

Analysis of legislation, policy documents and practice guidelines relevant to the responsibilities of Serbian police when dealing with victims of crime

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Contents

Narrative report and Summary of the Legal and Policy Analysis already contained in the tables.....	4
Subject of analysis	4
Possible roles of injured persons in criminal proceedings and the link of that procedural status with the function of the police in criminal proceedings.....	4
Main powers and duties of the police in preliminary investigation proceedings and the duties of the police with the position of the injured party in criminal proceedings	6
Possible/necessary modifications to the rules of the Criminal Procedure Code relating to the police – in order to improve the position of the injured party/victim of a crime in accordance with the EU Directive 2012/29	7
Possible/necessary modifications of the rules stipulated by the Law on Police related to the police – in order to improve the position of an injured party/victim of a criminal act in accordance with the EU Directive 2012/29	8
The right to inform the victim about his/her rights from the first contact with the competent authority and specifying the information that the victim should receive (Article 6 of the EU Directive 2012/29) in the context of the relation of the police towards an injured party and possible proposals for legal modifications	10
Possible/necessary modifications in other sources of the law that are important for the role of the police in the protection of the rights of injured parties/victims of criminal acts.....	12
ANALYSIS OF THE HARMONIZATION OF THE REGULATION ON POLICE OF THE REPUBLIC OF SERBIA COMPARED TO THE PROVISIONS CONTAINED IN THE EU DIRECTIVE 2012-29 ON ESTABLISHING MINIMUM STANDARDS ON THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME	14

Narrative report and Summary of the Legal and Policy Analysis already contained in the tables

Subject of analysis

1. Two relevant laws were analyzed:

- 1) the Code on Criminal Procedure and
- 2) the Law on Police.

Several bylaws were also analyzed:

- 1) General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships,
- 2) General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships,
- 3) Special protocol on the conduct of police officers in order to protect minors from abuse and neglect,
- 4) Special protocol on the conduct of police officers and cases of violence against women in partner relationships,
- 5) Ordinance on the manner of performing police duties, as well as
- 6) Instructions on the conduct of police officers towards juveniles and young adults.

Possible roles of injured persons in criminal proceedings and the link of that procedural status with the function of the police in criminal proceedings

2. An injured party is a natural person or a legal entity whose personal or property right has been violated or jeopardized by a criminal offence. An injured party may appear in several basic procedural capacities, which can also be combined, so that, for example, an injured party may be a prosecutor, and as a rule, he/she can be a witness, and an injured party may also submit a claim for indemnification or the like.

3. In criminal proceedings, the injured party can also realize the following procedural roles:

- 1) possible (potential) prosecutor in criminal proceedings where the offence is prosecuted *ex officio* and which is primarily prosecuted by the public prosecutor; 2) a subsidiary prosecutor in criminal proceedings prosecuted *ex officio*; 3) injured party with a proposal for criminal prosecution in respect to the specific categories of criminal acts that are prosecuted *ex officio* and the proposal; 4) a private prosecutor in proceedings for criminal offences prosecuted through private prosecution; 5) a person who has filed a restitution claim and 6) a witness.

4. Therefore, it can be concluded that the term *injured party* in the Serbian legal system, is much broader than the term *victim* of a crime. When the law established protection of the injured

party in criminal proceedings, this means that it protects a *wider/expanded* circle of *persons* that those that belong exclusively to the victims of the crime, i.e. passive subjects of the criminal act, when it comes to the classic criminal and legal terminology.

5. **According to the provisions of Article 2 paragraph 14 of the Criminal Procedure Code, the police includes the following subjects, listed in the alternative sense:** 1) an authority of the Ministry of Internal Affairs, 2) an officer of that authority, 3) an officer of a corresponding international authority who, in accordance with international law and this Code, undertakes actions on the territory of the Republic of Serbia, its vessel or aircraft, as well as 4) other public authority with police competences, where provided for by the Criminal Procedure Code or other law.

6. **Previously quoted provision of the Criminal Procedure Code,¹ according to which the term police means any police officer, is not in line with the Law on Police, under which police powers may be exercised only by authorized persons, and not all police officers.** Although this is not of primary importance when it comes to the role of the police in protecting the injured party/victim of crime, this illogical solution needs to be amended in the future legislative changes.

7. **Pursuant to Article 7 of the Criminal Procedure Code, criminal proceedings are instituted:** 1) by the issuance of an order on undertaking an investigation; 2) by the confirmation of an indictment not preceded by an investigation; 3) by the issuance of a ruling ordering detention before submitting a motion to indict in summary proceedings; 4) by scheduling a main hearing or a hearing for pronouncing a criminal sanction in summary proceedings; or 5) by scheduling a main hearing in proceedings for pronouncing a security measure of compulsory psychiatric treatment.

8. **The legislator prescribes that *criminal prosecution* may be initiated even before the formal beginning of the prosecution (Article 5 paragraph 1), whereby there are *two different situations*:** 1) initiation of criminal prosecution in respect of offences which are prosecuted *ex officio*, when it is considered that criminal prosecution begins with the first act of the public prosecutor, or authorized officials of the police at the request of a public prosecutor, undertaken in accordance with the Criminal Procedure Code, and in order to check the grounds for suspicion that a criminal offence has been committed or that certain individual has committed a criminal offence; and 2) initiation of criminal prosecution in respect of the criminal offences prosecutable by private prosecution, by the submission of private prosecution.

9. **The role of the police in criminal proceedings is mostly, and especially when it comes to its core functions (of course, it is primarily related to the *criminal investigation police*), expressed in the *pre-investigation proceedings*.** This means that the role of the police is formally directed to the phase of criminal prosecution, which does not mean that the criminal proceedings have started in a formal sense. This is not logical, because it is difficult to explain the possibility of initiating criminal prosecution, while at the same time criminal proceedings have not been initiated, but it can be considered that the police, even when it is only with the purpose of criminal prosecution (i.e. when criminal proceedings have not been initiated formally), even then has a corresponding criminal procedural function. This means that in a broader and logical sense, it might be said that in

¹ Hereinafter the Criminal Procedure Code will, in some occasions, be referred to as the "CPC".

such situation the police “acts in criminal proceedings”.

Main powers and duties of the police in preliminary investigation proceedings and the duties of the police with the position of the injured party in criminal proceedings

10. If there are grounds for suspicion that a crime was committed that is prosecuted *ex officio*, the police has a set of generally formulated duties, which entail certain obligations: 1) with respect to a potential suspect – measures which aim at finding a “perpetrator” of a criminal offence; 2) with respect to prevent the escape – measures that make it possible that the perpetrator or an accomplice does not hide or escape, as well as 3) with respect to the evidence and other relevant data – measures aimed at discovering and providing the evidence of a criminal act and the objects that can serve as evidence, as well as to gather all information that could be useful for successful criminal proceedings.

11. For the purpose of fulfilling these basic powers and duties, the police can undertake a number of specifically defined activities in the pre-investigation proceedings, which include the following *operational activities*: to require necessary information from the citizens; to perform necessary inspection of vehicles, passengers and luggage; to restrict movement in a certain space for a necessary period of time and up to a maximum of eight hours; to undertake necessary measures in connection with the establishment of the identity of persons and objects; to post a wanted circular for a person and objects being searched for; in the presence of a responsible person, to inspect certain facilities and premises of public authorities, enterprises, shops and other legal persons, to inspect their documentation and if needed seize it; to undertake other necessary measures and actions.

12. The Criminal Procedure Code establishes two general rules relating to the evidentiary actions of the police undertaken in the pre-investigation proceedings: 1) duty to inform the public prosecutor – if the police in pre-investigation proceedings undertakes an evidentiary action, it shall notify the public prosecutor without any delay and 2) general evidentiary authenticity of the evidentiary actions of the police – evidence obtained by the police through evidentiary actions that can be used in the further course of criminal proceedings, if the evidentiary actions were carried out in accordance of the rules of the Criminal Procedure Code.

13. There are two basic forms of verbal communication of the police with certain individuals in the pre-investigation proceedings, relating to taking statements by the police:

- 1) collection of information from citizens, which is a police action of *operational character*, when the obtained statement does not have immediate evidentiary value and
- 2) hearing of the suspect, which is an *evidentiary action* of the police in the pre-investigation proceedings.

14. Both of these actions in the pre-investigation proceedings, that are reduce to appropriate verbal communication, i.e. collection of information from citizens (the so-called informative

interview), as well as the hearing of the suspect, can also be undertaken by the public prosecutor, apart from the police.

15. When it comes to gathering information from citizens, the police can collect information this way from an injured party in criminal offence, i.e. from the victim of the crime.

Possible/necessary modifications to the rules of the Criminal Procedure Code relating to the police – in order to improve the position of the injured party/victim of a crime in accordance with the EU Directive 2012/29

16. In the context of improving the position of an injured party/victim of a crime, and in the formal sense, bearing in mind the relevant rules of the EU Directive 2012/29, the following modifications in the rules of criminal proceedings are possible:

- It is necessary to introduce more possibilities for acquainting the injured party with the rights he/she has in the criminal proceedings, i.e. in all its phases. When it comes to the police, which, as a rule, has the first contact with the victim of a criminal act/injured party of a criminal act, the CPC should prescribe, in line with the Directive, a rule of the necessary information that the victims should receive at that first phase of the criminal proceedings.
- Strict rules need to be introduced in the CPC, in order to regulate the formal notification of the injured party about the rights that they are entitled to from the very first contact with the competent authority, which means, as a rule, the police. The text below will specifically explain the need to introduce specific rules on the *special formal statement of the injured party* in accordance with Article 6 of the Directive. It will also specify the need to adopt specific rules related to the provision of information to some specific categories of injured parties, i.e. victims of criminal offences, such as the ones that are direct victims of criminal acts with elements of violence and criminal acts against sexual freedom, which is in line with Article 22 of the Directive.

17. In general terms, it is also necessary to introduce in the Criminal Procedure Code a provision that would be designed to cover all the rights of the victims of criminal acts referred to in Article 3 of the Directive, which would apply to all the official actors in the criminal proceedings, which means to the police, public prosecutor and the court, depending on the phase of the criminal proceedings.

Possible/necessary modifications of the rules stipulated by the Law on Police related to the police – in order to improve the position of an injured party/victim of a criminal act in accordance with the EU Directive 2012/29

18. The police exercises its role in the pre-investigation proceedings in accordance with the Law on Police,² whose provisions (Articles 58 and 91 of the LP) prescribe the rules regarding certain aspects of the role of the police in the pre-investigation proceedings, and in accordance with the rules of the Criminal Procedure Code.

19. In the pre-investigation proceedings, the police apply the police powers established by the Criminal Procedure Code and upon the orders and requests of the public prosecutor and court (Article 58 paragraph 1 of the Law on Police). A police officer shall receive information about the committed criminal act and offence (Article 91 paragraph 1 of the Law on Police), and the police officer may require information from the person with the aim of detecting criminal offences or misdemeanors and their perpetrators in accordance with the law.

20. Article 18 paragraph 1 of the LP establishes the general legal basis, in line with which the police applies norms established in the Criminal Procedure Code, and based on which the CPC is applied as *lex generalis* in relation to which the LP is *lex specialis*.

21. Article 58 paragraph 1 of the LP specifies that a police officer shall receive a report on a committed criminal offense and misdemeanor, which is important, since, in accordance with the rules of the Criminal Procedure Code, a criminal complaint is primarily submitted to a public prosecutor.

22. Article 92 paragraph 1 of the LP stipulates the possibility of the police to conduct the so-called informative interviews with certain persons, that can be the victims of criminal acts, i.e. injured parties in criminal acts. The police already have such possibility according to the rules of the Criminal Procedure Code, which has been explained previously.

23. As discussed above, this issue is more closely regulated by the rules of the Criminal Procedure Code, but it is also necessary to specify in the Law on Police the exact application of the rules contained in Article 3 of the Directive, when it comes to the receipt of a criminal complaint by the police. On such occasions, the injured party, i.e. the victim should be provided with certain information in accordance with Article 3 of the Directive, and also in line with the rules stipulated by Article 6 of the Directive (which will be explained in more details in the part referring to that article of the Directive).

24. Article 58 paragraph 1 of the Law on Police stipulates the receipt of a criminal complaint or notification of a misdemeanor. It does not specifically refer to the complaint of a victim/injured party, although in practice they are usually an injured party, and they are the ones that submit a complaint to the police. Also, the elements of the rights of a victim/injured party are not specified strictly that would define that, in this case, they are entitled to the rights referred to in Article 3 of the Directive. This norm needs to be supplemented and harmonized with Article 3 of the Directive.

25. Article 91 paragraph 1 of the Law on Police stipulates collection of information from persons in general, which also applies to the victim, i.e. injured party in a criminal act, and which, to some extent, has the elements and the rights of the victim to be understood, but it would also

² Hereinafter the Law on Police will be replaced by the abbreviation the “LP” in some parts of the text.

be necessary to additionally specify the manner of collecting information from the victim/injured party in a criminal act, therefore this norm needs to be more aligned with Article 3 of the Directive.

