the documents contained in the court's case. Access to the electronic case is granted by the court following the filing of a request by a party to the case or its legal representative. Access to a particular electronic case in the system is granted only to the parties and their representatives (assigned in compliance with the law or by way of authorisation), solely after their explicit statement of intention.

IEJP provides an opportunity for carrying out of procedural actions and requests for authentication statements in electronic form through electronic services for citizens and businesses – initiation of court proceedings, submission of documents on initiated cases, serving of papers to citizens, lawyers and persons representing companies, state institutions and municipalities by electronic means, with an integrated feature of

¹⁴⁶ The information was provided by Information Technologies and Court Statistics Directorate of the Supreme Judicial Council in compliance with the Access to Public Information Act.

¹⁴⁷ The information was provided by Information Technologies and Court Statistics Directorate of the Supreme Judicial Council, pursuant to the Access to Public Information Act.

¹⁴⁸ Access to IEJP available via this link: <https://ecase.justice.bg/>

recording the time of the serving of the document; electronic payments through a virtual POS terminal, etc. To perform these activities, it is necessary to have a Qualified Certificate for an electronic signature (QCES). The You Tube channel of the Supreme Judicial Council¹⁴⁹ features video tutorials on how and what activities can be performed in the IEJP.

Another functionality of the Portal is the option to apply for and receive an electronic criminal record certificate by using an electronic signature. Currently, the service is available only to Bulgarian nationals, persons born in the Republic of Bulgaria and having no prior convictions.

The Portal is linked to the Supreme Judicial Council's system for submission and processing of complaints and reports for corruption in the judicial system and a subsequent tracking of the progress on the court file handling.

It is expected that at a later stage, all courts in the Republic of Bulgaria will join the Portal and that new electronic services will be available, e.g., such as electronic filing of a claim (application).

Certain modifications are made to IEJP to facilitate the access of persons with disabilities to it. It enables the access of people with dyslexia. There is also an option to change some settings, such as font and brightness. An Accessibility Policy¹⁵⁰ has been published, making the commitment that "the system will attempt to cover a level of accessibility according to the latest standards of the World Wide Web Consortium - Web Content Accessibility Guidelines 2.0 (WCAG 2.0), by using the best practices and techniques. WCAG 2.0 explains how to make content on websites more accessible to persons with disabilities." Other modifications or more substantial changes, facilitating the access of persons with disabilities are not in place at the time of the drafting of this report.

There is also a Portal for electronic notification and serving of subpoenas, where the parties and their legal representatives have access to the electronic copies of their subpoenas and notifications.¹⁵¹ Access to a particular electronic case and the relevant subpoenas and notifications available in the system is granted solely to the parties and their representatives, only upon their explicit statement of intention in writing. The access is granted and managed by the competent court on the case after an application is filled in and submitted. Access is enabled via a user account, protected by a username.

Electronic justice in the prosecution system

On the official website of the Prosecutor's Office of the Republic of Bulgaria¹⁵² an electronic portal with access to electronic services has been created.¹⁵³ The platform can be accessed after registration in the portal. By using a qualified electronic

¹⁴⁹ The video tutorials specified above are available at: <https://www.youtube.com/@vss.justice/videos>

¹⁵⁰ The Accessibility Policy is published at: <https://ecase.justice.bg/Home/AccessibilityPolicy>.

¹⁵¹ Available at: <https://summons.justice.bg/Account/Login>. The list of the linked courts is available at: <https://summons.justice.bg/Home/CourtsList>

¹⁵² Available at: <https://prb.bg/>

¹⁵³ <https://e-services.prb.bg/epob-ui/#/home>

signature, one can request services, including submission of reports and complaints of a crime, domestic violence, submission of claims, comments, objections, appeals of acts, infringing upon the rights and legal interests of the defendants and the victims, requests for the issuing of various certificates.

The portal provides free access, without a registration and electronic signature required, for everyone who needs to check a case file, by entering the reference number of the prosecution case file and the particular Prosecutor's Office, where it was registered. The information which can be obtained via this channel is very scarce and is limited to tracking the file – whether it is with a prosecutor for resolution, whether it is with an investigative authority, and so on.

Electronic access to the police system

The official website of the Ministry of the Interior¹⁵⁴ provides access to a Portal for electronic administrative services of MoI (PEAS).¹⁵⁵ It provides an opportunity to use electronic services, but only administrative ones. There is no option for filing reports and complaints of crimes.

Electronic access to the Child Protection System

At present, there is no electronic access to the Child Protection System (the Child Protection Departments). The only option available is to submit a request for electronic administrative services¹⁵⁶ on the website of the Agency for Social Assistance (ASA): e.g. applying for an individual needs assessment for persons with disabilities to obtain financial support in accordance with the type of disability.

03 Technical accessibility for persons with disabilities

The systems for electronic justice and the systems for access, specified in item 1.1.2 above, have no accommodations for persons with disabilities, with the exception of the Integrated e-Justice Portal (IEJP) and its modifications specified in 1.1.2.1 above, the portals for electronic services of Ministry of Foreign Affairs¹⁵⁷ and of the Agency for Social Assistance¹⁵⁸, which have accessibility features and functionalities on their websites but they provide administrative services outside the system of criminal investigation and justice.

In addition, based on our observations and the direct use of the portals, we established that the information provided is not suitable, adjusted and accessible for children. There are no explanations and presentation of children's rights in criminal justice, both generally and with relation to the particular case where they are a party to or a participant. In order to access electronically such information on a case, the child needs the assistance of a competent adult, who is to make the required registration and have

¹⁵⁴ Available at: <https://www.mvr.bg/>

¹⁵⁵ Available at: <https://e-uslugi.mvr.bg/services>

¹⁵⁶ Available at: <https://asp.government.bg/bg/administrativni-uslugi-glavni/elektronni-administrativni-uslugi/>

¹⁵⁷ It is indicated at this portal that it complies with the requirements enabling its easy use by citizens with disabilities; it is marked with an accessibility icon for persons with disabilities, which has two functionalities: - accessibility function with a description of the combinations of keys enabling the use of the website without a mouse and a text version where the visual elements of the website are not displayed.

¹⁵⁸ This portal has over 15 settings of its functionalities for improved access, which can be selected by the users.

an electronic signature. Apart from the above presented challenge, none of the portals contains information, which is presented in an easy-read language, uses visualisations or any other means, which would facilitate the child's understanding, regardless of whether they are with or without disabilities.¹⁵⁹

04 AI projects in civil and criminal justice that improve victims' access to justice

In the course of this study, no projects were identified, focused on the use of AI as a means to achieve multidisciplinary cooperation in the field of criminal justice, nor child participation, including of children with intellectual or psychosocial disabilities, and users of assistive communication technologies (e.g. by integration of assistive technologies).

Rather, the current debate in Bulgaria is about AI and its place in different systems, ethical issues and limits of its application, the need for regulation, etc.¹⁶⁰

¹⁵⁹ We did not come across any extensive analyses on the topic while analysing the existing materials on the matter, neither during our consultations with various organisations and the interviews with experts. Still, the issue with the legal language, which is incomprehensible for the children, is addressed in some reports, such as for example, a short analysis titled "Child Justice in Bulgaria", no name of the author, published on the website of School of Politics, here:

<https://www.schoolofpolitics.com/en/Prilozheni2/Detskopravosytie.pdf>, however, the analysis does not concern the published online information. Other reports related to children's access to justice were also considered, but no analysis on the topic in question was identified – the topic remains outside the interest of the analyses available so far.

¹⁶⁰ Examples of such discussions: online discussions held at NIJ on *Artificial Intelligence and Justice: Friends of Enemies?* on 28.11.2023. Information available at:

<https://nij.bg/%D0%BC%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%BE%D1%81%D1%8A%D1%82%D1%80%D1%83%D0%B4%D0%BD%D0%B8%D1%87%D0%B5%D1%81%D1%82%D0%B2%D0%BE%D0%BE%D0%BD%D0%BB%D0%B0%D0%BB%D0%BD-%D0%B4%D0%B8%D1%81%D0%BA%D1%83%D1%81%D0%B8%D1%8F-%D0%BD%D0%B0-%D1%82%D0%B5%D0%BC%D0%B0-%D0%B0%D0%B7%D0%BA%D1%83%D1%81%D1%82%D0%B2%D0%B5%D0%BD-%D0%B8%D0%BD%D1%82%D0%B5%D0%BB%D0%B5%D0%BA%D1%82-%D0%BA-%D0%BE%D1%80%D0%B0%D0%B2%D0%BE%D1%81%D1%8A%D0%B4%D0%B5%D0%B5-%D0%BF%D1%80%D0%B8%D1%8F%D1%82%D0%B5%D0%BB%D0%B8-%D0%B6%D0%BB%D0%B8-%D0%B2%D1%80%D0%B0%D0%B3%D0%BE%D0%B2%D0%B5-30718>

05

PRACTICAL FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM

Results of the Qualitative Study

01 Themes

In this section, we will examine how the aforementioned legislative framework is practically applied to children with disabilities who have become victims of crimes. The source of information for this comes from the interviews conducted as part of the research with participants in the criminal system - investigating police officers and specialists from the Child Pedagogical Department, prosecutors, judges, system administrators in the courts, lawyers practicing criminal law, as well as specialists from the Child Protection Departments within the Social Assistance Directorates in the country, non-governmental organizations, and state institutions. To identify cases of such children that professionals have encountered, we sent 46¹⁶¹ letters requesting interviews from professionals from various regions of the country. We specifically selected areas where we had prior information that cases of child abuse had been uncovered. Despite this, in most of the cases, we received refusals to participate in the research due to the lack of such cases. In one of the interviews, it was shared that such cases could not exist because children with intellectual and psychosocial disabilities are under the supervision of an adult and therefore *"cannot be victims of crimes."*¹⁶² Despite our efforts, during the interviews, it turned out that none of the professionals in the criminal system had encountered a case of a child victim of crime who has intellectual or psychosocial disabilities and uses augmentative and alternative communication methods. Overall, the cases of children with disabilities who are victims of crimes that have reached the authorities involved in the criminal proceedings are extremely few, ranging from 1 to 3 cases per year¹⁶³ in the practice of the respective investigating police officer, prosecutor, or judge. Cases of non-verbal children with disabilities are even rarer or completely absent. It was mentioned that there are cases where the children communicate, although in a very limited manner. Not a single case of a child using augmentative and alternative communication methods reaching the criminal justice authorities was identified. Most of the stories shared by the interviewees concern cases of child victims of crimes, and in rare instances, these children were with disabilities. We made efforts to understand how professionals explain the reasons for this situation. One of the explanations was the one mentioned above, namely, that these children are simply not victims of crimes. This belief is very dangerous, as it excludes the necessity of creating accommodations for children with disabilities to access justice and denies the potential risks faced by this group of children. Thus, the judicial system remains completely blind to their problems, and other systems, including the child protection system, do not seek solutions.¹⁶⁴

¹⁶¹ A total of 46 invitations were sent out, distributed as follows: 10 to courts, 8 to prosecutor's offices, 10 to Regional Directorates of the Ministry of Interior, 8 to Child Protection Departments, 1 to the Chief Director of the General Directorate "Child Rights Control" at the State Agency for Child Protection, 5 to support organizations, and 2 to lawyers. Additionally, we submitted requests under the Access to Public Information Act to the State Agency for Child Protection and the Ministry of Justice.