26. In relation to the total number of provisions and its scope, the Law on Police does not contain many procedural provisions, but one should keep in mind that the main source of criminal procedural law in Serbia is the Criminal Procedure Code, so, when it comes to the rights of the victim to understand and to be understood (Article 3 of the Directive), and when something particular, related to the victim's contact with the police, is not stipulated by the Law on Police, the relevant provisions of the Criminal Procedure Code are always applied. This primarily refers to the provisions that directly regulate the position of the injured party in criminal proceedings, i.e. the set of his/her rights, as well as other provisions of the Criminal Procedure Code – such as the ones on the rights of the injured party in certain phases of the criminal proceedings.

27. Article 288 of the CPC regulates the collection of information from citizens, which represents a certain type of communication between the police and the citizens, which formally have no procedural capacity, i.e. they are neither suspects, nor witnesses, but in the course of the proceedings that could become either suspects or witnesses. These norms are important when it comes to the citizens that provide information to the police, and that are in fact victims of a criminal act.

28. Regardless of the fact that the statement provided to the police in the pre-investigation proceedings during an informative interview (collection of information from citizens) has no direct evidentiary significance, this action is important when it comes to the injured parties in criminal offences, since, among other things, they can experience secondary victimization or the need might emerge for them to be protected and the like.

29. When collecting information from citizens (operative action in the pre-investigation proceedings), the police and the public prosecutor are obliged to inform them of a possible enforcement of measures for special protection of witnesses. *Ratio legis* of this rule is that the persons who provide certain information to the police or the public prosecutor in the pre-investigation proceedings during the so-called informative interview, and that can become potential witnesses, in the future course of the proceedings, will thus be “encouraged” with regard to giving a comprehensive statement, i.e. not to be afraid of the possible future procedural (“witness”) status. The legal rules related to protected witnesses shall also apply to the protection of the undercover investigators, expert witnesses, expert advisors and experts.

30. One should bear in mind that certain forms of protection of witnesses or injured parties/victims of criminal acts are also established by the Law on the Protection Program for Participants in Criminal Proceedings (LPPPCP) which creates normative conditions for the protection of a number of participants in criminal proceedings, including witnesses, and logically, in practice, the most important issue is to protect the witness. This law, which is a *lex specialis* compared to the Criminal Procedure Code, stipulates the conditions and procedure for providing protection and assistance to participants in criminal proceedings and to those close to them who, due to the provided statements or notifications relevant for evidentiary purposes in the criminal proceedings, are exposed to the danger in terms of life, health, physical integrity, freedom or property, which could be a relatively frequent situation, when it comes to certain categories of victims of certain crimes, organized crime.

31. The police in the Serbia criminal proceedings is not entitled to examine the witnesses. They also don't have that right in the pre-investigative proceedings, or investigation. Witness can only be examined by the court during the main hearing, or by the public prosecutor in the course of investigation, so, among other things, that is the reason why only the court and the public prosecutor are considered as the authorities of the proceedings. Witness examination is also not possible in the pre-investigation proceedings where the police is predominantly present, but during that phase of the proceedings it is possible to perform informal verbal communication, in the form of the so-called informative interview with the citizens. This action is performed by the police in accordance with the rules stipulated by the Criminal Procedure Code, and certain rules are also stipulated in the previously quoted Article 91 of the Law on Police.

32. The statement given to the police during an informative interview (collection of information from citizens) is not evidence in criminal proceedings, and only an official note about the statement is recorded, instead of an official record. This doesn't mean that the collection of information from citizens is irrelevant, but the relevance of the information is only operational, and not evidentiary. The term "citizen" in this sense includes the injured parties in criminal acts, i.e. victims of a criminal act, so it is therefore necessary to harmonize these norms of the LP, as well as the CPC with the EU Directive 2012/29.

33. Article 91 of the LP should include the rules that were already explained in relation to the informative interview conducted with citizens (in accordance with the Criminal Procedure Code), when it comes to the persons who are victims of the crime, or who are injured parties in a criminal act.

The right to inform the victim about his/her rights from the first contact with the competent authority and specifying the information that the victim should receive (Article 6 of the EU Directive 2012/29) in the context of the relation of the police towards an injured party and possible proposals for legal modifications

34. The right to inform the victims about his/her rights in the criminal proceedings is of great importance in the EU Directive, and it is already contained, to a large extent, in the positive CPC of Serbia, but not completely and not in a sufficiently systematic manner. Therefore, the simplest and the most efficient solution would be to introduce a special official form, that would contain a simple language, explaining all the relevant information about the rights of the injured party/victim in criminal proceedings.

35. From the first contact with the competent authority, which is usually the police in the pre-investigation proceedings, the injured party would receive all relevant information by handing him/her a brief brochure, whose contents would be regulated in a bylaw.

36. With the purpose of further improvement of the position of the injured party, and formally, in order to introduce certain elements from the EU Directive 2012/29, the following new provisions are possible in the Serbia Criminal Procedure Code:

1) *Possible new provision (Article 280 paragraph 4 of the CPC):*

37. The first alternative: When a criminal complaint is submitted by an injured party, the prosecutor shall submit to the injured party written instructions explaining the rights and

obligations of the injured party in criminal proceedings, whose content shall be stipulated through an act of the minister in charge of judiciary.

38. In this option, the public prosecutor is referred here as the authority that receives a criminal complaint, since, according to the rules of the Criminal Procedure Code, the public prosecutor is authorized/responsible for receiving criminal complaints, as a form of information of a committed criminal act (at the level of certain degree of suspicion), and this option implies that the Law on Police should contain a provision explaining that the police shall act in the same way, if, in line with the Criminal Procedure Code, the criminal complaint is submitted to the police.

39. *The second alternative:* When a criminal complaint is submitted by an injured party, the public prosecutor, i.e. the police if the complaint was submitted there, shall submit to the injured party written instructions which include the rights and the obligations that the injured party has in criminal proceedings, and whose content shall be regulated in more detail in an act of the minister in charge of judiciary.

40. In this option, the police is strictly mentioned as a subject that receives criminal complaints as well, which means that in this case it would not be necessary to have any similar provision in the Law on Police, although it might be good to have such provision there after all.

2) Possible new provision within Article 50 of the CPC (or as a separate article) which lists the rights of an injured party in criminal proceedings:

41. The injured party has the right to obtain from the authority conducting the proceedings, written instructions explaining the rights and obligations of the injured party in criminal proceedings, whose content is regulated in more detail through an act of the minister in charge of the judiciary.

42. The content of the written instruction in both situations (i.e. regardless of the phase of the criminal proceedings) would be the same, and it would be regulated through a bylaw, passed by the minister in charge of the judiciary.

43. The instruction would contain enumeration and a brief explanation of the rights of the injured party in criminal proceedings, as well as certain obligations, especially when acting in the capacity of a witness. This would be explained in a manner that would be understandable to any legal layman.

44. Since in practice, this instruction would probably be given to an injured party by a public prosecutor, it could also be regulated that the content of the instruction should be stipulated by a mandatory general instructions of the Republic Public Prosecutor. This, however, wouldn't be quite adequate, since we shouldn't forget that, despite the fact that the public prosecutor is a state body that, for example, must lead impartial investigation, and equally observe the facts that are against the defendant and the facts that may favor the defendant, public prosecutor is, however, only one of the *parties* in the criminal proceedings.

45. Therefore, in principle, in order to eliminate possible objections of the defense to the principle of fair conduct of criminal proceedings, and in particular its aspect concerning the "equality of arms of the parties", and not for some *a priori* "doubt" of the impartiality of public prosecutors, the situations should be avoided that could potentially be interpreted as undue influence of prosecuting parties to the witnesses, or potential witnesses in criminal proceedings, and that are usually direct victims of the criminal act, and sometimes even injured parties when we talk about the victims in a broader sense.

46. Instructions would contain the following basic information:

- 1) a set of all rights and obligations that the injured party/victim has in accordance with the rules of the Criminal Procedure Code, i.e. other laws, when it comes to juveniles, or participants in the procedure that are in the protection program;
 - first of all, this includes all the rights that the injured party has in accordance with the rules of the Criminal Procedure Code and other relevant laws (as already stated and explained above), that would appear in the Instructions in an adequate language, and from the standpoint of the Directive, special importance should be given to the issue of the manner of filing a criminal complaint, costs of the procedure, providing translation and interpretation, and the problems of procedural and factual protection of witnesses.
- 2) a set of special rights that the injured party/victim should have in accordance with the Directive (Article 3).

47. This includes the following rights:

- basic information about the access to medical care, specialized support, which includes psychological assistance, as well as the information about the possibilities of an alternative accommodation, if necessary to the injured party;
- information about the possibilities to obtain protection and the conditions under which protection can be obtained;
- information about the conditions and possibilities of receiving free legal aid;
- information about the methods of obtaining compensation for the committed criminal offence and the services that deal with this issue (this information is, actually, part of the previous corpus of procedural rights, i.e. it is linked to the possibility of realizing a property claim in criminal proceedings), but it has a broader significance, if you have in mind the possibility of establishing a compensation fund for victims, which should be pursued in the future;
- information about the possibilities of interpretation and translation, if the injured party/victim doesn't speak or understand the language of the proceedings;
- providing necessary data that allow the injured party to have an insight into his/her case.

48. The Law on Police should also include the provision that would apply the aforementioned rules in relation to the rights of the injured party to receive written instruction which explains the rights and obligations that the injured party has in criminal proceedings, strictly even when the injured party submitted a criminal complaint to the police.

Possible/necessary modifications in other sources of the law that are important for the role of the police in the protection of the rights of injured parties/victims of criminal acts

49. The analyzed bylaws usually have very low legal and technical quality, and it seems that they are not necessary, since they mostly come down to rephrasing the rules contained in the Criminal Procedure Code and in the Law on Police, so the question of their purpose arises.

50. It would be better if all relevant issues were regulated by laws, i.e. specifically in the Criminal Procedure Code and in the Law on Police, and to keep the elaboration of certain legal solutions to the bylaws, but only in exceptional cases.

51. In the following period, a careful analysis of the new Law on the Prevention of Domestic Violence would be desirable, and the law will be enacted as of June 1, 2017, and it should be done from the standpoint of the role of the police in the protection of rights of injured party/victim of a criminal act in the current Serbia legislation.

ANALYSIS OF THE HARMONIZATION OF THE REGULATION ON POLICE OF THE REPUBLIC OF SERBIA COMPARED TO THE PROVISIONS CONTAINED IN THE EU DIRECTIVE 2012-29 ON ESTABLISHING MINIMUM STANDARDS ON THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
<p>Article 3 Right to understand and to be understood</p> <p>1. Member states shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority..</p> <p>2. Member States shall ensure that communications with victims are</p>	<p>Police Act (PL)</p> <p>General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)</p> <p>Instructions on the conduct of police officers towards juveniles and young adults (ICJ)</p> <p>Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)</p> <p>Ordinance on</p>	<p>Art: 18, 58 and 91 of the PL</p> <p>Item 9.7. (GPDV)</p> <p>Item V5 (SPNM)</p> <p>Item 3.1.2. (SPVP)</p> <p>Articles 12 and 16 (OPD)</p> <p>Item 7 (ICJ)</p>	<p>Полиција у предистражном поступку примењује полицијска овлашћења утврђена Законом о кривичном поступку и поступа по налогу и захтевима јавног тужиоца и суда (члан 18 став 1 ЗП).</p> <p>Полицијски службеник дужан је да прими пријаву о учињеном кривичном делу и прекршају (члан 58 став 1 Закона о полицији).</p> <p>Полицијски службеник може тражити обавештења од лица у циљу спречавања и откривања кривичних дела или прекршаја и њихових учинилаца у складу са законом (члан 91 став 1 Закона о полицији).</p>	<p>During the preliminary investigation and investigation proceedings, the Police shall exercise police powers stipulated by the CPC and act upon the order and requests of the public prosecutor and the court. (Article 18, paragraph 1, of the PL).</p> <p>A police officer shall receive a report on a committed criminal offense and minor offence (Article 58 paragraph 1 of the PL).</p> <p>A police officer may request information from a person in order to prevent and detect criminal offenses or minor offences and their perpetrators in accordance with the law (Article 91 paragraph 1 of the</p>	<p>Article 18 paragraph 1 of the PL – refers to the application of the CPC (it is partly aligned with the Directive, which basically means that it is aligned to the extent that the CPC is aligned with the Directive.</p> <p>Article 58 paragraph 1 of the PL (partly aligned with the Directive)</p> <p>Article 91 paragraph 1 of the PL (partly aligned with the Directive)</p> <p>Provision (9.7. GPDV) (partly aligned with the Directive)</p>	<p>Article 58 paragraph 1 of the Police Act stipulates the receipt of the criminal or minor offence complaint. This is not specifically referring to the complaint filed by a victim/injured party. In practice, however, it is victims/injured party who usually report crimes/minor offences to the police. Also, the elements of the rights of the injured party/victim are not strictly prescribed so that in this case they would have the rights stipulated by Article 3 of the Directive. This norm needs to be supplemented and aligned with Article 3 of the Directive.</p> <p>Article 91 paragraph 1 of the Police Act</p>	

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<p>given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood. 1. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent</p>	<p>the manner of performing police duties (OPD)</p> <p>Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)</p>		<p>Насиље над женама породици и партнерским односима се пријављује полицији и јавном тужилаштву у складу са законом. Потребно је да учесници у систему заштите у сваком тренутку процењују ризик за жртву и прилагођавају своје поступке потреби да се жртви обезбеди максимална безбедност (9.7. ОПНП)</p> <p>У циљу посебне заштите личности малолетног лица жртве злостављања или занемаривања, овлашћена службена лица полиције ће приликом предузимања мера и радњи ;</p> <p>представити се малолетном лицу и</p>	<p>PL).</p> <p>Violence against women in family and partner relationships is reported to the Police and the Public Prosecutor's Office in accordance with the law. It is necessary for those involved in the protection system, at any time, to assess the risk to the victim and adapt their procedures where necessary in order to provide maximum safety for the victim (9.7 GPDV)</p> <p>In order to provide special protection of minor victims of abuse or neglect, an authorized police offices will take the following measures and actions:</p> <ul style="list-style-type: none"> - introduce himself/herself to the minor and his/her 	<p>Provision V5 of the Special protocol on the conduct of police officers in order to protect minors from abuse and neglect is fully aligned with Article 3 of the Directive.</p> <p>Provision 3.1.2. of the Special protocol on the conduct of police officers and cases of violence against women in partner relationships is partly aligned with Article 3 of the Directive.</p> <p>Articles 12 paragraph 1 and 16 paragraph 1 of the Ordinance on the manner of performing police duties are partly</p>	<p>stipulates the collection of information from persons in general, including victims, i.e. injured parties. This, to some extent, contains elements and rights of victims to understand and be understood. However, it would be necessary to provide additionally the manner of collecting information specifically from the victim/injured party, so this norm need to be further aligned with Article 3 of the Directive. The Police Act, contain relatively few procedural provisions. However, one should have in mind that the main source of criminal procedural law in Serbia is – the Criminal Procedure</p>	

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authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.			<p>његовим родитељима, усвојиоцу или стараоцу. Објаснити да је полиција ту ради пружања помоћи и заштите, шта намерава да предузме и шта се од присутних лица очекује. Такође, пре почетка разговора проверити да ли су информације разумели.</p> <p>информисати малолетно лице и његове родитеље, усвојиоца или стараоца о њиховим правима и службама које им стоје на располагању ради пружања помоћи и/или подршке. Обезбедити да се малолетном лицу дају информације на начин који је прилагођен његовом узрасту и на језику</p>	<p>parents, adoptive parents or guardians. Explain that the police is there to provide assistance and protection, what they intend to do and what is expected from the persons present. Also, before starting the interview, the police officers need to check whether the information provided is understood.</p> <p>- Inform the minor and his/her parents, adoptive parents or guardians of their rights and the services at their disposal in order to provide assistance and/or support. Ensure that the minor is provided with information in a way that is tailored to their age and language that they can understand. (V5 SPNM)</p>	<p>aligned with Article 3 of the Directive.</p> <p>Provisions of item 7 of the Instructions on the conduct of police officers towards juveniles and young adults are aligned with Article 3 of the Directive</p>	<p>Coce (the CPC), to which the Police Act is a <i>lex specialis</i>. Therefore, in respect to the right of victims to understand and to be understood (Article 3 of the Directive), relevant provisions of the CPC shall apply, unless the matter is regulated by the Police Act. This is primarily related to the provisions that directly regulate the position of the injured party in criminal proceedings, i.e. their rights as victims, as well as some other provisions of the CPC – such as those related to the rights of injured parties at certain stages of criminal proceedings.</p> <p>Article 18 paragraph 1 of the Police Act is</p>	

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			<p>који може да разуме. (V5 ППЗМЛ)</p> <p>Приликом узимања изјаве од жртве насиља потребно је обезбедити физичку заштиту и омогућити жртви да да изјаву о догађају без присуства учиниоца насиља, по могућству у службеним просторијама које су одвојене и обезбеђене од ометања и свакодневних радних послова полицијских службеника (3.1.2. ППНП).</p> <p>Прикупљање обавештења од жртве захтева посебне припреме и то, између осталог... указивање жртви, пре самог започињања разговора, да је полицијски службеник ту да јој</p>	<p>When taking statements from victims of violence, it is necessary to provide physical protection and to enable the victim to make a statement about the event without the presence of the perpetrator of violence, preferably in official premises that are detached and secured from distractions and everyday working activities of police officers (3.1.1. SPVP)</p> <p>Collection of information from the victim requires special preparation, among other things: pointing out to the victim, before the interview commences, that the police officer is there to help the victim and to say to the police officer if they have not</p>		<p>also relevant here. It prescribes that during pre-investigative and investigative procedure, the police applies police powers in accordance with the CPC and acts upon orders and requests of public prosecutors and court. This provision which is of general importance, ensures the application by the police of all CPC provisions relative for the victim/injured party.</p> <p>According to Article 50 paragraph 1 of the CPC, the injured party has a set of rights, some of which are of particular importance in terms of Article 3 of the Directive.</p> <p>In regard to Article 3 of the Directive (right</p>	

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			<p>помогне и да је замоли да му скрене пажњу сваки пут када процени да није на прави начин разумела питање и да без устручавања, својим речима, говори о свему, па и оним детаљима за које мисли да су познати полицији. (3.1.2. ППНП).</p> <p>Полицијски службеник примиће пријаву сачињену у писменој форми или поднету усмено (члан 16 став 1 ППП).</p> <p>Са дететом поступају овлашћена службена лица која су стекла посебна знања из области права детета, преступништва младих и кривичноправне заштите малолетних лица. Пре прикупљања</p>	<p>understood the question properly and without hesitation, in their own words, talk about everything, including the details that he/she thinks are known to the police. (3.1.2. SPVP)</p> <p>Collecting information from victims that are children or minors in cases of criminal legal protection of children and minors can be carried out with the assistance of a pedagogue, psychologist or other professional person. (Article 12 paragraph 3 of OPD).</p> <p>A police officer will receive the report made in writing or submitted orally (Article 16 paragraph 1 OPD).</p> <p>Authorized officials</p>		<p>of victims to understand and to be understood), the following rights of the injured party are of particular importance:</p> <p>1) the right to be informed of the dismissal of criminal charges or the withdrawal of public prosecutor from prosecution, 2) the right to be informed about the possibility to take over the prosecution and press the charges, and 3) the right to be informed of the outcome of the proceedings and to receive the final court's decision.</p> <p>Pursuant to Article 50 paragraph 4 of the CPC, public prosecutor and court (depending on the</p>	

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			<p>обавештења, овлашћено службено лице из тачке 7 став 1 овог упутства, упознаје дете, родитеља, усвојиоца или стараоца, односно друго лице које присуствује прикупљању обавештења, о разлозима прикупљања обавештења. (тачка 7 Упутства о поступању полицијских службеника према малолетним и млађим пунолетним лицима).</p> <p>Прикупљање обавештења од оштећене деце и или малолетника у предметима кривичноправне заштите деце и малолетника може се обављати уз помоћ педагога , психолога или другог стручног</p>	<p>who have acquired special knowledge in the field of child rights, juvenile delinquency and criminal protection of minors will be dealing with children. Before the collection of information starts, the authorized officials referred to in item 7 paragraph 1 of this Instruction will inform the child, parents, adoptive parents or guardians, i.e. any other person that is present during the information collection, about the reasons for collecting information. (item 7 of the Instructions on the conduct of police officers towards juveniles and young adults</p>		<p>stage of criminal proceedings) have a duty to inform the injured party of all of the above mentioned rights.</p> <p>Article 11 paragraphs 3 and 4 of the CPC are also important here. This provision stipulates that a party, witness and other participants in the proceedings have the right, during the proceedings, to use their own language and if the proceedings are not conducted in their own language and to receive translation of the proceedings, as well as documents, free of charge.</p> <p>It is important to note that translation is performed by an interpreter/translator (Article 11 paragraph 4 of the CPC), which guarantees the</p>	

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			лица (члан 12 став 3 ППП)			<p>expertise of translation and thus allows injured parties, in cases when they don't speak the language of the proceedings, to be able to adequately understand the proceedings and to be understood.</p> <p>Article 9, paragraph 7 of the General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV) in a broader context is important as a form of victims' rights to understand and to be understood, but it also requires further clarification in line with Article 3 of the</p>	

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						<p>Directive. Provision 3.1.2. , as well as the related provision 3.6. of the Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP) requires an appropriate amendment in order to be adequately aligned with Article 3 of the Directive, although in general it contains some of the elements of the victim’s right to understand and to be understood. Article 12 paragraph 1 and Article 16 paragraph 1 of the Ordinance on the manner of performing police duties (OPD) are partly aligned with Article 3 of the Directive, since the</p>	

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						<p>presence of a psychologist, pedagogue or other professional when it comes to collecting information from minors, definitely enables a juvenile to understand better and to be understood in the proceedings. Article 16 paragraph 1 of the OPD is only aligned with the Directive in a rudimentary manner, because it provides some very general basis for the injured party/victim to be informed, only if they are reporting the crime. However, as previously explained, also here the CPC is applied as <i>lex generalis</i>. However, the OPD should describe how an injured party can achieve where they understand and are</p>	

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						<p>understood, when he/she filed a report, in line with the rules referred to in Article 3 of the Directive. Provisions of item 7 of the Instructions on the conduct of police officers towards juveniles and young adults (ICJ) are aligned with Article 3 of the Directive, since they allow a child from which the information is collected, and that can be a victim of a criminal act, to adequately understand his/her rights in the proceedings, and to be understood. However, this provision covers situation of children in criminal proceedings in any capacity - including child offenders. Therefore, further</p>	

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						protection of children victims should be built into this provision.	

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<p>Article 4</p> <p>Right to receive information from the first contact with a competent authority</p> <p>Member states shall ensure that victims are offered relevant information, without unnecessary delay, from their first contact with a competent authority, in order to enable them to access the rights set out in this Directive:</p>	The CPC (CPC)	Article 50	<p>Члан 50 став 2 ЗКП</p> <p>Оштећени има право да разматра списе и разгледа предмете који служе као доказ (члан 50 тачка 4 ЗКП).</p> <p>Јавни тужилац и суд упознаће оштећеног са правима која има..</p>	<p>Article 50 paragraph 2 of the CPC</p> <p>The injured party is entitled to examine the files and objects serving as evidence (Article 50 item 4 of the CPC).</p> <p>The public prosecutor and the court will inform the injured party of the rights he/she is entitled to.</p>	Partially aligned with the Directive	<p>Serbian CPC provides a number of procedural rights to injured party. Part of these rights (determined in terms of the rights listed under Article 50 of the CPC) are related to the formal requirements of information provided to the injured party during proceedings.</p>	<p>It is necessary to develop provisions ensuring victims rights to information during criminal proceedings. It is particularly important to specify how the victims are informed about their rights from the first contact with authorities and throughout the proceedings.</p> <p>It is necessary to introduce strict rules regarding specific formal requirements for documents to be issued to an injured party already at first contact with the competent authorities (which is usually the police).</p> <p>In this regard, special rules (further explained in the parts referring to</p>

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							other relevant articles of the Directive) should apply to certain categories of injured parties, including victims of violent offences and sexual offences.
	The Police Law (PL)	Article 58 of the PL	<p>Члан 58 ЗП</p> <p>Полицијски службеник дужан је да прими пријаву о учињеном кривичном делу и прекршају.</p> <p>Примљену кривичну пријаву полицијски службеник одмах доставља надлежном јавном тужиоцу у складу са Законником о кривичном поступку, а пријаву која садржи</p>	<p>Article 58 of the PL</p> <p>A police officer shall receive a report on a committed criminal offence and minor offence. The police officer shall immediately forward the report on the committed criminal offence to the competent public prosecutor in accordance with the CPC, and the report containing elements</p>	Partially aligned with the Directive	It is not the exclusive competence of the police to receive criminal complaints. Other state authorities which normally proceed in criminal matters (such as the court, for example) can receive such complaints. However, such authorities are required to forward any criminal complaints, to the competent public	It would be necessary to introduce in the Police Law provisions which would enable the injured party, when submitting a report on criminal offence, to be informed about the rights he/she is entitled to in criminal proceedings.

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			елементе прекршаја организационој јединици Полиције надлежној за послове прекршаја.	of a minor offence to the organizational unit of the Police responsible for minor offence affairs .		prosecutor. The role of police is particularly important in this regard, given that criminal complaints are usually submitted to the police, instead of to the competent public prosecutor, and therefore this issue should be regulated in a better manner both in the CPC and in the Police Law.	
	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)	Item 9.7.	Насиље над женама у породици и у партнерским односима се пријављује полицији и јавном тужилаштву у складу са законом. Потребно је да учесници у систему заштите у сваком тренутку процењују ризик за жртву и прилагођавају своје поступке потреби да се жртви обезбеди максимална	Violence against women in family and partner relationships is reported to the Police and the Public Prosecutor's Office in accordance with the law. It is necessary for those involved in the protection system, at any time, to assess the risk to the victim and adapt their procedures where necessary in order to provide maximum	Partially aligned with the Directive	These provisions only rephrase and to a certain extent explain other norms contained in, first and foremost, the CPC. They particularly deal with preventing the police to decide, on their own accord and without the assessment of the public prosecutor, on whether a criminal complaint is founded or not, i.e. whether	It would be necessary to ensure that the obligation of the police to provide women victims of violence in partnerships about their rights. This should be done in the same way as it is proposed in the CPC and the Police Law.