¹⁶² From an interview with a female prosecutor from the District Prosecutor's Office: *"Often these children are under the care of an adult and... in my opinion, access to these children is limited, and consequently, they are not victims of crimes, i.e., there are adults responsible for them ... or they are accommodated in institutions."*

¹⁶³ From an interview with a male judge at the District Court.

¹⁶⁴ Our statement is based on the interviews and consultations conducted.

How do experts explain this lack of cases? The problem with reporting the crime.

According to a judge we spoke with, one of the reasons is the formal nature of the criminal process, which does not recognise children with disabilities as a specific group with specific needs related to access to justice. He noted the progress made with recent legislative changes but emphasised that they are not sufficient: *"Overall, our law does not speak about children with disabilities. Our Criminal Procedure Code speaks about the special needs of a particular minor. The court must assess these special needs on a case-by-case basis. There is no explicit provision or obligation in the Criminal Procedure Code for special actions towards such children. All criminal judges who handle these cases have undergone special training and have at least 15 years of experience..."*¹⁶⁵

The issue of the lack of specialised experts who can assist in communication and contact with children with disabilities such as speech therapists, psychologists, and others, was also highlighted. These experts should be available to the court and other entities within the criminal justice system. According to the interviewed judge, the court has lists of experts - psychologists, psychiatrists, etc. - but they are not specialised in communication and working with children with disabilities, who could contribute more significantly to realizing the rights of these children.

Access to justice was also identified as a problem, particularly the barriers that children with disabilities face in the reporting process.

*"How do they reach the court... well, they hardly reach the court. Most children with disabilities either do not realize, cannot, or do not want to report crimes committed against them."*¹⁶⁶

The barriers were generally categorised into three groups: normative, factual, and related to a lack of understanding of violence as such.¹⁶⁷ In addition, emotional barriers were mentioned, such as fear of the perpetrator.¹⁶⁸ Despite the legally provided measures for the protection of witnesses and victims, judges shared that those are not sufficient, and fear of the perpetrator is one of the main obstacles preventing the reporting of crimes, regardless of whether the victim is a child with or without disabilities. Only in cases where the perpetrator is detained, the victims feel more at ease and are more willing to report the crime. However, detention is a measure of non-deviation, serving the purposes of Article 57 of the Criminal Procedure Code¹⁶⁹, not a measure for protecting the victim.

"Minors participate in criminal proceedings through their legal representatives. When it comes to victims of crimes, these are usually their parents or individuals exercising parental or other rights. If there are none, the court appoints a special representative. In the new amendments to the Criminal Procedure Code, it is provided that when the

¹⁶⁵ From an interview with a male judge at the District Court.

¹⁶⁶ Interview with a male judge

¹⁶⁷ Interviews with judges

¹⁶⁸ Interview with a male judge

¹⁶⁹ According to Article 57 of the Criminal Procedure Code, measures of non-deviation are taken to prevent the accused from fleeing, committing a crime, or thwarting the enforcement of a final sentence.

*child does not want to be represented by a parent or another person exercising parental functions, the court may appoint another person to exercise their rights. To be honest, I've only had one such case so far - an attorney was appointed to represent the child's rights [...] Both minors and children with disabilities find it difficult to exercise their rights independently. Indirect exercise of rights complicates the process.*¹⁷⁰

Judges, prosecutors, police officers, and specialists from the Child Pedagogical Departments share that cases involving children as perpetrators of anti-social acts are much more common within the criminal justice system than cases of children being victims of crimes. The primary cases that reach the criminal justice system appear to be those of sexual violence committed within the family (step-parents, partners of the child's biological parent, etc.).¹⁷¹

According to the experts we spoke with, the cases that reach the criminal justice system are initiated by parents or close relatives of the victims who notice signs of violence. In another scenario, the report may come from the educational staff.¹⁷² The particular aspect in the latter case is that it involves a child in residential care, identified by the interviewee as a child at risk with a certain degree of disability. However, during the interview, it becomes clear that it concerns a child who is deprived of parental care but is not a child with a disability.¹⁷³ A similar case was identified during a review of the case law.¹⁷⁴ The cases illustrate the importance of communication for access to justice. Children in residential care who do not have communication difficulties manage to inform trusted adults about their experiences and with their help gain access to justice. This is not the case with children with communication problems. Without specific and accessible communication tools for them, as well as without the presence of a trusted adult, it is difficult, if not impossible, for them to access justice.¹⁷⁵

02 Individual assessment

Individual assessment is a concept understood differently by professionals. However, it does not serve the purpose of providing reasonable and procedural accommodations for children who are victims of crimes.

„Usually, when cases come to us, the individual assessment has already been made during the pre-trial proceedings phase [...] It's a standardised document that outlines the child's social status, family situation, what kind of family they come from... those sorts of things. The law allows for the assessment to be modified, but I haven't had to do that." "It used to be called a social report. Now, social reports are used in civil cases. This assessment is something similar. We consider it from the perspective of assessing

¹⁷⁰ From an interview with a male district judge.

¹⁷¹ From an interview with a male district judge.

¹⁷² The particular case concerns sexual violence in residential care. The information is based on an interview with a male district judge.

¹⁷³ From an interview with the district judge mentioned in the previous footnote.

¹⁷⁴ Sentence No. 45 dated October 24, 2017, in criminal case No. 1179/2016 of the VII Panel of the District Court in Vratsa.

¹⁷⁵ The report "Dis-Connected: Interconnected Services and Programs for Preventing Violence Against Women and Children Targeting People with Disabilities" examines this issue in more detail. The report focuses on access to justice for women and children with disabilities who are victims of gender-based violence. The report is available here:

<https://www.kerafoundation.com/wp-content/uploads/2024/04/DIS-CONNECTED-Bulgarian-National-Briefing-Paper-BG.pdf>

*to what extent the procedural rights of the child would be violated if the parents participate, if they are deprived of parental rights, if there are problems in the family, if the child has any specific needs. [...] As far as I know from my colleagues in the investigation units, it is prepared by the child protection departments, and a large part of the information is kept by them... [...] We mainly consider them from a procedural point of view, determining which individuals should participate and in what capacity”.*¹⁷⁶

A district judge shared in an interview that, in his opinion, individual assessments under the Law on Assistance and Financial Compensation for Victims of Crimes do not hold particular significance in criminal proceedings before the court. However, in another scenario, a district judge uses the individual assessment to determine what conditions to provide for the victim so that justice can be compassionate. How exactly the individual assessment should be prepared appears unclear to professionals. For some judges, the preparation of the assessment should be based on information provided by individuals who know the person to extract information about their character and particularities. According to the judge, this information would guarantee the possibility of providing suitable conditions for participation in the legal process. How exactly a person with disabilities is involved in preparing this assessment, whether their consent is obtained for its preparation or acceptance, remains an unclear issue that is not even problematised - the person with disabilities seems excluded from the process of preparing the assessment.

From the interviews with investigating police officers, it is very clear that the issue of the individual assessment is still not well defined, and debates and uncertainties remain about how exactly to prepare it and who is responsible for it.

*“With this investigator, I work very well [...] This child is placed in a Family-Type Accommodation Center, from which I requested an individual profile for the child. From the school, I requested an individual profile, that is, to have a profile made. I knew from the investigator that the Child Protection Department had also sent a letter to have a profile made, and since the Social Support Centre has been working with the child for almost 6 months, I also requested one from them. Based on what I received, I compiled... as they say... I gathered everything in one place. From my side, I added information about whether the child is on record, whether there have been any antisocial behaviours or crimes committed up to now. And it turned out to be about a page and a half. I did it for the first time, of course.” “We were trained in the so-called "child's path" and [...] We reached a discussion about who should make this individual assessment. My opinion is that the Child Protection Department are the people who should make this assessment for a child. I am not a psychologist, I am not a psychiatrist, I can only make it from my professional point of view. I can request a profile from the school, but that's it. [...] To determine if there is a need for specific protection... but they are overly busy...”*¹⁷⁷

¹⁷⁶ An interview with a male judge at the District Court.

¹⁷⁷ From a focus group with investigating female police officers

The investigating police officers have difficulty understanding the need for this assessment, as even before the amendments in the law, they have gathered information about the characteristics of the victim and the perpetrator.

"It repeats things that I have already collected anyway."¹⁷⁸

The misunderstanding of the purpose and significance of the assessment seems to stem from a lack of understanding of the necessity to adapt procedures during investigation and judicial processes in a way that makes them accessible to the victims. The criminal process itself, in all its phases, as most interviewees point out, is highly formal and focused on establishing facts and punishing the perpetrator, while the condition of the victims, their meaningful participation, understanding of procedures, and access to rights and rehabilitation, whether they are children or adults, whether they have disabilities or not, remain in the background. Despite changes in the law, inertia from previous working methods is still present, and it will obviously take time to achieve a full understanding and implementation of the newly adopted provisions. Moreover, there appears to be a lack of understanding regarding the content of the assessment and the experts who are supposed to conduct it. None of the interviews identified the need for communication specialists, special techniques, or technologies to support the participation of the victims.

03 Provision of support, information, and communication

Multidisciplinary approaches

Within the present research, we also investigated whether there are services and multidisciplinary approaches, such as the "Barnahus" model, and what forms these approaches take at national level.

The "Barnahus"¹⁷⁹ model is described as a house/facility located in a residential area, equipped with four "rooms," each dedicated to a specific activity. These include criminal investigation (forensic interviews), cooperation/protection (family counselling/support), physical health (medical examination), and mental health (therapy services). It serves as a place where social services, police, prosecution, forensic medicine, pediatrics, and psychiatry can provide services and collaborate, especially in the initial stages of preliminary investigation and social assessment.

In Bulgaria, such an integrated approach towards children, victims of crimes, is not adopted. At present, separate institutions operate sequentially, often with reports of child abuse being filed either with the police or with social services (the Child Protection Departments within the respective Social Assistance Directorates). They inform the prosecutor, who supervises the investigation. After clarification of the case and if there is sufficient evidence of a crime committed, the prosecutor refers the case to court by

¹⁷⁸ Focus group with female investigating police officers and specialists from the Child-Pedagogical Department.

¹⁷⁹ See <https://childhub.org/bg/multimedijni-resursi-za-zakrila-na-deteto/kakvo-e-barnahus-barnakhus-i-kak-raboti>

submitting the indictment. These actions by the respective participants in the criminal proceedings occur at different times and in different circumstances.

The only identified exception is the establishment of "Zona ZaKmila" centers, which encompass under one roof most of the activities related to protecting a child from violence and supporting their parents. The initiative to create such centers was launched in 2015 by UNICEF, in collaboration with other organizations and municipalities. There are only a few centers like these. The main services offered in such a center include: Social, psychological, and therapeutic support aimed at overcoming trauma and the consequences of violence; Assistance with medical examination and access to necessary healthcare; Legal aid; Supportive interrogation in a "blue room" to avoid further traumatization of the child during investigation and legal proceedings while protecting their rights and best interests, and ensuring the collection of complete and accurate information on each case; Crisis intervention in cases requiring urgent response.¹⁸⁰

Coordinating the actions of various professionals and services in cases involving children who have suffered from violence or are at risk.

According to the information shared by the interviewed specialists, the so-called Coordination Mechanism for Collaboration in cases involving children¹⁸¹ is in practice a joint meeting between social workers from child protection departments, the investigating police officer handling the case, the prosecutor, and a representative from the municipality. These participants familiarize themselves with the specifics of the case, as well as the individual characteristics of the child (health condition, family situation, educational status, etc.), after which they collaboratively develop an action plan for the protection of the child. Once the plan is drafted and approved, each participant takes their "piece" and implements activities to carry it out. However, there is a lack of subsequent coordination between the participants, alignment, and update of information and activities carried out by each participant. There is no unified system (whether in electronic form or in the form of a written procedure) through which participants can inform each other, as well as receive timely and up-to-date information regarding the progress of the case and the implementation of the plan. Whether this will happen largely depends on the personal qualities and commitment of the professionals. Upon specific request from the prosecutor or judge, social services provide up-to-date information about the child, considering their social status. It is not clear who oversees the overall implementation of the plan beyond the individual responsibility of each participant for their "piece".¹⁸²

Apart from this mechanism, judges and prosecutors confirmed that they generally work well with specialists from child protection departments. The exchange of information

¹⁸⁰ More about "Zona ZaKmila" centers see: <https://www.unicef.org/bulgaria/%D0%B7%D0%BE%D0%BD%D0%B0-%D0%B7%D0%B0%D0%BA%D1%80%D0%B8%D0%BB%D0%B0>

¹⁸¹ Regarding the goals and functions of the Coordination Mechanism for Collaboration in cases involving children who are victims of violence or at risk of violence, and for interaction during crisis intervention, see § 3.1.2 of this report

¹⁸² The information was gathered from interviews with police officers, prosecutors, and social workers.

within a given proceeding is carried out "*in the old-fashioned way*"¹⁸³ through sending letters and requests to the respective authority.

Information Exchange Systems

According to the interviewed specialists, integration of information exchange systems and case management systems in criminal justice is not yet complete. The majority of courts operate with the Unified Court Information System, but there are courts in the country that operate with other systems.¹⁸⁴ Currently, each authority involved in criminal proceedings operates its own independent electronic case management system. There is no connection between the electronic case management systems of the courts, the prosecutor's offices, and the enforcement authorities.

The question remains open and subject to debate as to whether it is lawful and appropriate to have electronic access to pre-trial case files, considering the provision of the Criminal Procedure Code prohibiting materials from the investigation phase to be disclosed without the prosecutor's permission.¹⁸⁵

The investigative authorities have limited access to the prosecutor's system for case tracking purposes.

Similarly, social services have their own internal case management system, which is accessible only to servants within those services. Specialists from child protection departments themselves do not have access to case files in the court beyond the publicly available information.¹⁸⁶ On their part, judges do not have access to the electronic system used by social services.

There is no possibility for electronic tracking of a case from filing of the report for a crime to the issuance of the final judicial decision and the measures for its execution. Although judges have indicated that case files are scanned into electronic files upon receipt by the court, and this continues during the ongoing proceedings, the only reliable way to become familiar with the case and the actions taken by the authorities is through a actual review of the paper file. Only the parties to the case and their lawyers have the right to access the file. However, the child, despite being a party, as a minor needs the assistance of their legal representative. Furthermore, there is no unified system through which the child can simultaneously access information about the proceedings concerning their case and access information about their rights.¹⁸⁷

"The general trend towards e-justice is there- digitisation of the entire judicial system and, in general, a trend towards digitisation of the government. If we are talking about the availability of means through which the justice system can be accessed electronically, they do exist indeed, but they are not specifically and specially organized

¹⁸³ As per the words of a male district judge.

¹⁸⁴ Interviews with judges, system administrators, prosecutors, and investigative police officers.

¹⁸⁵ See art.198 Criminal Procedure Code

¹⁸⁶ Interviews with female social workers.

¹⁸⁷ Interviews with judges, prosecutors, and investigative police officers.

and adapted for access by persons with disabilities. They are the same for everyone."¹⁸⁸

The fact that none of the interviewees encountered a case involving a child who was entirely non-verbal leads to the logical conclusion that such children do not have a voice in the proceedings and are not provided with procedural accommodations to communicate with the authorities.

The criminal justice system in Bulgaria does not recognise children with disabilities who are victims of crimes and who use AAC, i.e., those who have significant communication problems. Such children do not access criminal justice, and when they are victims of crimes, they are completely invisible. The criminal justice system lacks both the knowledge and the resources to meet the needs of these children. The problems are on several levels:

- Professionals in the criminal justice system still lack solid knowledge about the rights of children with disabilities. Only judges have undergone trainings. This immediately reflects on their understanding of children's rights and on making changes and adjustments to procedures, despite their formality, to be more accommodating for children. However, this understanding does not cover topics related to the specific rights of children with disabilities in connection with criminal justice.
- Prejudices and lack of coordination between individual services also result into barriers.
- Even trained experts focus on providing a "supportive environment" for children in contact with the criminal justice system. Without denying the need for such an approach, we notice gaps in ensuring the rights of children with disabilities, such as their right to be informed and to be participants in the judicial processes that concern them. It seems that the prevailing opinion is that children (in general) should be as little involved in the process as possible and less informed.
- Beyond the "blue rooms," which are universally recognized as a specific set of suitable environments and rules for involving experts to ensure a full and at the same time compassionate examination of an affected child, no other procedural accommodations are known.
- Individual assessments are still not a tool to ensure the actual participation of children with disabilities in the judicial processes that concern them.
- E-justice systems are still in the process of development, and their potential has not yet been fully deployed and understood.
- Reliable statistical information regarding the number of children with disabilities, the number of children with disabilities who are victims of crimes, and clarity on

¹⁸⁸ Interview with a male district judge.

who is responsible for collecting it is still missing. Detailed information on age, type of disability, etc. is also missing.

- There is a lack of understanding of the five basic needs of crime victims: respect, acknowledgment of their experience as victims, support and information, access to justice, protection, and compensation. Regarding children with disabilities, these needs are not addressed.
- Children with disabilities rarely, if ever, report crimes against them due to the lack of accessible reporting mechanisms.
- While there have been some attempts to create a more accommodating environment for children with disabilities, in practice, they do not have access to justice.

Communication of Professionals with Children

Examples were shared of investigators trying to put children at ease during interviews by offering them treats or juice, asking brief questions, and preparing questions in advance, sometimes in consultation with the child's relatives.¹⁸⁹

Judges, most of whom have undergone specific training for communicating with children, strive to create a more informal environment in court proceedings. Some of them share that they approach with great patience, remove their robes, step down from the bench, and get down to the child's level when talking to them.¹⁹⁰ In other cases, off-site sessions are held in support centers affiliated with the "Child Protection" departments.¹⁹¹ A district judge detailed the approach to communicating with children: the necessity of asking open-ended questions and avoiding "why" questions or those leading to specific answers.¹⁹²

"They need to emphasize those senses that are strong for them. I mean, I've never seen someone who is completely unskilled at everything [...] a way must be found to reach that person. This is something the respective authority, such as a judge, police officer, or prosecutor, would struggle to do because we don't have that kind of training, but a person who specializes in this [...] and I have seen such cases where they establish contact with the child."¹⁹³

Informing Victims of Their Rights

When fulfilling their duty to inform crime victims of their rights, professionals, especially in the pre-trial phase, often provide this information to the children's parents or legal

¹⁸⁹ Focus Group with female Investigative Police Officers

¹⁹⁰ Interview with a male District Judge

¹⁹¹ Interviews with Judges

¹⁹² Interview with a male District Judge

¹⁹³ Interview with male District Judge

representatives.¹⁹⁴ Generally, most professionals who addressed this topic noted that it is the duty of the parents, legal representatives, or special representatives of the victims to inform them of their rights.¹⁹⁵

*"We hand out the form in accordance with the law for victims, the protocol along with the form, informing them of their rights, mainly the parents and special representatives, because I don't think, I don't think the child should be informed of all their rights, as it would only stress them more..."*¹⁹⁶

Use of Technology

None of the interviewees had used or were familiar with the use of technologies that could help overcome the obstacles faced by children with disabilities.

*"In our practice, all these things sound like wishful thinking."*¹⁹⁷

*"We neither have the technical equipment nor the practice to use them. Honestly, we haven't needed to use them, as we haven't had, as far as I know, such cases of individuals with disabilities who couldn't communicate with us in other ways."*¹⁹⁸

Training of Professionals

Of all the interviewed specialists, only the judges indicated that they had undergone training to acquire knowledge and skills for working with children. Such training, however, is also necessary for investigative police officers, who most often have the first contact with child victims of crime.

Training is also needed for lawyers who are subsequently appointed as special representatives of victimized children. In an interview with a district criminal judge, it was shared that he has not observed such specialization and training for public defenders who later appear as representatives of victimized children, *"sometimes even, some colleagues (lawyers) for example, when they see that the case is more complex, find a way to withdraw from the process and we have to look for a new lawyer."*¹⁹⁹

04 Procedural accommodations

Procedural accommodations and supportive environment

*„Well, personally... procedural accommodations... for children... I don't know what it is."*²⁰⁰

It could be seen that in the interviews with judges who have undergone training on working with children and have an interest in the topic of people with disabilities, the

¹⁹⁴ From Interviews with female Police Officers

¹⁹⁵ Female District Prosecutor

¹⁹⁶ Female District Prosecutor

¹⁹⁷ From an Interview with a male District Judge

¹⁹⁸ Interview with a male District Judge

¹⁹⁹ From an Interview with a male District Judge

²⁰⁰ Female District prosecutor

concept is understood to a greater extent than by professionals who have not undergone such training or have only attended single sessions.

Judges identified as a main obstacle to introducing procedural accommodations in legal proceedings²⁰¹ the formalism of the criminal process and emphasise that this formalism should be reduced to allow greater discretion for them without violating the defendant's right to defense.

In the conducted interviews, the so-called "blue rooms" are cited as the main method for ensuring a supportive environment for hearing children.²⁰² In the conducted interviews, the use of video conferencing is also mentioned.²⁰³ In a case of sexual abuse against a 5-year-old child, pictograms, picture language, and other similar methods were used.²⁰⁴

"Blue rooms"

When interviewing and questioning children (with and without disabilities), separate, adapted premises are used. In many judicial districts, there are special premises known as "blue rooms."²⁰⁵ In other areas where such premises are not available, adapted rooms and buildings are used for the participation of children with disabilities. For example, in the Kardzhali region, where there is no "blue room," an interview with a child with a disability was conducted at the school where the child studies, with the assistance of its special teacher.²⁰⁶

In other cases, attempts to provide a supportive environment are not successful. For example, an investigating policeman shared that in the region where he works, the interview of a child is ironically referred to as a "wedding." The interviewee targeted the gathering of many people in one place (all involved in the case) - policemen, the suspects, the defender, the victim, their representative, etc. Measures to avoid visual contact between the victims and the perpetrators and measures to ensure that the victim can be interviewed without physically being present in the same room are problematic and practically impossible. When there is no special rooms (blue rooms), it is left to the discretion of the respective policemen how (to the extent of their personal capabilities) to adapt the environment for a more supportive interrogation.