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			<p>безбедност.</p> <p>Полиција ће у свим случајевима у којима постоје основи сумње да је извршено кривично дело насиља у породици обавестити надлежног тужиоца и доставити извештај о догађају или кривичну пријаву против осумњиченог у складу са одредбама Законика о кривичном поступку. Основанот кривичне пријаве цениће искључиво јавни тужилац.</p>	<p>safety for the victim.</p> <p>In all cases where there are grounds for suspicion that a criminal act of domestic violence has been committed, the police shall notify the responsible public prosecutor and submit a report on the incident or a report on criminal offence of the suspect in accordance with the provisions of the CPC. The merits of the criminal charges will be assessed only by the public prosecutor.</p>		<p>the information received regarding an event indeed presents grounds for family violence or not.</p>	
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions that can be related to Article 4 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the reception of a criminal complaint of the injured party, it does not have any direct links to Article 4 of the Directive.	There is no need for the alignment with the Directive, since the provisions of Article 4 are not relevant for the content of the act.
	Special protocol on the conduct of police officers	Item 3.1.	<p>Ознака 3.1 (ППНП)</p> <p>Полиција може на</p>	<p>Item 3.1 (SPVP)</p> <p>The police may find</p>	Partially aligned with the Directive	These provisions only provide additional explanations of some	It is necessary to introduce the obligation of the

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	and cases of violence against women in partner relationships (SPVP)		<p>различите начине доћи до сазнања да је извршено насиље у породици и то: - када жртва својевољно пријави насиље...</p> <p>Овом приликом издвојени су случајеви пријављивања насиља који се у пракси најчешћи и којима посвећујемо посебну пажњу јер су веома битни за правилан рад са жртвама насиља у породици и партнерским односима, а то су пријава насиља путем телефонског позива и непосредно у службеним просторијама полиције.</p> <p>3.1.1.</p> <p>Пријава насиља над женама у породици</p>	<p>out in different ways about the committed domestic violence, as follows: - when the victim voluntarily reports the violence...</p> <p>We here separate the cases of reporting violence which is the most common in practice and to which we devote special attention since they are very important for proper work with victims of domestic violence and victims in partner relationships, and those are reporting violence through phone calls and directly in the premises of the police.</p> <p>3.1.1.</p> <p>Reports on violence against women in the family and in partner relationships through phone calls</p>		<p>aspects of getting the information about an incident of violence against women in family and in partner relationships. Those provisions are of practical importance, but are not a formal , which is important for the practice, but it is not imposing a formal requirement, unlike the general norms in CPC and Police Law.</p>	<p>police, when violence against women in partner relationships and domestic violence is reported by the victim, to provide the victim with information about the rights she is entitled to. This should be done in the same manner as it is proposed in the CPC and the Police Law.</p>

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			<p>и у партнерским односима путем телефонских позива</p> <p>Иницијални Разговор полицијског службеника са лицем које пријављује насиље (обавештење од грађана), треба да омогући да се формира што је могуће потпунија и квалитетнија прелиминарна слика о насиљу које се пријављује. У циљу осигурања безбедности грађана полиција је дужна да предузме НЕОДЛОЖНУ ИНТЕРВЕНЦИЈУ у свим случајевима, а посебно када се процени да живот и здравље лица могу бити угрожени.</p> <p>3.1.2.</p> <p>Пријава насиља над</p>	<p>Initial conversation of the police officer with the person who reported violence (notification from the citizens) should enable them to form, as soon as possible, more complete and more quality preliminary picture of the violence that is being reported. In order to ensure the safety of the citizens, the police are obliged to undertake URGENT ACTION in all cases, and especially when it is estimated that the life and health of persons might be in danger.</p> <p>3.1.2.</p> <p>Reports of violence against women in family and partner relationships by the victim or any other person in police</p>			

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			<p>женама у породици и у партнерским односима од стране жртве или другог лица у службеним просторијама полиције</p> <p>Један од начина пријаве насиља над женама у породици и у партнерским односима јесте директно пријављивање од стране жртве или другог лица полицијским службеницима у службеним просторијама полиције.</p> <p>Приликом узимања изјаве од жртве насиља потребно је обезбедити физичку заштиту и омогућити жртви да да изјаву о догађају без присуства учиниоца насиља по</p>	<p>premises</p> <p>One of the ways of reporting violence against women in family and partner relationships is direct reporting by the victim or any other person to the police officers in police premises.</p> <p>When taking statements from victims of violence, it is necessary to provide physical protection and to enable the victim to make a statement about the event without the presence of the perpetrator of violence, preferably in official premises that are detached and secured from distractions and everyday working activities of police officers.</p>			

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			могућности у службеним просторијама које су одвојене и обезбеђене од ометања и свакодневних радних послова полицијских службеника				
	Ordinance on the manner of performing police duties (OPD)	Art. 16, 17 and 18 of the OPD	<p>Члан . 16 ППП</p> <p>Полицијски службеник примиће пријаву сачињену у писменој форми или поднету усмено</p> <p>Усмену пријаву полицијски службеник може да прими у службеним просторијама Министарства или ван њих. О усменој пријави примљеној у Министарству сачињава се записник о пријему пријаве, а о усменој пријави примљеној ван Министарства сачињава се</p>	<p>Article 16 of the OPD</p> <p>A police officer will receive the report made in writing or submitted orally.</p> <p>A police officer can receive an oral report in official premises of the Ministry or outside of these premises. Transcript shall be made about the oral report received in the Ministry, and an official records shall be made about an oral report received outside of the Ministry.</p>	Partially aligned with the Directive	<p>Articles 16, 17 and 18 of the OPD regulate the types of reports that the police receives, where it is strictly defined that the person submitting the report can also be the injured party.</p> <p>The rules concerning the reception of the report in oral form are established separately.</p>	As it was already explained in terms of the rules stipulated by the CPC, the Police Law and the Ordinance on the manner of performing police duties, here it would also be necessary to introduce provisions that would enable the injured party, when submitting a report against a criminal offence, to be informed about the rights they are entitled to in criminal proceedings.

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			<p>службена белешка.</p> <p>Члан 17 ППП</p> <p>Записник о пријему усмене пријаве садржи:</p> <p>2) личне податке подносиоца пријаве и да ли је оштећен кривичним делом;</p> <p>Записник ће се пре закључења прочитати подносиоцу усмене пријаве и унети његове примедбе, односно констатација да је записник прочитан пре потписивања.</p> <p>Записник потписују подносилац пријаве, полицијски службеник који је примио изјаву и записничар</p>	<p>Article 17 of the OPD</p> <p>The transcript on the receipt of an oral report shall contain:</p> <p>...</p> <p>2) personal information about the person that filed a report and whether that person is an injured party of the offence;</p> <p>Prior to the conclusion, the transcript shall be read to the person that submitted the report and his/her remarks or statements that the transcript was read before signing shall be entered. The transcript is signed by the person that submitted the report, the police officer that received the report and the recording clerk.</p>			

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	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions that can be related to Article 4 of the Directive.			There is no need for the alignment with the Directive.	Since this act does not regulate the reception of the report of the victim on criminal offence, it has no direct links with Article 4 of the Directive.	There is no need for special alignment with the Directive, since the provisions of Article 4 are not relevant for the content of the act.

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<p>Article 5</p> <p>Right of victims when making a complaint</p> <p>Member States shall ensure that victims receive written acknowledgement of their formal complaint made by them to the competent authority of a Member State, stating the basic elements of the criminal offence concerned.</p> <p>Member States shall ensure that victims who wish to make a complaint with regard to a criminal offence and who do not understand or speak the</p>	The CPC (CPC)	Art. 280, 281 and Art. 11 of the CPC	<p>Члан 280 став 1 ЗКП</p> <p>Државни и други органи, правна и физичка лица пријављују кривична дела за која се гони по службеној дужности, о којима су обавештена или за њих сазнају на други начин, под условима предвиђеним законом или другим прописом...</p> <p>Члан 281 ЗКП</p> <p>Кривична пријава се подноси надлежном јавном тужиоцу, писмено, усмено или другим средством. Ако се кривична пријава подноси усмено, о њој ће се саставити записник и подносилац ће се упозорити на последице лажног пријављивања. Ако је пријава саопштена</p>	<p>Article 280 paragraph 1 of the CPC</p> <p>State and other bodies, legal and natural persons report criminal offences which are prosecutable ex officio about which they were informed or they learn in another manner, under the conditions stipulated by law or other regulation.</p> <p>Article 281 of the CPC</p> <p>A criminal complaint is submitted to the competent public prosecutor, in writing, orally, or by other means.</p> <p>If a criminal complaint is submitted orally, a transcript will be made thereof and the submitter will be cautioned about the consequences of false</p>	Partially aligned with the Directive	<p>These provisions explain the general duty of reporting criminal offences which are prosecuted ex officio. However, this is of little consequence, since only in some situations the failure to report a criminal offence is an offence itself. The CPC explains the manner of receiving criminal complaints, especially when it is provided through a transcript or by phone, etc. The CPC does not contain a requirement for formally acknowledging the receipt of a criminal complaint, even though it is always done in practice.</p> <p>The CPC (Article 11) contains very liberal rules about</p>	<p>All provisions of the CPC relating to criminal complaint are regulating actions of the public prosecutor in response to the complaint. However, in practice majority of criminal complaints is filed with the police. Police then has an obligation to forward such complaints to the public prosecutor, so rules need to be introduced that would stipulate that the police shall provide the necessary information to the injured party (victim) when he/she files a criminal complaint.</p> <p>In practice, the injured party always receives a confirmation that</p>

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<p>language of the competent authority be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance.</p> <p>Member States shall ensure that victims who do not understand or speak the language of the competent authority, receive translation, free of charge, of the written acknowledgement of their complaint provided for in paragraph 1, if they so request, in a language that they understand.</p>			<p>телефоном или другим телекомуникацијским средством сачиниће се службена белешка, а ако је пријава поднесена електронском поштом сачуваће се на одговарајућем носиоцу података и одштампати. Ако је кривична пријава поднесена полицији, ненадлежном јавном тужиоцу или суду, они ће пријаву примити и одмах доставити надлежном јавном тужиоцу.</p> <p>Члан 11 став 3 ЗКП</p> <p>Странке, сведоци и друга лица која учествују у поступку имају право да у току поступка употребљавају свој језик и писмо, а ако</p>	<p>reporting. If the criminal complaint is communicated by telephone or other telecommunications medium an official note will be made, and if the complaint is submitted by electronic mail it will be saved on an appropriate recording medium and printed.</p> <p>If a criminal complaint was submitted to the police, an incompetent public prosecutor or a court, they will receive the complaint and deliver it to the competent public prosecutor immediately.</p> <p>Article 11 paragraph 3 of the CPC Parties, witnesses and other persons participating in proceedings are entitled to use their own languages and</p>		<p>translation, which are appropriate in terms of Article 5 of the Directive, and in this regard, the CPC is aligned with the Directive.</p>	<p>his/her criminal complaint was received, i.e. a reception stamp is placed on one copy of his/her criminal complaint, which is a formal proof that the criminal complaint was received and when it was received, but this action is not strictly regulated by the CPC, and it is regulated by the Rules of Procedure of the Public Prosecutor's Office.</p>

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			<p>се поступак не води на њиховом језику и ако, након поуке о праву на превођење, не изјаве да знају језик на коме се поступак води и да се одричу права на превођење, обезбедиће им се на терет буџетских средстава превођење онога што они или други износе, као и превођење исправа и другог писаног доказног материјала.</p>	<p>scripts during proceedings and, where proceedings are not being conducted in their language and unless, after being advised on their right to translation, they declare that they know the language in which the proceedings are being conducted and that they waive their right to translation, the interpretation of what they or others are saying, as well as translation of instruments and other written evidence, are secured and paid from budget funds.</p>			

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	The Police Law (PL)	Article 58	Претходно је већ наведен садржај члана 58 Закона о полицији.	Content of Article 58 of the Police Law has already been specified	Partially aligned with the Directive	This article refers to the duty of the police to receive a criminal complaint regarding an offence committed and to forward such complaint to the competent public prosecutor.	<p>The Police Law does not guarantee that the injured party must receive acknowledgement of receipt of his/her complaint. While this is done in practice, it also needs to be formally recognised in the Police Law.</p> <p>The Police Law does not contain any special provisions that prescribe that the victim should be able to submit his/her complaint in their own language or a language which he/she understands. This needs to be entered into the text of the law.</p>
	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of	Item 9.7.	Претходно је већ наведен садржај ознаке 9.7 . Општер протокола о поступању и сарадњи установа, органа и организација у	The content of item 9.7 of the General Protocol on procedures and cooperation of institutions, bodies and organizations in	Partially aligned with the Directive	The content of this provision has already been explained, as well as the rephrasing and clarification of	It would be necessary to enter the rules of Article 5 of the Directive into the content of the provision that are related to the