There is no consistent practice regarding the location of the 'blue room' - in some districts, it is built within courthouse premises, making it less accessible for use by investigating police officers (as permission from the prosecutor and prior notification are required), while in other cases, it is located in the facilities of the so-called 'Social Service Complexes.' However, in both scenarios, this room is not used when the interrogation is conducted immediately after the crime has been reported and/or disclosed, and when the report of the crime is received outside of working hours or on

²⁰¹ Interviews with judges

²⁰² From an interview with a male district judge

²⁰³ From an interview with a male district judge

²⁰⁴ From an interview with a male district judge

²⁰⁵ In the territory of the Republic of Bulgaria, there are 40 rooms located in buildings of the judiciary, the Ministry of Interior, or other institutions. These data are based on information provided by the Supreme Judicial Council and are published in the National Program for the Prevention of Violence and Abuse against Children (2023 – 2026), page 46, available here: <https://sacp.government.bg/sites/default/files/politics/plan-nasilie-i-zloupotreba-deca-2023.pdf>.

²⁰⁶ From an interview with a male investigating police officer.

a day off. In such situations, investigators conduct the interrogation of children in their own premises within the police building. In an interview with an investigating police officer, it was shared that in these cases, they resort to assistance from specialists from the Child-Pedagogical Department, as well as those from the Departments for Child Protection. In cases where the interrogation of children take place in a "blue room," according to the interviewed specialists, they proceed with the participation of a psychologist and/or a social worker, who mediates the conversation with the child and rephrases the questions to be asked, taking into account the child's age and condition.²⁰⁷ Behind the glass in the blue room remain all other participants in the process. However, the involvement of a specially trained specialist to conduct the child's interview is not ensured in cases of urgent interrogation, conducted immediately after receiving the report and establishing the crime committed. In such instances, the interrogation is led by the investigating police officer, with the participation of a specialist from the Child Pedagogical Department, if possible.²⁰⁸ It was also reported that investigating police officers cooperate with each other so that, whenever possible, the interrogation of a child who is a victim of sexual violence, gender-based violence, or violence in close relationships, is conducted by a person of the same gender.²⁰⁹

Regarding the requirement that all interviews with the child victim be recorded audiovisually and that these recordings be used as evidence in criminal proceedings, it was found that the blue rooms are equipped with audio recording facilities to reproduce the child's interview.²¹⁰

It should be noted that professionals place great importance on the availability of a "blue room," appreciating the fact that the provided environment is truly child friendly. The absence of such a facility is even considered as one of the most significant challenges in investigating cases involving child victims.²¹¹

Efforts to Avoid Revictimization

There is an effort to minimize the number of interviews with children and to avoid repeated interviews (for example, by reading the testimony given during the pre-trial phase). The Criminal Procedure Code provides for this possibility under certain conditions.²¹² Interviewed judges also confirmed that, when these conditions are met, a repeated interview during the trial phase can be avoided.

However, the practice remains to have at least two interviews in cases involving child victims - one conducted by the investigating police officer (or a specialist from the Child Pedagogical Department) upon receiving the report and establishing the committed crime (also known as a discussion), and the conduct of the so-called preliminary examination, and at least one more during the pre-trial phase (which can also be before a judge) to uncover additional details and questions regarding the

²⁰⁷ From interviews with judges

²⁰⁸ From interviews with police officers and a specialist from the Child Pedagogical Department.

²⁰⁹ From interview with male investigative policeman

²¹⁰ From interviews with judges

²¹¹ From interview with female district prosecutor

²¹² According to Article 218, Paragraph 1, p. 6 of the Criminal Procedure Code, the testimony given by a witness in the pre-trial proceedings before a judge or before another department of the court in the same case is read out when the witness is a minor or has specific protection needs, and the defendant and their defense attorney were present during the questioning.

investigation.²¹³ Usually, a third interview is also conducted during the judicial proceedings, in line with the principle of immediacy in criminal proceedings. However, this interview can be avoided if the conditions set forth in the Criminal Procedure Code are met.²¹⁴

Often in cases involving children with disabilities who are victims of crimes, forensic examinations are appointed²¹⁵ - psychiatric, psychological, or comprehensive. On one hand, they aim to assess the harm caused by the crime to the child's personality and psyche, as well as its linking with the act. On the other hand, they aim to "verify" to what extent the child could understand what happened to them and provide reliable testimony. Conducting such evaluations involves discussions and investigations with the child regarding their experiences, although these conversations are led by specialists such as psychiatrists, psychologists, or social workers.

Video conferencing

Due to the significant formalism of the criminal process and the principle of immediacy, in practice, neither during the pre-trial nor during the judicial phase of the proceedings, children are questioned via video conferencing. In an interview with a judge, video conferencing was mentioned as a possible means of providing procedural facilitation²¹⁶ and providing a supportive environment for gathering information from an affected child, but the potential of this method is not utilized, nor is it technically supported at the moment. It was found that in one court, there is the entire technical capability for conducting video conferencing and it is being used, but for questioning highly qualified expert witnesses, rather than in cases involving children with disabilities.²¹⁷

Overcoming the Conflict of Interest

In only one case²¹⁸, it was shared that a special representative for the child-victim was appointed during the investigation, as it was found that the child had no close relatives and was placed in a family-type centre. Special representatives usually lack specific knowledge about communication with children with disabilities and generally about the rights of children with disabilities.²¹⁹ Nevertheless, it was pointed out that special representatives demonstrate at least the necessary delicacy when working with children.²²⁰

Preserving victims' confidentiality and protection of their personal lives

Regarding the judicial phase of the process, it was shared by the judges that they conduct closed-door sessions when the case requires the questioning of child victims of crimes.²²¹ It was also recounted a case where the parents of the affected child were

²¹³ This is established from interviews with police officers and district judges.

²¹⁴ See art.218 of the Criminal Procedure Code.

²¹⁵ From interview with male district judge

²¹⁶ From interview with male district judge

²¹⁷ This is established from an interview with a male system administrator at the court.

²¹⁸ Interview with a male District judge

²¹⁹ Interviews with judges

²²⁰ Interview with a male judge

²²¹ Interviews with male District judges

removed from the courtroom to predispose the child to disclose acts of sexual abuse committed against them by a third party.²²²

²²² Interview with a male District judge

006

**CHILDREN'S
EXPERIENCES OF
THE CRIMINAL
JUSTICE SYSTEM**

01 Barriers to the participation of children with disabilities in criminal proceedings

As previously mentioned, the criminal justice authorities rarely encounter cases involving children with disabilities as victims of crimes. They remain invisible victims, unrecognized by any system. Access to such children proved to be extremely difficult, mainly due to the inability to identify them. In order to provide the children's point of view and describe their experience, we conducted interviews with experts with extensive experience working with children, a parent of a child with disabilities who became a victim of a crime (sexual assault), and an adult woman who was a victim of a crime as a child.

In an interview with a speech therapist, who has extensive experience working with children with communication difficulties, a possible reason for the low number of cases involving children with disabilities reaching the criminal justice system was highlighted. According to this specialist, during their work with children with communication difficulties and their parents, various types of specialists and therapists focus on developing the children's skills to compensate for deficits caused by their disabilities. Rarely is the focus on *"how the child feels, what brings them joy and what makes them sad, what makes them happy."*²²³ The violence as topic is missing. It is not discussed what it represents and what its forms can be in the context of the lives of children with intellectual and psychosocial disabilities.

*"They could not understand what violence is. Generally, the education of these people with communication difficulties does not reach the topic of violence [...] But if they are taught [...] what I can allow someone to do with my body, for example, many of the children could be taught to understand the topic just as they learn to understand abstract concepts like time - t's cold outside, warm, spring, summer, for example."...*²²⁴

The result is lack of awareness and knowledge among children with intellectual and psychosocial disabilities about what constitutes violence and the forms it can take, what could be an assault and a crime against them.

"If we are talking about people who use augmentative and alternative communication, we need to introduce the topic, suggest, and discuss what it means to hit or kick. In reality, we do this with children without disabilities; we talk about what is right and wrong, what is permissible and what is not. Actually, for these children, there is no need for a more special approach, but rather to introduce the topic. And when we have people or a child with a disability, it seems that the topics are on a more basic level - eating, dressing, and very rarely do we get to discussing topics like what I want, what is important to me. Children often find themselves in a whirlwind of being taken to specialists, and they are offered training in developing skills that they later don't use much, but no one asks them what they like now, what they are interested in now. It

²²³ Interview with a female speech therapist specialist experienced in working with children.

²²⁴ Interview with a female speech therapist specialist experienced in working with children.

seems that being a person with a disability in Bulgaria is all about compensating, to catch up, to make this person like others."²²⁵

The cited interview clearly shows that neglecting the emotional state and needs of children with disabilities is an expression of a lack of respect and recognition of them as individuals. It is wrong to think that if a child does not speak, they do not understand or feel anything. Focusing on the disability as a medical problem that needs to be treated with various therapies overshadows, sometimes entirely, the child's emotional needs.

*"More often, parents dare not to ask such a question of their children ("What will you become when you grow up?")"*²²⁶

This conclusion is confirmed by the story of an individual with a mental disability, who had suffered violence since early childhood, subsequently becoming a victim of other forms of sexual violence and harassment. Only after speaking with a lawyer in adulthood the victim began to realise that she had been subjected to violence.

*"And I ask her, 'What violence?' And she understood that I was not aware that I was being sexually harassed... I was in some kind of trance. Maybe for a few weeks. I couldn't realize it... I was somehow out of touch with reality."*²²⁷

Training children with mental and intellectual disabilities on what violence is, how to recognise it, how to react, and how to report it using appropriate tools and methods is particularly urgent, given that most often, the perpetrators against these children are their parents or their partners, or by their caregivers as a result of burnout.

*"I believe that these families, especially those with members with severe disabilities, are at great risk within the family due to burnout. We know that when a child receives a severe diagnosis, families often fall apart; parents frequently divorce, or one of the parents has to stop working, which means that from then on, we don't have either a complete family unit or a parent who can pursue their dreams. In reality, burnout in caring for the child brings a significant risk that leads to violence even within the family."*²²⁸

There are numerous cases of neglecting the needs of children by their parents or cases of conflicts of interest. In such cases, it is crucial for children to have the ability to independently report any incidents of abuse. According to interviews with a specialist speech therapist, children with disabilities are challenging to manage. If there is no parent to stop the other parent or to stop an older sibling who is angry with the disabled child, the likelihood of violence to occur within the family in its various forms is significant.²²⁹

In cases where there is no conflict of interest between the child and the parent, the need for training both children and parents on how to communicate about violence is

²²⁵ Interview with a female speech therapist specialist experienced in working with children.

²²⁶ Interview with a female speech therapist specialist experienced in working with children.

²²⁷ Interview with a female victim of sexual assault.

²²⁸ Interview with a female speech therapist specialist experienced in working with children.

²²⁹ Interview with a female speech therapist specialist experienced in working with children.

particularly evident. Once communicated, they need to know what steps to take, which authority to report to, what forensic examinations should be conducted, what therapeutic support is required, and most importantly, where to find specialists trained to work with children with intellectual and psychosocial disabilities. The main problems here primarily stem from the lack of access to information and support needed to access justice.

"I mean, at that time, a lady from a non-governmental organization to ask her about the rules, how to proceed, and what to do because I had no idea. [...] I was like hitting in a wall literally. ... Well, usually, when there is a problem, everyone tries to hide or escape from what you will do because it is associated with troubles."²³⁰

After identifying violence or abuse against a child with disabilities within the family and their close circle, victims face several main barriers.