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	violence against women in family and partner relationships (GPDV)		ситуацијама насиља над женама у породици и партнерским односима	situations of violence against women in family and partner relationships has already been provided.		certain norms contained in the CPC.	provision of formal confirmation to the injured party/victim on the reported criminal offence. It would also be necessary to introduce the rules related to the assistance in terms of translation of such confirmation to the victim who does not speak or understand the language used in the proceedings.
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions that can be related to Article 5 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the reception of a criminal complaint of the injured party, it doesn't have any direct links to Article 5 of the Directive.	There is no need for alignment with the Directive, since the provisions of Article 5 are not relevant for the content of the act.
	Special protocol on the conduct of police officers and cases of violence against women in partner	Item 3.1 SPVP)		Relevant provisions have already been listed in relation to Article 4 of the Directive	Partially aligned with the Directive	Already explained in relation to Article 4 of the Directive	Already explained in relation to Article 4 of the Directive

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	relationships (SPVP)						
	Ordinance on the manner of performing police duties (OPD)	Article 17 paragraph 4 of the OPD	<p>Члан 17 став 4 ППП</p> <p>Полицијски службеник који је примио усмену кривичну пријаву на записник, дужан је да подносиоцу пријаве, на његов захтев, изда потврду.</p>	<p>Article 17 paragraph 4 of the OPD</p> <p>Police officer who had received an oral criminal complaint through a transcript, shall provide a confirmation to the person that submitted a complaint, upon his/her request.</p>	Partially aligned with the Directive	Article 17 paragraph 4 of the OPD prescribes the obligation to issue confirmation to every person that submits an oral complaint, which includes the injured party, i.e. victim of a criminal offence if they submit a complaint themselves (which is particularly emphasized in Article 17 paragraph 1 item 2 of the OPD). This rule is fully aligned with Article 5 of the Directive .	Article 17 paragraph 4 stipulates an obligation to issue acknowledgment of receipt of an oral complaint (of an injured party, i.e. the victim, as well as other persons), which is in line with Article 5 of the Directive. However, it does not strictly stipulate that such confirmation shall be issued to the person who submits the complaint in written form. This is an omission, which is not in line with Article 5 of the Directive. Nevertheless, this is usually done in practice. Namely,

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							<p>usually one copy of the written statement is marked with the reception stamp of the authority that has received the complaint, which indicates the date and time of the receipt of the complaint, and that copy is given to the person filing the complaint, including the injured party when it is them who submit the complaint.</p> <p>However, for the purposes of better alignment with Article 5 of the Directive, it is necessary to formally, strictly stipulate this in the Ordinance on the manner of performing police duties.</p>

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							It would also be necessary to introduce in the Ordinance the provisions related to the assistance with translation when it comes to the submitter of the complaint who doesn't speak or understand the language officially used in the authority that receives the complaint and provides confirmation on its reception.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions that can be linked with Article 4 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the reception of a criminal complaint of the injured party, it doesn't have any direct links to Article 4 of the Directive.	There is no need for alignment with the Directive, since the provisions of Article 4 are not relevant for the content of the act.

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<p>Article 18 Right to protection</p> <p>Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against</p>	The CPC (CPC)	Art. 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112 and Article 288	<p>Члан 102 ЗКП</p> <p>Основна заштита сведока</p> <p>Орган поступка је дужан да оштећеног или сведока заштити од увреде, претње и сваког другог напада. Учесника у поступку или друго лице које пред органом поступка вређа оштећеног или сведока, прети му или угрожава његову безбедност, јавни тужилац или суд ће опоменути, а суд га може и новчано казнити до 150.000</p>	<p>Article 102 of the CPC Basic Protection of Witnesses</p> <p>The authority conducting proceedings is required to protect an injured party or witness from an insult, threat and any other attack.</p> <p>The public prosecutor or the court will caution a participant in proceedings or other person who, before the authority conducting proceedings insults an injured party of a</p>	Partially aligned with the Directive	<p>Overall whilst the CPC does establish protection for victims who are particularly vulnerable in compliance with Art 18 of the Directive, other victims are insufficiently covered.</p> <p>Furthermore, family members of victims are not recognised at all.</p> <p>The provisions relating to the protection of witnesses are exclusively related to the phases of</p>	<p>The Victims Directive establishes protection requirements in two ways. Firstly, there is a general requirement to establish measures – Art 18. This Article does not specify what measures should be in place and this is left to Member States.</p> <p>Secondly, Articles 19-24 establish requirements on specific protection measures that must be put in place.</p>

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the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.			динара. О жалби против решења којим је изречена новчана казна, одлучује веће. Жалба не задржава извршење решења. По пријему обавештења од полиције или суда или по сопственом сазнању о постојању насиља или озбиљне претње упућене оштећеном или сведоку јавни тужилац ће предузети кривично гоњење или ће о томе обавестити надлежног јавног тужиоца. Јавни тужилац или суд може захтевати	witness, threatens him or endangers his safety, and the court may also fine him up to 150,000 dinars. An appeal against a ruling pronouncing a fine is decided on by the panel. The appeal does not delay the execution of the ruling. Upon receiving notification from the police or the court or upon learning about the existence of violence or a serious threat directed at an injured party or a witness, the public prosecutor will undertake criminal prosecution or notify		criminal procedure in which the prosecutor and the court are acting, both during the prosecutorial investigation, as well as during court proceedings. No one can be a witness during preliminary investigation procedure, which is conducted by the police (and before the involvement of the prosecutor). Persons interviewed by the police in that phase of the procedure, which is seen only as the information gathering phase, are not witnesses, but	These are in fact a minimum set of protection measures that Member States must implement for all victims and vulnerable victims. As such, Member States may in a strict sense comply with Article 18 by implementing Articles 19-24 as well as ensuring some protection measures are in place for physical threats (following the last lines of Art 18). (NB this is the opinion of the analysts and not necessarily those of the European

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			<p>да полиција предузме мере заштите оштећеног или сведока у складу са законом. Посебно осетљиви сведок Члан 103 ЗКП Сведоку који је с обзиром на узраст, животно искуство, начин живота, пол, здравствено стање, природу, начин или последице извршеног кривичног дела, односно друге околности случаја посебно осетљив, орган поступка може по службеној</p>	<p>the competent public prosecutor thereof. A public prosecutor or the court may request that the police undertake measures to protect an injured party or a witness in accordance with the law.</p> <p>Especially Vulnerable Witness Article 103 of the CPC</p> <p>The authority conducting proceedings may ex officio, at the request of parties or the witness himself,</p>		<p>only ordinary citizens who provide information to the police. Such statements do not constitute a testimony and cannot be used as a formal evidence in possible later stages.</p> <p>Therefore, victims at this stage of criminal proceedings do not receive any protection whatsoever.</p> <p>Therefore, CPC provisions related to the protection of</p>	<p>Commission).</p> <p>However, it is considered that a primary objective of Art 18 is to establish general principles of protection which will minimize the risk of harm and establish the possibility of protection.</p> <p>This can be achieved for example by creating a general obligation on relevant actors in criminal proceedings to ensure protection of victims from</p>

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			<p>дужности, на захтев странака или самог сведока одредити статус посебно осетљивог сведока. Решење о одређивању статуса посебно осетљивог сведока доноси јавни тужилац, председник већа или судија појединац. Ако сматра да је то потребно ради заштите интереса посебно осетљивог сведока, орган поступка из става 2. овог члана ће донети решење о постављању пуномоћника сведоку, а јавни тужилац или председник суда ће поставити пуномоћника по редоследу са списка адвоката који суду доставља надлежна</p>	<p>designate as an especially vulnerable witness a witness who is especially vulnerable in view of his age, experience, lifestyle, gender, state of health, nature, the manner or the consequences of the criminal offence committed, or other circumstances. The ruling determining a status of an especially vulnerable witness is issued by the public prosecutor, president of the panel or individual judge. If deemed necessary for the purpose of protecting the interest of an especially vulnerable witness, the authority conducting proceedings referred to in paragraph 2 of</p>		<p>witnesses are not related to the police. This follows from above, since the police is not examining witnesses but merely talking with citizens and collecting information which may lead to prosecution. The protection for witnesses can only be granted by the public prosecutor during the investigation, as well as by the court in the further course of the proceedings. These provisions, however, have certain significance when it comes to the police, since during the prosecutorial investigation, the police may provide certain assistance in</p>	<p>repeat victimisation and intimidation, secondary victimisation, and risk of harm.</p> <p>This ensures that beyond specific measures established in law, criminal justice actors keep in mind protection issues and take a general victim protection approach in their work.</p> <p>At the same time, member states must also establish measures to protect the physical integrity of victims. This is a separate requirement which is not covered by Articles 19-24.</p> <p>As such, Article 18 will not be complied</p>

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			<p>адвокатска комора за одређивање бранилаца по службеној дужности (члан 76.). Против решења којим је усвојен или одбијен захтев није дозвољена посебна жалба. Правила о испитивању посебно осетљивог сведока Члан 104 ЗКП Посебно осетљивом</p>	<p>this Article will issue a ruling appointing an attorney for the witness, and the public prosecutor or the president of the court will appoint an attorney according to the order on the roster of attorneys submitted to the court by the bar association competent for designating court appointed defence</p>		<p>relation to the protection of witnesses and victims. However, as mentioned above, in the context of criminal proceedings (which commence only once the public prosecutor becomes involved) the police is not entitled to interview witnesses, including injured parties in this</p>	<p>with if there is only a general principle and implementation of Articles 19-24. Member States must then establish as an absolute minimum the specific protection measures under Articles 19-24. However, ideally and in line with Art 18, they will go beyond these to further</p>

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			<p>сведоку питања се могу постављати само преко органа поступка који ће се према њему односити са посебном пажњом, настојећи да се избегну могуће штетне последице кривичног поступка по личност, телесно и душевно стање сведока. Испитивање се може обавити уз помоћ психолога, социјалног радника или другог стручног лица, о чему одлучује орган поступка. Ако орган поступка одлучи да се посебно осетљиви сведок испита употребом техничких средстава за пренос слике и звука, испитивање се спроводи без присуства странака и других учесника у поступку у просторији у којој се сведок</p>	<p>counsels (Article 76). No special appeal is allowed against a ruling approving or denying a request.</p> <p>Rules on Examining an Especially Vulnerable Witness Article 104 of the CPC</p> <p>An especially vulnerable witness may be examined only through the authority conducting the proceedings, who will treat the witness with particular care, striving to avoid possible detrimental consequences of the criminal proceedings to the personality, physical and mental state of the witness. Examination may be conducted with the assistance of a psychologist, social worker or other professional, which</p>		<p>capacity.</p> <p>All rules pertaining to the protection of witnesses are also applicable to the protection of injured parties (understood as victims of criminal acts), when they appear in the proceedings in the capacity of a witness. In practice, this is the most common case, namely situations in which injured party does not testify is extremely rare. In those exceptional situations, where the injured party is not testifying, there would be no need to provide special protection to a person in criminal proceedings, since he/she practically wouldn't appear for testimony in the criminal proceedings.</p>	<p>minimise the risk of harm</p> <p>Based on the above opinion, it can be seen that Article 102's general statement follows this approach but should be expanded to fully cover all victims, family members (as appropriate), all stages of criminal proceedings, and the full notion of secondary victimisation.</p> <p>Detailed protection measures may then be established in the CPC or other appropriate legislation. Those measures as a minimum should correspond to Articles 19-24.</p> <p>The physical</p>

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			<p>налази. Посебно осетљиви сведок може се испитати и у свом стану или другој просторији, односно у овлашћеној институцији која је стручно оспособљена за испитивање посебно осетљивих лица. У том случају орган поступка може одредити да се примене мере из става 2. овог члана. Посебно осетљиви сведок не може бити суочен са окривљеним, осим ако то сам окривљени захтева, а орган поступка то дозволи водећи рачуна о степену осетљивости сведока и о правима одбране. Против решења из ст. 1. до 3. овог члана није дозвољена посебна жалба. Заштићени сведок</p>	<p>will be decided by the authority conducting proceedings. If the authority conducting proceedings decides to examine an especially vulnerable witness using technical devices for transmitting images and sound, the examination is conducted without the presence of the parties and other participants in the proceedings in the room where the witness is located. An especially vulnerable witness may also be examined in his dwelling or other premises or in an authorized institution professionally qualified for examining especially vulnerable persons. In such case the</p>		<p>Nonetheless, this does not eliminate the need to protect such injured parties (victims) outside of the criminal proceedings (i.e. to have all rights they are otherwise entitled to have according to the EU Directive). In practice this means that most victims will, consequently, enjoy protection granted to witnesses. However, those rare victims who do not testify will not be granted any specific protection.</p> <p>Until recently, there weren't many special rules relating to the protection of witnesses in Serbian CPC. Such rules were first introduced in the CPC in 2006, which</p>	<p>protection aspects of Art 18 are covered sufficiently in the CPC and whilst further measures would be of benefit, they are not strictly necessary to comply with the Directive.</p> <p>It is worth noting that based on the laws and guidelines assessed in this project, there do not appear to be any more detailed rules which would support implementation of the CPC with respect to Art 18.</p> <p>It would helpful to explore in more detail whether the CPC provides sufficient detail to enable the relevant articles to be implemented in practice.</p>