Firstly, there is a lack of trust, sensitivity, and understanding of the problem by members of society (who may be participants or witnesses to the violence somehow). If the child cannot clearly express what they have experienced, others easily deny that anything wrong has happened at all. Denial of violence is a problem in principle, whether it concerns children with disabilities or not, but the presence of disability further complicates its recognition and acknowledgment.

„I don't think that culturally this issue could be discussed within the society in any way. And when it is absent as a topic in the society, there is no way to seek criminal accountability at a higher level; it is not recognised at the lower level [...] And I'm not really sure how many people would react if they saw such a thing, let alone reach some institution like the court [...] The limited communication of people with disabilities allows them to speak up even less."²³¹

Question:

"Did you receive any assistance from the staff in any way to understand what happened?"

Answer:

"No. No, no, no. Quite the opposite. No. I received threats from the director, her behaviour was terrifying. She explained to me how crazy I'm if I think anyone will pay attention to me. It was quite difficult."²³²

Next, this distrust and lack of understanding also prevails at the institutional level when reporting the crime.

According to an interview with a speech therapist, in cases of violence against a child with disabilities, noticed by them they turn to the social services:

"When we have a case of violence, we can write to the socials a report to inform them [...] However, nothing happens; we just write reports, and no one reacts [...] We write:

²³⁰ Interview with a female parent of a child, victim of crime.

²³¹ Interview with a female speech therapist specialist experienced in working with children.

²³² Interview with a female parent of a child, victim of crime.

the person is very aggressive, they need to find another place or another service... no one calls or asks what's happening with this person or seeks the family to ask them what's difficult for them, what else to seek in this social system. Overall, we have a mechanism that doesn't work... but in reality, writing these reports doesn't lead to dialogue, but to informing some people, whom we don't even know if they read these reports [...] there is no communication... the link with providing information is cut short, and then there is no reaction or comment or activation of any mechanism..."²³³

"Throughout the time, I was engaged in endless struggles, discussions, complaints [...]. I really sought help because I didn't know how to react. I started calling various authorities, making noise..."²³⁴

"...they literally tried to quickly brush it under the rug, you know, to sweep it under and move on, you know, without any, any sort of repercussions, or some sort of echo, some sort of punishment or whatever, because even to this day, the people who I believe are responsible for my daughter's condition are still in those positions, nothing has changed. Nothing. Even based on all the evidence we provided, that there was wrongful behaviour[...]. In a sense, our case was one of those cases that the institutions silenced, turned a blind eye to, and directly dismissed us."²³⁵

"After that, I tried to initiate proceedings under the Child Protection Act since we don't have a second parent [...] I filed it as a lawyer in court along with a request for the judge to appoint me as a special representative of the child. In a way, on behalf of the child itself, we initiated this civil case under the Child Protection Act for temporary placement outside the family. [...] I am an outside person, other external individuals would be the Child Protection Department and the prosecutor. We exhausted these possibilities - we had a meeting with the Child Protection Department [...] we presented the diagnoses, explained [...] that it ultimately concerns psychological abuse against this child [...] the department did nothing, they don't remove children due to psychological abuse, there simply isn't such a practice, if the child doesn't have bruises and blood, they won't remove them. Excuses started - she had deviant behaviour, no one would want to take her into the family type centre for placement. In a way, they admit that it's not good for her to stay there (note: in the family) [...] I tried with the lead investigating prosecutor, even when they presented me with the materials for pre-trial proceedings and I read all the evidence, even then I proposed to the prosecutor to use their powers under the Child Protection Act [...] The prosecutor also did nothing."²³⁶

"This is a very old case of theirs [...] they (note: the Child Protection Department) already knew about this case... nothing. I am left with the impression that when it comes to psychological abuse, they do not prioritize these cases, they simply have too

²³³ Interview with a female speech therapist specialist experienced in working with children.

²³⁴ Interview with a female parent of a child, victim of crime.

²³⁵ Interview with a female parent of a child, victim of crime.

²³⁶ From an interview with a female lawyer specializing in the protection of children and girls, victims of trafficking and sexual violence, regarding a case of reported crime against a child with induced mental disorder.

*many others that, in their view, are more serious and more risky [...] they just sit there [...] very passively, very weakly behaved, despite knowing about it for many years."*²³⁷

In the few cases where violence against a disabled child does reach the law enforcement authorities and investigation is initiated, the lack of knowledge and skill of the officials becomes apparent in approaching the victim's condition and disability appropriately and in offering and implementing procedural accommodations suitable for the specific case.

*"The women (the policewomen) we worked with, the ladies, turned out to have absolutely no idea how to work and deal with a person who, in this case, is autistic. [...] And that was something terrifying... We lost a lot of time then, it was terrible. It was very scary, it really was awful."*²³⁸

It's not uncommon for the actions of those involved in the criminal justice system to be influenced by the type of victim and the type of crime being investigated. Thus, prejudice against girls who are victims of sexual crimes and trafficking often leads to the blue room not being utilized for them, as they are not recognised as victims but rather stigmatised as accomplices in what has happened to them.

*"There's a moment when the blue room is used either for younger children, much younger, or for those who have suffered serious crimes, but, again, I say, not sexual ones. Because there (with sexual crimes), from my personal experience, I can say that children quickly become seen as mature figures, they're viewed as mature adults, and they're treated as accomplices in what happened to them. Unfortunately, we've had cases of girls involved in trafficking, girls who are 13, 14 years old, some of them minors, but simply because of how they look and the actions they describe in court, the attitude towards them automatically changes, and they are no longer seen as children but start to be judged morally... very often they don't want to question them in the blue room because they don't recognise them as victims... or even comments like 'Look at her, she doesn't even look like a girl' or 'Don't imagine a child is coming, actually she's quite...' and they describe female forms... they are questioned in a courtroom."*²³⁹

It was mentioned in the previous chapter that professionals in the criminal justice system attach great importance to the availability of the 'blue room', considering that the environment provided is indeed supportive. Non-governmental organizations providing services to children who have experienced violence, and their families also share a number of problems in the functioning of the blue rooms:

²³⁷ From an interview with a female lawyer specializing in the protection of children and girls, victims of trafficking and sexual violence, regarding a case of reported crime against a child with induced mental disorder.

²³⁸ Interview with a female parent of a child, victim of crime.

²³⁹ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation. The program is targeted at children who have experienced violence, are victims or witnesses of crime and abuse, and aims to support and prepare them for participation in pre-trial and judicial proceedings. The goal of the program is to prepare the child for interrogation in a specialized child interview room or for their appearance in a courtroom. Within the program, a specially trained social worker or psychologist conducts the child interview in a specialized child interview room.

"The blue room itself, the premises, are not well adapted for conducting interrogations there. In the District Court²⁴⁰, where we often go... the glass is transparent, meaning if the child turns around, they may in some cases see the defendant. And we've had cases where he's there, I see him, the child tells me something, and I know that if this child turns around, they'll see him. Sometimes you can hear what's happening in the courtroom, also unacceptable. I even think that in such cases, where a child has to testify against someone else, that person should not be in the courtroom at all. Because, you see, we've had such cases where at the moment they find out, they ask, they want to reveal some information because they realize that it will harm that other person. They ask: hey, who's in the room, you don't have the right to lie to them, there's no point in lying to them. The moment you say that they automatically start talking in another direction. Which is not helpful to the court, ultimately the judge won't be able to make an objective decision."²⁴¹

In terms of efforts to prevent re-victimisation, specialists from supporting organizations share a number of issues - the questions are traumatizing and cause the child to stop speaking, there is no trust in the communication intermediaries by the police, judges; they are not always given a prior opportunity to familiarise themselves with the case, to make a preliminary assessment, to review the questions that will be asked.

"Also, the questioning. The defence attorneys have tactics, strategies to confuse, to hurt, to discredit and ask questions that are traumatizing for a girl who has been trafficked and for eight months has been forced to do all sorts of things, and you ask her a question that makes her even more complicit, which is incorrect... we can refute this question on many lines and sometimes, however, these questions are allowed to pass and the judge insists that we ask them."²⁴²

"Many of the questions are improper, many of the questions don't need to be asked directly, they will come out during the examination itself. That is, there should be a little coordination. Here begins the problem with coordination, i.e. the police to know how our work happens and why it happens that way, so that they can be assured that what we are there for will happen, it just won't be in the direct way they imagined, but the result will be there. A little trust, yes. And sometimes it's good to make a preliminary assessment, but we rarely have time for that."²⁴³

They also share about the poor condition of the audio recording equipment in some courthouses²⁴⁴, which leads to the repetition of questions.

As a very important factor in how the criminal proceedings will unfold regarding child victims of crimes, a specialist from a supporting organization²⁴⁵ points out the

²⁴⁰ It concerns the largest district court in the country.

²⁴¹ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴² Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴³ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴⁴ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴⁵ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

preliminary preparation and training of police officers, investigators, and judges handling cases involving children. Whether the magistrate or investigating officers will hear their advice and trust them depends precisely on their preparation, sensitivity, and qualification in the issue:

"Usually, they listen and take into account what we say because we talk about things that are very reasonable. Sometimes there is no receptiveness. Sometimes, however, the judge decides that they want to ask such a question and think, what's the harm, after all, a child who, until yesterday, was assaulted by three people, what prevents you from asking her about it today - she has been through it [...] in cases of sexual violence, this often happens [...] I think this is due to a lack of awareness. Judges, I don't know how much they are profiled [...] but there are some specific things they are not familiar with, and it's a matter of getting them informed, also about psychological processes, and also about trafficking, there is a very big stigma around the victims of trafficking, and these are people who may have experienced one of the most severe forms of violence. And these are the people who are the hardest to work with post facto, they are the most de-personalized as individuals..."²⁴⁶

Another positive trend mentioned, was the judges' consideration of the fact that the victim is a child. It was noted that some judges engage in conversations with children in understandable language, treat them with respect, try to make them feel comfortable, and adapt to their needs. However, the opposite trend was observed in the behaviour of the police, who often quickly reduce the distance with the child and directly follow the orders of the prosecutors, seeking to execute them literally.²⁴⁷

Additionally, it was emphasised that children, victims of violence, especially in cases of sexual violence, are questioned multiple times before reaching the blue room. Therefore, the practice of the supporting organisation is²⁴⁸, when such a case reaches them, to first advise the victims to report to the police and request the blue room. Additionally, cases of excessively long interrogations of children were shared:

"There are cases of five to six hours of interrogation of a child, which is quite... it goes against absolutely all strategies used worldwide for interrogation. However, they still do it."²⁴⁹

"When you ask questions in all directions, these are not mature people, these are children, you have to guide their thinking to enter such dynamics. When you start asking chaotic questions yourself, the child gets confused, starts giving contradictory information, and from there, an interrogation that was supposed to last three hours becomes five, becomes six. And after this interrogation, they may be called back for additional information if something else comes up or if something was missed during

²⁴⁶ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴⁷ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴⁸ A non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁴⁹ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

the initial interrogation. Then there may be a pre-trial, trial phase, if they need further..."²⁵⁰

Regarding the representation of children in the criminal process, a specialist from a supporting organization²⁵¹ shared that among the appointed special representatives for children, there are both very well-prepared professionals, including lawyers, and representatives who do not understand the specifics and nuances of cases involving children who are victims of crimes. In other words, there was no single trend identified.

Children often become hostages to the poor coordination between the various institutions involved in their case. According to a social worker from a non-governmental organisation²⁵², there is generally poor coordination between the departments for child protection and professionals from the criminal justice system, as well as among institutions in general, when a case involving a child arises.