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			<p>Члан 105 ЗКП Ако постоје околности које указују да би сведок давањем исказа или одговором на поједина питања себе или себи блиска лица изложио опасности по живот, здравље, слободу или имовину већег обима, суд може решењем о одређивању статуса заштићеног сведока одобрити једну или више мера посебне заштите. Мере посебне заштите обухватају испитивање заштићеног сведока под условима и на начин који обезбеђују да се његова истоветност не открије јавности, а изузетно ни окривљеном и његовом браниоцу, у складу са овим</p>	<p>authority conducting proceedings may order application of the measures referred to in paragraph 2 of this Article. An especially vulnerable witness may not be confronted with the defendant, unless the defendant himself requests this and the authority conducting proceedings grants the request, taking into account the level of the vulnerability of the witness and rights of defence. No special appeal is allowed against a ruling referred to in paragraphs 1 to 3 of this Article.</p> <p>Protected Witness Article 105 of the CPC</p> <p>If circumstances exist which indicate that by giving testimony or</p>		<p>has never been fully implemented. Only a small number of provisions of that Code were implemented, among which were the ones that were related to the protection of witnesses in criminal proceedings. Such rules are no longer contained in the currently applicable CPC of the Republic of Serbia, adopted in 2011. As a matter of fact, the existing CPC standards are, to a large extent, similar to the provisions of the 2001 CPC.</p> <p>A witness generally has the right to a fair treatment by the authorities in criminal proceedings, and the Code specifically prescribes the rules that ensure protection of</p>	<p>At the same time, additional measures can be very important for victims and should be considered.</p> <p>For example, some minor modifications of the CPC should be considered relating to the prohibition of asking leading questions generally as well as during cross-examination of witnesses who are minors, as well as certain categories of witnesses/victims of criminal offences, i.e. injured parties in certain types of criminal offences.</p> <p>Leading questions in relation to especially vulnerable witnesses can be damaging to the justice process and can easily result in secondary</p>

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			<p>закоником. Мере посебне заштите Члан 106 ЗКП Мере посебне заштите којима се обезбеђује да се истоветност заштићеног сведока не открије јавности су искључење јавности са главног претреса и забрана објављивања података о истоветности сведока. Меру посебне заштите којом се окривљеном и његовом браниоцу ускраћују подаци о истоветности заштићеног сведока суд може изузетно одредити ако након узимања изјава од сведока и јавног тужиоца утврди да је живот, здравље или слобода сведока или њему блиског лица у тој мери угрожена да</p>	<p>answering certain questions a witness would expose himself or persons close to him to a danger of life, health, freedom or property of substantial size, the court may authorize one or more measures of special protection by issuing a ruling determining a status of protected witness. The measures of special protection include interrogating the protected witness under conditions and in a manner ensuring that his identity is not revealed to the general public, and exceptionally also to the defendant and his defence counsel, in accordance with this Code. Measures of Special Protection Article 106 of the CPC</p>		<p>witnesses. This protection is provided at three levels 1) principled and general protection of all witnesses and 2) protection of particularly vulnerable witnesses, as well as 3) granting the status of a protected witness. Article 102 of the CPC guarantees the first level of protection for all witnesses and injured parties. However, the requirement that an injured party or witness is protected from an insult, threat and any other attack, is more limited than the obligations established in the Directive. With respect to intimidation and retaliation, these can</p>	<p>victimization and trauma of victims. The shortcoming of the CPC is that it didn't exclude the possibility to ask leading questions, during cross-examination of especially vulnerable witnesses, that are possible, according to the general legal rule, when it comes to cross-examination of witnesses during trial. According to the provision of Article 98 paragraph 3 of the CPC, when the witness finishes his statement, and his statement need to be checked, supplemented or clarified, he will be asked questions that must be clear, specific and</p>

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			<p>то оправдава ограничење права на одбрану и да је сведок веродостојан. Истоветност заштићеног сведока која је ускраћена у складу са ставом 2. овог члана, суд ће открити окривљеном и његовом браниоцу најкасније 15 дана пре почетка главног претреса.</p> <p>Приликом одлучивања о мерама посебне заштите из ст. 1. и 2. овог члана суд ће водити рачуна да се одређује тежа мера само ако се сврха не може постићи применом блаже мере.</p> <p>Покретање поступка за одређивање статуса заштићеног сведока</p> <p>Члан 107 ЗКП</p> <p>Суд може одредити статус заштићеног</p>	<p>The measures of special protection ensuring that the identity of a protected witness is not revealed to the public are excluding the public from the trial and prohibition of publication of data about the identity of the witness.</p> <p>The measure of special protection whereby data about the identity of a protected witness is withheld from the defendant and his defence counsel may be ordered by the court exceptionally if after taking statements from witnesses and the public prosecutor it determines that the life, health or freedom of the witness or a person close to him is threatened to such an</p>		<p>be considered to be sufficiently covered by the notions of threat or any other attack.</p> <p>Protection relating to secondary victimisation is only partially covered by Art 102 which is limited to the prohibition of insults directed towards the witness (i.e. victim). At the same time, secondary victimisation encompasses a much wider range of actions, which are not covered.</p> <p>Moreover, Art 18 of the Directive envisages protection not just from a suspect but also from authorities conducting the proceedings.</p>	<p>comprehensible, they must not contain deception, nor be based on the assumption that he stated something he didn't, and they must not constitute a solicitation of and answer, except in the case of cross-examination during trial.</p> <p>This way, during cross-examination of witnesses during trial, it is possible to ask leading questions that are normally not allowed when this evidentiary action is carried out during investigation or even possibly during pre-trial proceedings.</p> <p>Not only does this allow for leading questions during cross-examination of witness it also risks</p>

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			<p>сведока по службеној дужности, на захтев јавног тужиоца или самог сведока. Захтев из става 1. овог члана садржи: личне податке о сведоку, податке о кривичном делу о коме се сведок испитује, чињенице и доказе који указују да у случају сведочења постоји опасност по живот, тело, здравље, слободу или имовину већег обима сведока или њему блиских лица и опис околности на које се сведочење односи. Захтев се подноси у запечаћеном омоту на коме је назначено "заштита сведока - строго поверљиво" и предаје се у току истраге судији за претходни поступак, а након потврђивања оптужнице председнику већа.</p>	<p>extent that it justifies restricting the right to defence and that the witness is credible. The identity of the protected witness withheld in accordance with paragraph 2 of this Article will be revealed by the court to the defendant and his defence counsel no later than 15 days before the commencement of the trial. In deciding on the measures of special protection referred to in paragraphs 1 and 2 of this Article, the court will strive to order a harsher measure only if the purpose cannot be achieved by the application of a more lenient measure. Initiating Proceedings for Determining Protected Witness</p>		<p>In this respect, the first paragraph of Art 102 of the CPC does not specify against whom the protection applies. Arguably, it could therefore be used to also cover justice authorities.</p> <p>However, subsequent paragraphs on enforcement indicate that the focus of this protection is on 'participants in the proceedings' which is unlikely to include police, prosecution and judges.</p> <p>Whilst Art 18 of the Directive, requires protection measures also for family members of victims, there is no provision for this under the CPC.</p> <p>Article 103 and 104 of the CPC provide</p>	<p>that even misleading, vague or incomprehensible questions would be permissible. Logically, especially vulnerable witnesses will, by far, be those witnesses and, as a rule, injured parties that were proposed for statement by the public prosecutor, who would then, during the trial, ask them «basic things», and then the defendant and the defense counsel would get the opportunity for cross-examination, when they would ask the witness and the injured party leading questions. This is an inappropriate legal solution, especially when it comes to minors, where children might be involved in criminal</p>

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			<p>Ако сведок приликом испитивања ускрати давање података из члана 95. став 3. овог законика, одговор на поједина питања или сведочење у целини, уз образложење да постоје околности из члана 105. став 1. овог законика, суд ће позвати сведока да у року од три дана поступи у складу са одредбама ст. 2. и 3. овог члана.</p> <p>Ако ускраћивање података, одговора или сведочења сматра очигледно неоснованим или сведок у остављеном року не поступи у складу са одредбама ст. 2. и 3. овог члана, суд ће применити одредбе члана 101. став 2. овог законика.</p> <p>Одлучивање о одређивању статуса заштићеног сведока Члан 108 ЗКП</p>	<p>Status</p> <p>Article 107 of the CPC</p> <p>The status of a protected witness may be granted by the court ex officio, or at the request of the public prosecutor or the witness himself. The request referred to in paragraph 1 of this Article contains: the witness's personal data, data on the criminal offence in connection with which the witness is being examined, facts and evidence indicating that in case of giving testimony there exists a danger to the life, body, health or property of substantial size of the witness or persons close to him, and a description of the circumstances to which the provision of</p>		<p>additional protection for especially vulnerable witnesses. Art 103 establishes the possibility of appointing a legal representative who will protect the interests of a witness. The role of this legal representative may include ensuring that the witness is protected from intimidation, retaliation and repeated and secondary victimisation. However, this is not explicitly stated and given that this provision is limited to the appointment of a legal representative, the focus may be strictly on the rights specifically guaranteed by the legislation. Article 103 CPC therefore</p>	<p>and legal sense (persons who are younger than fourteen years), including small children, such as children of preschool age, where the case might be related to criminal acts that are extremely «malignant, according to the nature of psychological and other consequences caused in relation to the injured parties. In addition, it is a fact that minors in general, especially very young children, i.e. generally persons that are very young, are very sensitive to suggestive influence, so the possibility of asking leading questions to these categories of witnesses, especially when the witnesses</p>

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			<p>О одређивању статуса заштићеног сведока решењем одлучује у току истраге судија за претходни поступак, а након потврђивања оптужнице веће. Приликом одлучивања на главном претресу искључује се јавност (члан 363.), без изузетака прописаних у члану 364. став 2. овог законика. У решењу којим се одређује статус заштићеног сведока наводи се псеудоним заштићеног сведока, трајање мере и начин на који ће бити спроведена: измена или брисање из списка података о истоветности сведока, прикривање изгледа сведока, испитивање из посебне просторије уз промену гласа</p>	<p>evidence relates. The request is submitted in a sealed cover labeled “witness protection – strictly confidential” and is submitted during the investigation to the judge for preliminary proceedings, and after the indictment is confirmed, to the president of the panel. If during examination the witness withholds the provision of the data referred to in Article 95 paragraph 3 of this Code or his replies to certain questions, or refuses to give testimony, with the explanation that the circumstances referred to in Article 105 paragraph 1 of this Code exist, the court will invite the witness to act within three days in accordance with the</p>		<p>provides insufficient clarity to ensure confidence that it may be used to support the full implementation of Art 18 of the Directive. Nevertheless, it offers a significant level of support for victims.</p> <p>It appears that Art 104 CPC results in full compliance with Art 18 of the Directive with respect to vulnerable victims.</p> <p>The nature of the harm to be avoided defined as “possible detrimental consequences of the criminal proceedings to the personality, physical and mental state of the witness” appears sufficiently broad as to cover the notions of</p>	<p>are injured parties of the criminal offence at the same time, additionally traumatizes them to an extremely high degree and it exposes them to secondary victimization, and it also significantly influences the credibility of their testimony.</p> <p>It would be necessary to amend the CPC by supplementing norms related to the collection of information from citizens by the police, when these are the victims of the crime, by enabling better protection of victims, especially from secondary victimization, as well as to the other aspects contained in</p>

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			<p>сведока, испитивање путем техничких средстава за пренос и промену звука и слике.</p> <p>Против решења из става 1. овог члана странке и сведок могу изјавити жалбу.</p> <p>О жалби на решење судије за претходни поступак одлучује веће (члан 21. став 4.), а у осталим случајевима веће (члан 21. став 4.) непосредно вишег суда. Одлука о жалби се доноси у року од три дана од пријема списка.</p> <p>Испитивање заштићеног сведока Члан 109 ЗКП Када решење о одређивању статуса заштићеног сведока постане правноснажно, суд ће посебном наредбом, која представља тајну, на поверљив</p>	<p>provisions of paragraphs 2 and 3 of this Article.</p> <p>If it deems the withholding of data, replies or testimony clearly unfounded, or the witness fails to act in accordance with the provisions of paragraphs 2 and 3 of this Article within the prescribed time limit, the court will apply the provisions of Article 101 paragraph 2 of this Code.</p> <p>Deciding on Determining Protected Witness Status</p> <p>Article 108 of the CPC</p> <p>During the investigation the judge for preliminary proceedings decides on determining protected witness status by issuing a</p>		<p>intimidation, retaliation, secondary and repeat victimisation.</p> <p>Provided that the notion of criminal proceedings in Art 104 CPC, encompasses questioning by police and prosecution as well as testimony during trial, the scope of the protection is also compliant with Art 18 of the Directive.</p> <p>Two specific forms of protection measures are set out in the CPC. Whilst these are important and helpful, the wording lacks clarity e.g. with respect to the reasons for use of technical devices.</p> <p>Where measures such as the use of</p>	Article 18 of the Directive.

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			<p>начин обавестити странке, браниоца и сведока о дану, часу и месту испитивања сведока.</p> <p>Пре почетка испитивања заштићени сведок се обавештава да се његова истоветност неће никоме открити осим суду, странкама и браниоцу, или само суду и јавном тужиоцу, под условима из члана 106. ст. 2. и 3. овог законика и упознаје се са начином на који ће бити испитан.</p> <p>Суд ће упозорити све присутне да су дужни да чувају као тајну податке о заштићеном сведоку и њему блиским лицима и о другим околностима које могу довести до откривања њихове истоветности и да одавање тајне</p>	<p>ruling, and after the indictment is confirmed, the panel. The public is excluded from the trial if the decision is taken at that time (Article 363), without the exceptions prescribed by Article 364 paragraph 2 of this Code.</p> <p>The ruling determining protected witness status contains a pseudonym of the protected witness, the duration of the measure and the manner in which it will be implemented: alteration or erasure from the record of data on the identity of the witness, concealment of the witness's appearance, examination from a separate room with distortion of the witness's voice, examination using</p>		<p>technical devices are intended for protection purposes, for legal and practical certainty this should be clarified (either in the CPC or elsewhere). For example, it could specify the reasons for using technical devices.</p> <p>Similarly, drafting does not set out the procedure for determining use of technical or other measures, nor the rights of victims within that process.</p> <p>Arguably in accordance with Art 10 Victim Directive on right to be heard, and certainly in accordance with Art 22(6) of the Directive, in relation of vulnerable victims, the views of the</p>	

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			<p>представља кривично дело. Упозорење и имена присутних лица унеће се у записник.</p> <p>Суд ће забранити свако питање које захтева одговор који би могао да открије истоветност заштићеног сведока. Ако се испитивање заштићеног сведока обавља путем техничких средстава за промену звука и слике, њима рукује стручно лице.</p> <p>Заштићени сведок потписује записник псеудонимом.</p> <p>Чување података о заштићеном сведоку</p> <p>Члан 110 ЗКП</p> <p>Подаци о истоветности заштићеног сведока и њему блиских лица и о другим околностима које могу довести до откривања њихове</p>	<p>technical devices for transferring and altering sound and picture.</p> <p>The parties and the witness may appeal against the ruling referred to in paragraph 1 of this Article.</p> <p>An appeal against a ruling of the judge for preliminary proceedings is decided on by the panel (Article 21 paragraph 4), and in other cases the panel (Article 21 paragraph 4) of the immediately higher court. A decision on the appeal is rendered within three days of the date of receiving documentation.</p> <p>Examining a Protected Witness</p> <p>Article 109 of the CPC</p> <p>When the ruling</p>		<p>victim should be heard and taken into account when making decisions during criminal proceedings, such as protection measures.</p> <p>A possibility of confrontation between defendant and victim is possible under the CPC. Such a confrontation can be highly damaging for victims. Art 104 CPC provides for some level of protection in this respect for vulnerable victims. Such confrontation is only allowed by permission of the conducting authority taking into account the vulnerability of the victim. Whilst this is a positive, confrontation generates risk of harm and clear</p>	

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			<p>истоветности, затвориће се у посебан омот са назнаком "заштићени сведок - строго поверљиво", запечатити и предати на чување судији за претходни поступак. Запечаћени омот може отварати само суд који одлучује о правном леку против пресуде. На омоту ће се назначити разлог, дан и час отварања и имена чланова већа који су упознати са подацима из става 1. овог члана. Након тога омот ће се поново запечатити, са назначењем на омоту датума и часа печећења, и вратити судији за претходни поступак. Подаци из става 1. овог члана представљају тајне податке. Осим службених лица ова</p>	<p>determining protected witness status becomes final, the court will, by a special order that represents a secret, confidentially notify the parties, defence counsel and the witness about the date, hour and location of the questioning of the witness. Before the commencement of the questioning the protected witness is notified that his identity will not be revealed to anyone but the court, the parties and the defence counsel, or only to the court and the public prosecutor, under the conditions referred to in Article 106 paragraphs 2 and 3 of this Code, and is informed about the manner in which he will be examined.</p>		<p>procedures for running the confrontation and minimising risk of harm should be established. Moreover, as with previous comments decisions on confrontation should also take into account the views of the victim, and the necessity and objectives of the confrontation.</p> <p>Articles 105-111 cover protection measures for protected witnesses. The focus here is on protection against physical harm or serious damage to property. A range of protective measures are set out and the procedures for determining protected witness status and the</p>	

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			<p>податке су дужна да чувају и друга лица која их у било ком својству сазнају. Дужност обавештавања о мерама посебне заштите</p> <p>Члан 111 ЗКП Полиција и јавни тужилац су приликом прикупљања обавештења од грађана дужни да их обавесте о мерама посебне заштите из члана 106. овог законика.</p> <p>Сходна примена одредаба о заштићеном сведоку</p> <p>Члан 112 ЗКП Одредбе чл. 105. до 111. овог законика сходно се примењују и на заштиту прикривеног иследника, вештака, стручног саветника и стручно лице.</p> <p>Прикупљање обавештења од</p>	<p>The court will caution all those present that they are required to keep confidential data on the protected witness and persons close to him and on other circumstances which may lead to the exposure of their identities, and that disclosing a secret represents a criminal offence. The caution and the names of those present will be entered in the record.</p> <p>The court will deny any question that requires an answer that might reveal the identity of the protected witness.</p> <p>If the examination of the protected witness is being conducted using technical means for altering sound and image, they are handled by a professional.</p>		<p>application (and appeal against) measures is provided for.</p> <p>These Articles support compliance with the last part of Art 18 of the Directive on physical protection.</p> <p>It should also be pointed out that certain forms of protection of witnesses and injured parties/victims of criminal offences are established by the Law on the Protection Program for the Participants in Criminal Proceedings (LPPPC) which establishes normative conditions for protection of participants in criminal proceedings, including witnesses. Logically, in practice,</p>	

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			<p>грађана Члан 288 Полиција може позивати грађане ради прикупљања обавештења. У позиву се мора назначити разлог позивања и својство у коме се грађанин позива. Принудно се може довести лице које се није одазвало позиву само ако је у позиву било на то упозорено. Приликом поступања по одредбама овог члана, полиција не може грађане саслушавати у својству окривљеног, односно испитивати у својству сведока или вештака, осим у случају из члана 289. овог законика. Прикупљање обавештења од истог лица може трајати онолико колико је неопходно да се</p>	<p>The protected witness signs the minutes with the pseudonym.</p> <p>Keeping Data on a Protected Witness</p> <p>Article 110 of the CPC</p> <p>Data on the identities of the protected witness and persons close to him and on other circumstances which may lead to the exposure of their identities will be sealed under a separate cover marked “protected witness – strictly confidential”, sealed and submitted for safekeeping to the judge for preliminary proceedings. The sealed cover may be opened only by a court deciding on a legal remedy against a judgment. The reason, date and hour of its</p>		<p>witness protection is of utmost importance. This legislation, which is lex specialis to the CPC, regulates the conditions and procedures for providing protection and assistance to participants in criminal proceedings and persons close to them, who, due to the fact that they testified or provided information significant for evidence in criminal proceedings, are exposed to the risk for their life, health, physical integrity, freedom or property. This can quite often be the case when it comes to certain categories of victims of certain criminal offences of organized crime.</p>	

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			<p>добије потребно обавештење, а најдуже четири часа, а по пристанку лица које даје обавештења и дуже.</p> <p>Обавештења од грађана се не смеју прикупљати принудно.</p> <p>Службена белешка о датом обавештењу прочитаће се грађанину који је обавештење дао, а он може ставити примедбе које је полиција дужна да унесе у службену белешку. Копија службене белешке о датом обавештењу издаће се грађанину, ако то захтева.</p> <p>Грађанин се може поново позивати ради прикупљања обавештења о околностима другог кривичног дела или учиниоца, а ради прикупљања</p>	<p>opening and the names of the members of the panel informed about the data referred to in paragraph 1 of this Article will be marked on the cover. The cover will thereafter be resealed, the date and time of resealing being indicated on the cover, and returned to the judge for preliminary proceedings.</p> <p>The data referred to in paragraph 1 of this Article represent secret data. Besides public officials, all other persons who learn about them in any capacity whatsoever are required to maintain their confidentiality.</p> <p>Duty of Notification about Special Protection Measures</p>		<p>Part of the rules that are specifically related to minors as especially vulnerable witnesses i.e. victims of criminal offences is regulated through the rules stipulated by the Law on Juvenile Offenders and Criminal Protection of Juveniles, which is <i>lex specialis</i> in this matter compared to the CPC which is <i>lex generalis</i>.</p> <p>Article 288 of the CPC regulates the collection of information from citizens, which is a certain form of communication between the police and citizens, that formally don't have any procedural capacity, i.e. they are not suspects nor witnesses, but they</p>	

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			обавештења о истом кривичном делу не може се поново принудно доводити. По одобрењу судије за претходни поступак, председника већа или судије појединца, полиција може прикупљати обавештења и од притвореника, ако је то потребно ради откривања других кривичних дела или других учинилаца. Ова ће се обавештења прикупљати у заводу у којем је окривљени притворен, у време које одреди суд, и у присуству браниоца. На основу прикупљених обавештења, полиција саставља кривичну пријаву у којој наводи доказе за које је сазнала приликом	Article 111 of the CPC The police and the public prosecutor are required during the collection of information from citizens to inform them about the special protection measures referred to in Article 106 of this Code. Analogous Application of Provisions on a Protected Witness Article 112 of the CPC The provisions of Articles 105 and 111 of this Code apply accordingly to the protection of an undercover investigator, expert witness, professional consultant and professional person. Collecting Information		could become either suspects or witnesses in the further course of the proceedings. These norms are important when it comes to citizens who provide information to the police, and who were in fact victims of a criminal offence. Article 288 establishes a number of procedures which support the minimization of secondary victimisation and psychological harm. In particular, victims (citizens) may be not be interviewed for longer than 4 hours without their consent, they may not be coerced to provide information and their statement is read back, they may make comments	

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			<p>прикупљања обавештења. У кривичну пријаву не уноси се садржина изјава које су поједини грађани дали приликом прикупљања обавештења, осим исказа који је осумњичени дао у складу са чланом 289. овог законика. Уз кривичну пријаву достављају се и предмети, скице, фотографије, прибављени извештаји, списи о предузетим мерама и радњама, службене белешке, изјаве и други материјали који могу бити корисни за успешно вођење поступка. Ако полиција после подношења кривичне пријаве сазна за нове чињенице, доказе или трагове кривичног дела,</p>	<p>from Citizens</p> <p>Article 288</p> <p>The police may summon citizens for the purpose of collecting information. The summons must contain the reason for summoning the citizen and the capacity in which the citizen is being summoned. A person who did not respond to a summons may be brought in forcibly only if he had been cautioned accordingly in the summons. When acting according to the provisions of this Article, the police may not question a citizen in a capacity of defendant, or in a capacity of witness or expert witness, except in the case referred to in Article 289 of this</p>		<p>and a copy is provided to them. Moreover, citizens may not be forcibly required to provide information on the same offence more than once.</p> <p>These requirements can all be considered as measures to protect victims in line with Art 18. However, no general requirement is imposed on those collecting information to have in mind and to avoid actions which cause secondary victimisation or put the victim at risk of repeat victimisation, intimidation or retaliation.</p> <p>Thus where a victim is not yet considered an injured party or witness, there is</p>	

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			<p>дужна је да прикупи потребна обавештења и да извештај о томе, као допуну кривичне пријаве, достави јавном тужиоцу.</p>	<p>Code.</p> <p>Collection of information from a person may last for as long as it is necessary to obtain the necessary information, but no longer than four hours, or longer with the consent of the person providing the information.</p> <p>No coercion may be used in collecting information from citizens.</p> <p>An official note on the information provided will be read out to the citizen who provided the information, and he may make remarks, which the police is required to enter in the official note. A copy of the official note about the information provided will be issued to the</p>		<p>likely to be a gap in protection and a failure to fully comply with Article 18.</p>	

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				<p>citizen, if he so requests. The citizen may be summoned again for the purpose of collecting information about the circumstances of another criminal offence or perpetrator, but with respect to the same criminal offence he may not be brought in forcibly again for the purpose of collecting information about it. Acting on the approval of the judge for preliminary proceedings, the president of the panel or an individual judge, the police may also collect information from detainees, if it is necessary for detecting other criminal offences or other perpetrators. This information will be collected in the</p>			

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				<p>institution in which the defendant is detained, at a time determined by the court, in the presence of the defence counsel.</p> <p>Based on the information collected, the police draft a criminal complaint in which they specify the evidence it learnt during the collection of information. The content of statements made by individual citizens during the collection of information is not entered in the criminal complaint, except for the statement given by the suspect in accordance with Article 289 of this Code.</p> <p>Objects, sketches, photographs, reports obtained, documents about the measures</p>			