"My impressions are that, overall, there isn't very good coordination between institutions when such cases arise. Usually, there's one institution leading the case, i.e. if a crime has been committed, the police will take charge of the case more promptly according to the Criminal Code, and they will make decisions based on their needs without much consideration about the work of the child protection department or the non-governmental organization. Conversely, when it comes to a child who has suffered, let's say, in the context of witnessing domestic violence at home, it somehow doesn't pass as a crime that the police would investigate; it falls into the decisions made by the child protection department. The coordination isn't very good. When it comes to these types of interviews (in the blue room), I think the primary figure making decisions about how it will be conducted is the investigating police officer based on the guidance given by the prosecutor and, of course, what the judge will allow. There are judges who give quite a bit of leeway to everyone when we enter the courtroom, meaning they really step back and let the process unfold naturally. There are others who continue to control the environment, giving instructions that contradict our protocols and methodology for conducting such interviews."²⁵³

Ultimately, the lack of an approach and adaptation of the evidence-gathering process to the specificities caused by the disability and the nature of the offense, combined with the significant distrust and prejudices against children and people with disabilities, lead to a greater risk of terminating the proceedings. This termination deprives the children who have suffered violence of protection and realization of their fundamental rights, as well as deprives them of compensation, and leaves the trauma they have experienced unaddressed.

²⁵⁰ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁵¹ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁵² Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

²⁵³ Interview with a female social worker from a non-governmental organization that implements a Program for Preparation and Conduct of Child interrogation

03 Barriers for AAC users and overcoming the barriers

As mentioned earlier, in Bulgaria, augmentative and alternative communication (AAC) methods have been introduced, although not widely spread, including high-tech ones.

The possibility of overcoming the barriers faced by children with disabilities through the use of AAC is well illustrated by the story of a child who cannot speak or make fine hand movements but uses a gaze-controlled device. Due to this technology, the child learns more and more things - plays games, selects and plays favourite songs and movies on the internet, controls the television. In 2019 she was enrolled in first grade in a mainstream school.²⁵⁴

During the research we did not find a case of a child using such or similar technology and having interaction with the criminal justice system in Bulgaria.

To what extent are AAC methods actually known and used in practice?

Following its investigation about the level of competence, knowledge, practices, and attitudes in the field of AAC, UNICEF developed the "Voice for Every Child" program in Bulgaria.²⁵⁵ The program is aimed at the gradual introduction and use of assistive devices for augmentative and alternative communication in kindergartens and schools in Bulgaria. In implementing this program and its goals, UNICEF had carried out the following activities:

1. Adaptation and translation into Bulgarian of the platform with communication boards Global Symbols.²⁵⁶ Due to the efforts of the local UNICEF organization, the platform is continuously updated and expands its resources in Bulgarian.²⁵⁷
2. Translation into Bulgarian of the UNICEF-developed application Cboard—a web application,²⁵⁸ that supports communication with symbols and text-to-speech conversion. The application is open-source²⁵⁹ and is free for users. It allows conversion of symbols into speech; creation and print of communication boards and folders;

²⁵⁴ The story can be traced on the website of the "ASIST" Foundation, here: <https://en.assistfoundation.eu/2017/09/24/anna/>, and the video about the child's story is available here: <https://www.youtube.com/watch?v=ZW0M9z2Y78A>

²⁵⁵ The program "Voice for Every Child" is available here: <https://www.unicef.org/bulgaria/%D0%B3%D0%BB%D0%B0%D1%81-%D0%B7%D0%B0-%D0%B2%D1%81%D1%8F%D0%BA%D0%BE-%D0%B4%D0%B5%D1%82%D0%B5> Its objectives are threefold: 1. To develop a Bulgarian symbol system and training package; 2. To enhance the capacity of specialists in the Regional Centers for Support of the Inclusive Education Process at the Ministry of Education and Science; 3. To provide direct support to children, parents, and teachers for working with AAC and disseminating the experience.

²⁵⁶ The translated platform is available here: <https://globalsymbols.com/?locale=bg>

²⁵⁷ Available in Bulgarian on the platform are:

1. **Online Training "AAC Guide"** – The materials in the training are freely accessible and provided for anyone who supports very young children with severe speech and communication difficulties, who need to use alternative communication methods such as symbols and assistive technologies. More about the training here: <https://training.globalsymbols.com/course/index.php?categoryid=9>;
2. **Set of "Typical Bulgarian Symbols"** – Uniquely developed symbols for Bulgaria, presenting symbolic images of typically Bulgarian words related to Bulgarian culture, folk traditions, cuisine, folklore, and national holidays. The set contains 347 typical Bulgarian symbols. More about this set here: <https://globalsymbols.com/symbolsets/typical-bulgarian-symbols-svg?locale=bg>;
3. **Many other sets of symbols that can be translated into Bulgarian** are available here: <https://globalsymbols.com/symbolsets?locale=bg>;
4. **Boardbuilder** – A web application for creating communication boards and modifying existing symbols. Ready-made templates can be used to create communication boards or unique ones can be designed. The application offers many ready-made themed communication boards that can be printed, shared online, translated, and/or edited. More about this application can be found here: <https://app.globalsymbols.com/bg/>.

²⁵⁸ The translated application is available here: <https://www.cboard.io/bg/>

²⁵⁹ The program is open-source, which allows its free distribution and/or modification under the terms of the GNU General Public License version 3, published by the Free Software Foundation. It is developed by the OTTAA Project (<https://ottaa-project.github.io/>) and Cboard contributors (<https://github.com/cboard-org/cboard>).

specific statements to be recorded and activated by pressing the corresponding symbol, picture, or photo. A Cboard Manual in Bulgarian has also been created.²⁶⁰

3. Conducting training sessions for trainers on the introduction and implementation of AAC tools.²⁶¹

A significant contribution in the field of AAC has "ASSIST – Assistive Technologies" Foundation. The foundation focuses on providing AAC for children and adults with severe physical disabilities, who, according to its founders, are in the greatest need of high-tech augmentative and alternative communication tools and are the most affected and vulnerable due to their inability to speak.²⁶² The foundation collaborates with representatives of institutions in Bulgaria that implement and enforce policies regarding people with disabilities. Since January 2018, it has been a member of the National Council for Child Protection under the State Agency for Child Protection.²⁶³ The foundation is also a participant in the consultative group for the development of the National Program for Prevention of Violence and Abuse against Children (2023-2026), a strategic political document.²⁶⁴ It is also a partnering organization of the State Agency for Child Protection for the implementation of Operational Goal 4, "Ensuring the Rights of Children with Disabilities and/or Special Educational Needs, Children with Complex Communication Needs (with Impaired or Missing Functional Speech)" from the Action Plan for the Implementation of the National Program for Prevention of Violence and Abuse against Children (2023 – 2024).²⁶⁵

As mentioned earlier²⁶⁶, there is a lack of awareness and knowledge among children with intellectual and psychosocial impairments about what constitutes violence and what forms it can take. To overcome this gap, it is necessary as part of the overall process of education and support for children with disabilities in Bulgaria to include the topic of violence and how to report it.

Certainly, a step forward, albeit in the sphere of education rather than access to justice, is the process initiated in Bulgaria in 2017 for the introduction of inclusive education. Its focus is on children and students with special educational needs and/or chronic illnesses, providing them with the opportunity to receive additional support for personal development and resource assistance. The receipt and development of this support largely depend on the individual functional assessment of the children's needs. According to the Ordinance on Inclusive Education²⁶⁷, the assessment of individual

²⁶⁰ The Cboard manual is available in Bulgarian here: <https://www.unicef.org/bulgaria/media/15336/file>

²⁶¹ Regarding training for trainers on the introduction and implementation of AAC, see the UNICEF website at:

<https://www.unicef.org/bulgaria/%D0%B3%D0%BB%D0%B0%D1%81-%D0%B7%D0%B0-%D0%B2%D1%81%D1%8F%D0%BA%D0%BE-%D0%B4%D0%B5%D1%82%D0%B5>

²⁶² Regarding the activities of the Foundation, see: <https://assistfoundation.eu/%d0%bc%d0%b8%d1%81%d0%b8%d1%8f/>

²⁶³ Regarding the Foundation's collaboration with representatives of institutions in Bulgaria, see:

<https://sacp.government.bg/%D0%BD%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/%D0%BD%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%B8%D1%8F%D1%82-%D1%81%D1%8A%D0%B2%D0%B5%D1%82-%D0%B7%D0%B0-%D0%B7%D0%B0%D0%BA%D1%80%D0%B8%D0%BB%D0%B0-Q>

²⁶⁴ The National Program is available here:

<https://sacp.government.bg/%D0%BD%D0%B0%D1%86%D0%B8%D0%BE%D0%BD%D0%B0%D0%BB%D0%BD%D0%B0%D1%82%D0%B0-%D0%BF%D1%80%D0%BE%D0%B3%D1%80%D0%B0%D0%BC%D0%B0-%D0%B7%D0%B0-%D0%BF%D1%80%D0%B5%D0%B2%D0%B5%D0%BD%D1%86%D0%B8%D1%8F-%D0%BD%D0%B0>

²⁶⁵ More about the National Program and the Action Plan for its implementation can be found in Section 3 of the current report

²⁶⁶ See §6.1 of the current report

²⁶⁷ In force since October 27, 2017, adopted by Council of Ministers Decree No. 232 of October 20, 2017. Available here:

<https://lex.bg/bg/laws/ldoc/2137177670>

needs for additional support for personal development of children and students is functional.²⁶⁸ While making the assessment, the educational needs, impairments, and the functioning of the child are considered as a result of the interaction between health status and environmental factors, following the International Classification of Functioning, Disability and Health (ICF) of the World Health Organization (WHO) and taking into account the International Classification of Diseases - ICD-10 of the WHO. Assessment of children and students should be carried out according to an assessment map of the individual needs of the child or student.

In 2023, the Ministry of Education and Science issued and published on its website²⁶⁹ a „Functional Assessment Map of the Individual Needs of Children and Students with Special Educational Needs and Chronic Illnesses in connection with the International Classification of Functioning, Disability, and Health of Children and Guidelines for the Implementation of the Map.“²⁷⁰

According to UNICEF Bulgaria²⁷¹, the Ministry of Education and Science invests in providing assistive technologies in kindergartens and schools through projects funded by the EU. However, very few educational institutions, primarily the centers for special educational support, take advantage of these opportunities. According to the organization, the reason for that are the lack of awareness and appropriate training on what AAC represents, who can benefit from these tools and technologies, and how they are applied in practice. At the end of 2020, UNICEF Bulgaria commissioned a study²⁷² to assess the level of competence, knowledge, practices, and attitudes in the

²⁶⁸ See art. 78 of the Ordinance

²⁶⁹ The map was developed under Project BG05M2OP001-3.018-0001 'Support for Inclusive Education,' funded by Operational Programme 'Science and Education for Smart Growth,' co-financed by the European Union through the European Structural and Investment Funds, and was published on December 1, 2023, on the website of the Ministry of Education and Science: <https://web.mon.bg/bg/100381>

²⁷⁰ According to the text of the Map, the International Classification of Functioning, Disability, and Health for Children and Youth (ICF-CY) is based on the so-called biopsychosocial model, which combines aspects of the social and medical models. Functioning and disabilities are understood as a result of complex interactions between biological, psychological, and social factors. Additionally, the ICF-CY provides a common language for studying the dynamics of these factors and therefore can serve as a basis for improving the opportunities for inclusive education for children and students with special educational needs. The biopsychosocial model means that any action to improve the situation of a person with a health problem aims to impact in three main directions:

- somatic status;
- psycho-emotional components;
- the circumstance that people are part of the social context.

The International Classification of Functioning, Disability, and Health for Children and Youth (ICF-CY) in the context of inclusive education can be used to assess the functioning and the need for additional support of children and students with special educational needs and/or chronic conditions in various areas such as mobility, communication, learning, and participation in social and community life. The information collected through the map can be applied to develop support plans that will support the overall process of additional support for personal development in kindergartens, schools, and personal development support centers.

²⁷¹ Data is available here: <https://www.unicef.org/bulgaria/%D0%BA%D0%B0%D0%BA-%D1%83%D0%BD%D0%B8%D1%86%D0%B5%D1%84-%D0%BF%D0%BE%D0%BC%D0%B0%D0%B3%D0%B0-%D0%BD%D0%B0-%D0%BD%D0%B5%D0%B2%D0%B5%D1%80%D0%B1%D0%B0%D0%BB%D0%BD%D0%B8%D1%82%D0%B5-%D0%B4%D0%B5%D1%86%D0%B0-%D0%B2-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D0%B8%D1%8F-%D0%B4%D0%B0-%D1%81%D0%B5-%D0%B8%D0%B7%D1%80%D0%B0%D0%B7%D1%8F%D0%B2%D0%B0%D1%82-%D0%B8-%D0%B4%D0%B0-%D0%BE%D0%B1%D1%89%D1%83%D0%B2%D0%B0%D1%82>

²⁷² The study was conducted by the ASSIST - Assistive Technologies Foundation within the framework of the project aimed at enhancing the qualifications of specialists from the Regional Support Centres for the Inclusive Education Process and funded by UNICEF Bulgaria. It is available here: <https://www.unicef.org/bulgaria/documents/%D0%BA%D0%BE%D0%BC%D0%BF%D0%B5%D1%82%D0%B5%D0%BD%D1%82%D0%BD%D0%BE%D1%81%D1%82%D0%B8-%D0%B8-%D0%BD%D0%B0%D0%B3%D0%BB%D0%B0%D1%81%D0%B8-%D1%81%D1%80%D0%B5%D0%B4-%D1%81%D0%BF%D0%B5%D1%86%D0%B8%D0%B0%D0%BB%D0%B8%D1%81%D1%82%D0%B8%D1%82%D0%B5->

field of AAC. Over 200 specialists from the regional centers for support of the inclusive education process in Bulgaria participated in it.²⁷³

According to the results of the study: *"a large portion of specialists assess their familiarity and, consequently, the frequency of using AAC tools as very low. This indicates serious gaps in their competencies in this important area of working with children with complex communication needs in the inclusive education system."* Additionally, *"in practice, besides the low-tech AAC tools, which are known because they are used for training (but not for communication), other practical tools are not familiar to the specialists from the Regional Support Centers for the Inclusive Education System."*²⁷⁴ Based on the results of the study, UNICEF develops the main activities for the "Voice for Every Child" program in Bulgaria.²⁷⁵ In May 2023, a competition was held for the formation and training of a national team for augmentative and alternative communication.²⁷⁶ More than 100 specialists from various educational institutions participated in the process. Among the criteria for selecting team members was a high motivation for in-depth learning and use of modern high-tech AAC tools and computer access. Twenty-nine specialists were selected, who completed the first intensive training course held from June to December 2023, and are now officially members of the National AAC Team.²⁷⁷

Recommendation: Given the goals of the National AAC²⁷⁸ Team's work and in light of the current study, it would be beneficial to involve specialists from other sectors, including lawyers, police officers, social workers, etc., in the expansion of this team.

In Bulgaria are used low-tech augmentative and alternative communication tools such as communication boards, Picture Exchange Communication System (PECS), visual schedules²⁷⁹, etc.

[%D0%B7%D0%B0-%D0%B4%D0%BE%D0%BF%D1%8A%D0%BB%D0%B2%D0%B0%D1%89%D0%B0%D1%82%D0%B0-%D0%B8-%D0%B0%D0%BB%D1%82%D0%B5%D1%80%D0%BD%D0%B0%D1%82%D0%B8%D0%B2%D0%BD%D0%B0-%D0%BA%D0%BE%D0%BC%D1%83%D0%BD%D0%B8%D0%BA%D0%B0%D1%86%D0%B8%D1%8F](#)

²⁷³ The Law on Pre-school and School Education regulates the key role of these centres, including coordination, consultation, training, diagnostics, and methodological support. Nearly 70% of the respondents in the study are resource teachers with an average of 10.4 years of professional experience.

²⁷⁴ The specific results received indicate that:

45% of specialists from the Resource Centres for Psychophysical Development and Orientation (RCPPDO) are well or fully acquainted with low-tech AAC tools, while 43% occasionally, frequently, or constantly use them. In many cases, low-tech AAC tools are known but primarily used for training rather than communication.

Only 19% of specialists are acquainted with mid-tech AAC tools, and only 8% of them occasionally, frequently, or constantly use them.

Specialists who are well or fully acquainted with high-tech AAC tools, which offer the greatest opportunities for children with complex communication needs, are 13%. However, only 6% of them occasionally, frequently, or always use them.

Regarding computer access tools, which enable children with fine motor impairments to use high-tech AAC tools, only 7% of specialists are well or fully acquainted with them, and only 2% occasionally, frequently, or always use them.

The percentages of specialists who never use the above AAC tools are as follows: low-tech - 32%; mid-tech - 81%; high-tech - 89%; and computer access tools - 95%.

²⁷⁵ For more information on this, refer to Chapter One of the current study.

²⁷⁶ The competition is organized by the "ASSIST - Assistive Technologies" Foundation in partnership with UNICEF Bulgaria and with the support of the "Inclusive Education" Directorate of the Ministry of Education.

²⁷⁷ A brief presentation of the National AAC Team can be viewed at: <https://www.youtube.com/watch?v=F9n56GmGbFo>

²⁷⁸ The main goal of the team is to significantly expedite the process of integrating AAC (Augmentative and Alternative Communication) technologies and computer access into the inclusive education system for the benefit of children with complex communication needs. Specialists will assess needs, provide consultations and training for children with complex communication needs, conduct training for other professionals in the field of education, and for families of children with communication difficulties. They will also be involved in future training sessions aimed at improving qualifications in the field of AAC.

²⁷⁹ Visual schedules or charts are a series of symbolic pictures or images arranged in the sequence of upcoming activities.

High-tech communication devices include tablets and laptops with specialised software and built-in access technologies such as eye-gaze control. The main advantage is the integrated synthesised speech, which gives a voice to the non-verbal individual. Thus, these technologies provide a voice for the non-verbal child, enabling effective communication and full participation in various life situations and social roles.

It is these high-tech communication devices that would be appropriate procedural accommodations in the realm of the criminal justice system, ensuring effective access to justice as set forth as a standard in the Convention on the Rights of Persons with Disabilities. Through these devices, children with disabilities can be direct and indirect participants in any procedural actions within legal proceedings that affect them. They would greatly facilitate the exercise of the rights of children and people with disabilities to actively participate in the procedures that concern them. However, at present, this potential remains unrealised.

04 Data Collection

According to official data from the National Statistical Institute as of December 31, 2023, the population of Bulgaria is 6,445,481 people, of whom 1,104,198 are children (aged 0 to 17 years). The relative share of the child population is 17.1%.²⁸⁰

According to information provided by the National Medical Expert Commission²⁸¹ as of 21 of April 2024, the total number of children with disabilities is 25,549, representing 6.36% of the total number of individuals examined in the system of medical expertise related to permanent disability/type and degree of impairment. The number of children with intellectual and psycho-social disabilities is 3,652, representing 26.94% of the total number of examined individuals, while the number of children with impaired or missing speech is 752, representing 14.97% of the total number of examined individuals.

According to data from UNICEF Bulgaria, the approximate number of children with disabilities in Bulgaria is 32,000, with nearly 15,000 children with special needs experiencing difficulties in communication.²⁸²

For 2022, the total number of children registered as victims of violence in the Child Protection Departments is 1,288 children, of which the number of children with disabilities who are victims of violence is 59 children.²⁸³

²⁸⁰ The information is provided by the National Statistical Institute in accordance with the Access to Public Information Act.

²⁸¹ The information is provided by the National Expert Medical Commission in accordance with the Access to Public Information Act.

²⁸² The information is posted on the UNICEF website and is available here:

<https://www.unicef.org/bulgaria/%D0%BA%D0%B0%D0%BA-%D1%83%D0%BD%D0%B8%D1%86%D0%B5%D1%84-%D0%BF%D0%BE%D0%BC%D0%B0%D0%B3%D0%B0-%D0%BD%D0%B0-%D0%BD%D0%B5%D0%B2%D0%B5%D1%80%D0%B1%D0%B0%D0%BB%D0%BD%D0%B8%D1%82%D0%B5-%D0%B4%D0%B5%D1%86%D0%B0-%D0%B2-%D0%B1%D1%8A%D0%BB%D0%B3%D0%B0%D1%80%D0%B8%D1%8F-%D0%B4%D0%B0-%D1%81%D0%B5-%D0%B8%D0%B7%D1%80%D0%B0%D0%B7%D1%8F%D0%B2%D0%B0%D1%82-%D0%B8-%D0%B4%D0%B0-%D0%BE%D0%B1%D1%89%D1%83%D0%B2%D0%B0%D1%82>

²⁸³ The data was shown in a presentation by Mrs. Kamelia Nikolova, Chief Director of the Main Directorate "Child Rights Control," at the 5th International Conference "Augmentative and Alternative Communication" held online from November 24th to 26th, 2023. The presentation is available here: <https://aac2023.assistfoundation.eu/>.

According to information provided by the Ministry of Interior²⁸⁴ for 2022, the number of children who were victims of crimes under the Criminal Code was 1,983 children, and for 2023 - 1,893 children. The administrative structures of the Ministry of Interior do not specifically gather information about children with disabilities who have been victims of crimes.

According to data from the monitoring of the Coordination Mechanism for Violence against Children, there were 1,152 cases of violence against children in 2022 for which the mechanism was convened. In 43.2% of the cases, the perpetrators were the parents, and in 53.8% of the cases, the place where the violence occurred was within the family.²⁸⁵

According to information provided by the President of the State Agency for Child Protection²⁸⁶ under the Access to Public Information Act, in 2022 the Coordination Mechanism for Violence against Children held 1,558 meetings.²⁸⁷

²⁸⁴The information is provided by the Ministry of Interior in accordance with the Access to Public Information Act.

²⁸⁵ The data was presented in a presentation by Ms. Kamelia Nikolova, Chief Director of the Main Directorate "Control of Children's Rights," at the 5th International Conference "Augmentative and alternative Communication" on November 24-26, 2023, held online, available here: <https://aqc2023.assistfoundation.eu/>.

²⁸⁶ Information provided by the President of the State Agency for Child Protection under the procedure of the Access to Public Information Act;

²⁸⁷ The information provided by the President of the State Agency for Child Protection refers to the last five years, during which the Coordination Mechanism on Violence held meetings as follows:

in 2018: 1469
in 2019: 1584
in 2020: 1260
in 2021: 1687
in 2022: 1558



CONCLUSIONS AND RECOMMENDATIONS

01 Conclusions

Cases of children with disabilities who are victims of crimes and who reach the authorities involved in the criminal process are extremely rare. Cases involving non-verbal children with disabilities are even rarer, and in fact absent. No cases were identified of a child using augmentative and alternative communication tools who reached the criminal justice authorities. The stories shared by the interviewees mostly concern cases of children who are victims of crimes, and in rare instances, these children are with disabilities. Thus, the judicial system remains completely blind to them, and the other systems, including the child protection system, do not engage in seeking solutions.

There is a gap between the possibilities that modern technologies can provide as various procedural accommodations to ensure access to justice for children with disabilities, and the readiness of the judicial system to take advantage of them and allow their use.

The lack of legislative regulation and guarantees for children with disabilities that their rights will be protected if they are victims of a crime results to serious and often invincible barriers to their access to justice.

The lack of specific accommodations available to a child with disabilities results to the child's inability to report their experience or their alert not being understood or realized by respective authorities. As a result, a child with disabilities who is a victim of a crime has no practical opportunity to access justice and exercise their rights.

At the same time, the potential of assistive technologies for augmentative and alternative communication has long been noticed in Bulgaria. There are political and practical steps aimed at introducing AAC into the lives of children with disabilities. The use of AAC is more familiar and advanced in the educational system, but in recent years, more often AAC is seen as a tool that can significantly improve access to justice for children and people with communication disabilities.

At the political level, measures have been taken by introducing the issue into the Action Plan for the Implementation of the National Program for the Prevention of Violence and Abuse of Children (2023–2024).

Despite this, at present, children with disabilities have limited access to justice, and the cases in which such access was realized are rare. The judicial system in Bulgaria is still not well adapted for children in general and remains inaccessible for children with disabilities. The criminal justice system is completely unfamiliar with AAC methods.

The criminal justice system and child protection systems have connections, but these are not well established legislatively and, most importantly, in practice. The potential of child protection departments to ensure the full participation of a child with disabilities who has become a victim of a crime in the criminal process is not recognised by any participant in the process.

At present, each of the authorities involved in the criminal proceedings - police, prosecution, and court - has its own separate electronic case management system, and there is no integration between these systems. This further complicates the collaboration between them.

There have been no projects established for the use of artificial intelligence as a tool to achieve multidisciplinary collaboration in the criminal justice system and ensure the participation of children, including those with intellectual or psychosocial disabilities, and ACC users (e.g., through the integration of assistive technologies) in the proceedings that affect them. Globally, the importance of technology's role in combating inequality and discrimination is recognised. However, the justice system in Bulgaria still does not see the potential of artificial intelligence in this regard.

Although there is a tendency for change at the political level, it cannot yet be established whether this will lead to the integration of technologies into the justice system, particularly in cases involving children with disabilities who are victims of violence.

02 Promising practices

There is a National Helpline for Children in Bulgaria, which is managed and administered by the State Agency for Child Protection.²⁸⁸ The hotline is intended to support all children and their families. The operators answering the calls are trained psychologists who provide anonymous and free consultations and guidance 24 hours a day, 7 days a week, on all issues, including violence and bullying. When there is a risk to a child, the child protection authorities are notified to take measures and the Agency to monitor the measures taken until the risk to the child is eliminated.

There is no available data indicating that the helpline is adapted for children with disabilities, including those with intellectual and psychosocial disabilities.

The publicly available statistical information on the operation of the national helpline for children is not up-to-date.²⁸⁹

The last campaign about the rights of children with disabilities was conducted in 2019 by UNICEF and was called 'With Eyes for All.'²⁹⁰ Its aim was to raise awareness, understanding, and sensitivity towards the rights of children and young people living with disabilities. The campaign was implemented by sharing over 15 inspiring stories of children, youth, and young people with disabilities.

It is UNICEF that has made the greatest contribution in Bulgaria to protecting the rights of children with disabilities and integrating AAC into the daily lives of non-verbal children or children with communication difficulties.

Efforts to introduce AAC into the educational system should also be considered when discussing best practices. Even though it concerns progress in another field, these

²⁸⁸ Information about the national telephone line is available here: <https://www.116111.bg/>

²⁸⁹ The latest statistical data refers to the period 01.01.2020 - 30.06.2021

²⁹⁰ Information about the campaign is available on the UNICEF website, here: <https://www.unicef.org/bulgaria/%D1%81-%D0%BE%D1%87%D0%B8-%D0%B7%D0%B0-%D0%B2%D1%81%D0%B8%D1%87%D0%BA%D0%B8>

efforts and the results achieved demonstrate how much can be accomplished with the help of low-tech and high-tech AAC tools, and the justice system can draw from the experience of the educational system.

02 Recommendations

Obviously, efforts are needed in many directions to make progress in both protecting children with disabilities from violence and ensuring their access to justice. To achieve these goals, the use of low- and high-tech AAC tools, as well as the rapidly advancing capabilities of artificial intelligence, is not only possible but also very promising in terms of overcoming the significant gap in the justice, social, and educational systems related to the inclusion of children with disabilities in public life and their protection from violence.

To achieve these goals actions are needed in several directions:

I. Regarding the creation of an environment intolerant to violence against children with disabilities and the prevention of violence, as well as the use of AAC in this regard:

1. The education system should be aimed to prepare children with disabilities to recognise and report violence, as well as to provide them with means to communicate about it effectively. For this purpose, the topics mentioned should be included in inclusive education programs and taught to children in a language they can understand. This task should primarily be recognised by the Ministry of Education and Science, in collaboration with the State Agency for Child Protection and the Agency for Social Assistance. This need arises from the unequivocal statement made in the interviews about the lack of efforts, resulting in children with disabilities, especially those with severe disabilities, who live more isolated from their peers, lacking access to information and knowledge about what violence is, how to react to it, and how to report it. This message was particularly strong from professionals who work directly with children with disabilities and, in a sense, are the voice of these children themselves.

2. For the successful implementation of the actions outlined in item 1, the Ministry of Education and Science should include mandatory regular trainings for teachers and educational experts, especially those involved in inclusive education, about violence, prevention, reporting, and access to rights (including training related to international standards in children's rights and the rights of people with disabilities, non-discrimination, and protection from violence), as well as training related to AAC.

3. The Ministry of Education and Science should ensure that the aforementioned topics are addressed in the curricula of universities offering education on working with children with disabilities.

4. The State Agency for Child Protection, as well as the Agency for Quality of Social Services and the State Agency for Persons with Disabilities, should ensure that the programs described above are accessible to children in residential services, to the personnel in such services, and to students enrolled in programs aimed at providing services and support for children with disabilities.

5. The Ministry of Education and Science, the State Agency for Child Protection, and the State Agency for Persons with Disabilities should continue to collaborate with organizations advanced in developing programs, services, and tools related to AAC, deepening the dialogue between civil society, business, and government to seek solutions in the interest of children.

II. Regarding reporting and investigating cases of violence:

1. The Ministry of Education and Science, the State Agency for Child Protection, the State Agency for Persons with Disabilities, and the Ministry of Interior, as well as the Ministry of Health, in collaboration among themselves, should identify the difficulties encountered by children with disabilities when reporting violence, as well as identify the individuals and authorities to whom children could report violence without particular difficulties. These could include teachers, caregivers, relatives, doctors, etc. Facilities should be created to ensure that information in this regard is transmitted smoothly, without creating exceeding or administrative barriers, but rather using all modern achievements related to AAC to facilitate such communication. Rules should also be established for reporting such information to investigative authorities without imposing restrictions on the individuals providing the information, and investigative authorities should be obliged to conduct a comprehensive investigation into the reported cases. The individuals who reported the cases should not be threatened with any penalty or forms of prosecution, including if it turns out that there is no violence or if it is not proven.

2. The Ministry of Justice should review the legislation, in collaboration with the Ministry of Interior, the State Agency for Child Protection, the State Agency for Persons with Disabilities, and the Ministry of Education and Science, to identify, and subsequently remove, all existing barriers related to reporting and investigating cases of violence against children with disabilities.

3. The investigative authorities should be trained to use AAC and partner with experts in this field. The Ministry of Justice should offer similar training to judges and prosecutors, with programs in this regard, as well as more broadly concerning the right to access justice for people with disabilities, including children, should be

included in the training programs of the National Institute of Justice. These topics should also be incorporated into training programs for lawyers and law students.

4. The Ministry of Justice and the Supreme Judicial Council should analyze the existing electronic justice systems and adapt them for use by people with disabilities, including children.

5. To perform research on the possibilities of implementing modern technologies by the judicial authorities, including artificial intelligence, in cases involving children with disabilities who have experienced violence. To achieve this, the Ministry of Justice (in collaboration with the Ministry of Interior) should initiate the creation of a working group to explore the possibilities of applying modern technologies to create procedural accommodations in the spirit of Article 13 of the UN Convention on the Rights of Persons with Disabilities (CRPD) within judicial and pre-trial proceedings involving people with disabilities, including children, regardless of their procedural status. In addition to experts directly involved in the justice system (judges, lawyers, prosecutors, investigative police officers, etc.), representatives from the civil sector and the national AAC team should be included in this group. The experience of the Ministry of Education in the introduction of modern technologies and AAC should be examined, and its applicability to judicial and pre-trial proceedings should be analyzed. After completing this preparatory work, legislative changes should be undertaken to ensure the use of AAC and modern technologies to guarantee access to justice.

6. The Ministry of Justice should also initiate legislative changes to ensure the participation of communication intermediaries in judicial and pre-trial proceedings.

III. In the area of improving coordination among different institutions:

1. To establish technical and legal mechanisms for interaction between child protection agencies and judicial authorities, including through the use of modern technologies. For this purpose, the State Agency for Child Protection (SACP), the Agency for Social Assistance (ASA), and the Ministry of Justice (MoJ) should initiate steps to achieve practical, legal, and technological facilitation of this interaction, including the drafting of an action protocol in cases of violence against a child with disabilities (including crime), which would serve as a guideline for experts in various agencies in the process of their interaction. Rules should be introduced to allow different participants in the case, whether providing social support or involved in pre-trial/court proceedings, to receive feedback on case development. In other words, communication between different agencies should be improved at all levels and stages, utilizing legal, practical, and technological approaches to achieve the goal.

2. Integrate systems that promote the use of AAC in the judicial system.

IV. In the field of data collection and analysis:

As clarified by the present report, practically no statistical data are collected that provide objective information about the situation of children with disabilities who have become victims of crimes and violence. Directions for improving the collection and analysis of information in an adequate manner are also contained in the current recommendations to Bulgaria by the Committee on the Rights of the Child. In this regard, we find it particularly important to start collecting, summarizing, and analyzing a variety of data in the aforementioned context. Specifically:

1. The Ministry of Justice, the State Agency for Child Protection, the Ministry of Interior, and the Ministry of Education and Science should clarify internally and then, in cooperation with each other, what information needs to be collected and analyzed in order to establish evidence-based practices and policies related to the prevention of violence against children with disabilities, investigation, and access to justice.
2. After establishing the above, the National Statistical Institute should propose a plan for collecting the relevant data. Legal, practical, and technological measures should be taken to ensure the collection, processing, and publicity of this data.

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