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				<p>and actions undertaken, official notes, statements and other materials which may be of benefit for the successful conduct of proceedings are delivered with the criminal complaint. If after submitting the criminal complaint the police learn about new facts, evidence or traces of criminal offence, they are required to collect necessary information and deliver to the public prosecutor a report thereof, as a supplement to the criminal complaint.</p>			

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	The Police Law (PL)	Article 91	<p>Члан 91 ЗП</p> <p>Полицијски службеник може тражити обавештења од лица у циљу спречавања и откривања кривичних дела или прекршаја и њихових учинилаца у складу са законом. Лице није дужно да пружи тражено обавештење осим ако би тиме учинио кривично дело, на шта је полицијски службеник дужан да га упозори. О обавештењима прикупљеним од грађана полицијски службеник сачињава службену белешку.</p>	<p>Article 91 of the PL</p> <p>A police officer may request information from a person in order to prevent and detect criminal offenses or minor offences and their perpetrators in accordance with the law.</p> <p>The person shall not be required to provide the requested information unless such a refusal would constitute a criminal offence, of which the police officer shall warn him.</p> <p>The police officer shall make an official note on the information obtained from the citizen.</p>	Partially aligned with the Directive	Collecting information from citizens is an action in pre-trial proceedings. Pre-trial is a part of the criminal proceedings, regardless of the fact that it might be conducted against an unknown perpetrator (an investigation against an unknown perpetrator is possible), and therefore all the actions of the pre-trial proceedings can be considered as acts conducted in criminal proceedings. This means that the collection of information from citizens carried out by the police, can be considered an element of initiated criminal proceedings, regardless of the fact that the citizens who are providing	It would be necessary to insert in Article 91 of the PL the rules that have already been explained in relation to the interview conducted with citizens (according to the CPC), when it comes to persons who were victims of a criminal offence or injured parties of the criminal offence

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						<p>information are not witnesses.</p> <p>In fact, the police collect information from citizens that can become witnesses at a later phase of the proceedings, and they can also become suspects, or have no relevant future procedural capacity, all of which depends on the specific situation. Of course, when the police collect information from a person who is considered an injured party, i.e. a victim of crime, regardless of the fact that they don't have the formal capacity of a witness, they should be provided with certain protection. This is further explained in the next section and it has already been discussed in the</p>	

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						<p>section related to the rules contained in the CPC related to the collection of information during pre-trial proceedings.</p> <p>As explained above, in criminal proceedings in Serbia, the police does not have the right to examine witnesses (within the meaning of a witness from the CPC), although normally the pre-trial proceedings during which the police acts, is considered to be part of the criminal proceedings. The police doesn't have that right in the pre-trial proceedings nor during the investigation. Witnesses can only be examined by the court during trial, or the public prosecutor</p>	

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						<p>during investigation. Therefore, among other things, this is why only courts and public prosecutor are considered as authorities in the proceedings. Examination of witnesses is not possible in pre-trial proceedings in which the police generally acts, but it is possible to have certain action of informal verbal communication in that stage of the proceedings, in the form of the so-called interview with citizens at the initial, criminal complaint, stage of proceedings. This action is performed by the police in line with the rules of the CPC, and there are also certain rules stipulated by the cited Article 91 of the Police Law. The</p>	

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						<p>statement given to the police during interview (collecting information from citizens) is not an evidence in criminal proceedings, no records are made of this interview, but only an official note. This doesn't mean that the collection of information from citizens is not important, but the significance of these information is only operational, and not evidentiary. The term «citizen» in this sense includes injured parties in a criminal offence, i.e. victims of a criminal offence, and it would therefore be necessary to better align these norms in the PL and in the CPC with the Directive.</p>	

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	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)	Item 6 (GPDV)	Деца се сматрају жртвама насиља у породици, не само када га директно трпе, већ и када су изложена актима насиља које један члан породице врши над другим члановима као сведоци. Сведочење и изложеност насиљу трауматизује децу, било да директно посматрају насиље, или чују звуке, ударце, крике из непосредне близине, када знају да се насиље дешава или се може десити, односно када накнадно виде последице насиља међу члановима породице. Савремена сазнања потврђују да изложеност физичком, сексуалном или психолошком	Children are considered victims of domestic violence, not only when they directly suffer, but also when they are exposed to the acts of violence that one family member performed towards other members of the family, as witnesses. The testimony and exposure to violence traumatize children, whether they directly observe violence or hear sounds, blows, screams at close range, when they know that violence is happening or can happen, or when later they see the consequences of violence among family members. Contemporary findings confirm that exposure to physical,	Partially aligned with the Directive	The provision generally emphasizes the need of special protection of children victims of domestic violence, as well as other particularly vulnerable family members. The norm was written in a general manner and it doesn't have a great practical significance.	As explained, the norm has no great practical significance, since general protocol of this kind is not strictly a source of law, but rather some form of guidelines. Moreover, general requirements on needs and best interests do not explicitly refer to the forms of victimization covered under Article 18. This protocol therefore supports implementation of Art 18 in a limited way. To be of great use, it could at least be adapted to refer to intimidation, retaliation. repeat and secondary victimisation and

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			<p>злостављању и насиљу између родитеља или других чланова породице има озбиљан утицај на децу и друге нарочито осетљиве чланове породице. Таква изложеност изазива трауму и негативно утиче на развој детета и безбедност и положај других посебно рањивих чланова породице као што су особе са инвалидитетом, старијих чланова породице особа са одређеним тежим здравственим и развојним проблемима. Из тог разлога, неопходно је обезбедити да се, приликом пружања услуге и помоћи жртвама насиља у породици са децом која су била сведоци</p>	<p>sexual or psychological abuse and violence between parents or other family members has a severe impact on children and other especially vulnerable family members.</p> <p>Such exposure causes trauma and it has a negative effect on child's development and safety and position of other especially vulnerable family members such as disabled persons, older family members, persons with certain serious health and developmental problems.</p> <p>For this reason, it would be necessary to ensure that, when providing services and assistance to victims of domestic violence in families with</p>			protection from physical harm.

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			<p>насиља, и њихова права и потребе обавезно узму у обзир. Термин „дете сведок” не односи се само на децу која непосредно приствују чину насиља у породици, већ и на децу која су насиљу посредно изложена. У овим случајевима потребно је комплементарно применити Општи протокол о заштити деце од злостављања и занемаривања. Приликом пружања помоћи жртвама насиља у породици у којој се налазе нарочито рањиви чланови као сведоци насиља, неопходно је предузети мере заштите које одговарају на потребе ових лица, с обзиром да она нису у стању да се заштите без помоћи других.</p>	<p>children who witnessed violence, their rights and needs should be considered.</p> <p>The term “child witness” refers not only to children who directly witness the act of domestic violence, but also to children who are exposed to violence indirectly. In these cases, it is necessary to implement complementary the General Protocol on Protection of Children from Abuse and Neglect.</p> <p>When providing assistance to victims of domestic violence in families which include especially vulnerable members as witnesses of violence, it is necessary to take protective measures</p>			

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			<p>Све услуге које се пружају деци сведоцима насиља у породици и другим нарочито рањивим члановима породице морају се предузимати у складу са њиховим најбољим интересом.</p> <p>а секундарне виктимизације жртава, одговорни су дужни да поступају на начин којим се поштује њихово достојанство. Током поступања према жртвама насиља у породици, сви одговорни су дужни да поступају на родно осетљив начин.</p>	<p>that are appropriate to the needs of these people, given the fact that they are unable to protect themselves without the help of others.</p> <p>All services provided to children witnesses of domestic violence and other especially vulnerable members of the family must be taken in accordance with their best interest.</p> <p>(a word seems to be missing) ... secondary victimization of victims, responsible persons are obliged to act in a way that respects their dignity. During the treatment of victims of domestic violence, all those responsible are obliged to act in a gender-sensitive manner.</p>			

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions that can be related to Article 18 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 18 of the Directive, there are not particular explanations.	There is no need for alignment with the Directive, since the provisions of Article 18 are not relevant for the content of the act.
	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	There are no provisions that can be related to Article 18 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 18 of the Directive, there are not particular explanations.	There is no need for alignment with the Directive, since the provisions of Article 18 are not relevant for the content of the act.
	Ordinance on the manner of performing police duties (OPD)	There are no provisions that can be related to Article 18 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 18 of the Directive, there are not particular explanations.	There is no need for alignment with the Directive, since the provisions of Article 18 are not relevant for the content of the act.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions that can be related to Article 4 of the Directive.			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 18 of the Directive, there are not particular explanations.	There is no need for alignment with the Directive, since the provisions of Article 18 are not relevant for the content of the act.
	CPC (CPC)						

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
<p>Article 19</p> <p>Right to avoid contact between victim and offender</p> <p>Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.</p>		<p>There are no provisions in the CPC that specifically regulate this issue.</p>			<p>Not aligned with the Directive</p>	<p>It is not adequately regulated in the Serbian criminal proceedings. In some courts it is adequately solved in practice, but usually there are no conditions for such actions nor is it systematically resolved.</p>	<p>Article 19 (a) of the Directive, requires appropriate separation of victim from offender (suspect/ defendant) in all premises where criminal proceedings take place. This includes premises where police activities including questioning takes place, premises where prosecutors are active and courts.</p> <p>The Directive does not specify what measures must be taken nor the number. It is therefore open to Member States to establish any relevant procedures and explain their relevance to the implementation of Art 19.</p>

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							<p>Given that the Art 19 also refers to 'procedures', arguably it is not necessary to establish rules in primary legislation.</p> <p>Nevertheless, none of the legislation and rules on police activities examined in this project contains procedures to separate victims and offender.</p> <p>It is necessary to establish such procedures. A range of solutions are possible such as providing a separate room for victims to wait in. However, it is recognised that setting up bespoke separate areas which are only used for victims may be costly depending on the premises.</p>

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							<p>Other options may also be explored such as procedures on timing of when victim and offender are requested to be present, use of separate entrances, official accompaniment when victim and offender may be together, use of room on a temporary basis etc.</p> <p>With respect to Art 19(b), there is a clear requirement that new court buildings must have separate waiting areas for victims. Again, no legislation has been identified which contains this requirement.</p> <p>Given the absolute and clear obligation, it may be more</p>

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							<p>appropriate to amend primary legislation to achieve this objective. Moreover, in terms of practice, it should be ensure that those responsible for commissioning new buildings or purchasing them, are aware of these requirements.</p> <p>Whilst not required by the Directive, planners should also consider broader aspects of victim/offender separate. For example, the provision of a separate entrance for victims, access to separate toilets, protection when in corridors etc.</p> <p>These are all points which have been exploited by</p>

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							<p>defendants to intimidate victims and witnesses.</p> <p>In terms of amendments to procedural rules, the court's rules of procedure could be amended with respect to court activities, for prosecution activities mandatory general instructions of the Republic Public Prosecutor could be adapted, when it comes to the examination of a witness/injured party in investigation led by the public prosecutor.</p>

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	The Police Law (PL)	There are no provisions in the Police Law that specifically regulate this issue.			Not aligned with the Directive	As already explained, the police does not have the right to examine witnesses (and therefore also victims), as defined by the CPC, this is left exclusively to the prosecutor and the judge. Hence, this rule from the Directive may be seen as irrelevant for the police, and therefore there is no need to introduce it in the Police Law. Nonetheless, it can be important when it comes to managing interviews with citizens (collecting information from citizens, and hence also victims at the pre-investigation stage), which will be explained in more details in the next column (suggestions).	<p>In order to ensure compliance with Art 19, police activities coming under the definition of criminal proceedings – such as collecting information from citizens, should be carried out in such a way that ensures separation of victim from offender.</p> <p>In practice, this is already done to some extent, but it is necessary to strictly prescribe it in the Police Law.</p>

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	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)	There are no provisions in the GPDV that specifically prescribe this.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	<p>Whilst it would be sufficient for the CPC or the Police law to be amended to ensure separation for all victims, the Government may wish to consider whether additional measures might be appropriate with respect to domestic violence.</p> <p>These are often cases where the victims will be particularly vulnerable to harm and particularly susceptible to influence by the suspect.</p> <p>As such, additional measures may be warranted.</p>

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions in the SPNM that can be lined with Article 19 of the Directive.			There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	<p>Whilst it would be sufficient for the CPC or the Police law to be amended to ensure separation for all victims, the Government may wish to consider whether additional measures might be appropriate with respect to domestic violence.</p> <p>These are often cases where the victims will be particularly vulnerable to harm and particularly susceptible to influence by the suspect.</p> <p>As such additional measures may be warranted.</p>

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	There are no provisions in the SPVP that can be linked with Article 19 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	<p>Whilst it would be sufficient for the CPC or the Police law to be amended to ensure separation for all victims, the Government may wish to consider whether additional measures might be appropriate with respect to violence in partnerships.</p> <p>These are often cases where the victims will be particularly vulnerable to harm and particularly susceptible to influence by the suspect.</p> <p>As such additional measures may be warranted.</p>

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
	Ordinance on the manner of performing police duties (OPD)	There are no provisions in the OPD that can be linked with Article 19 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	There is no need for alignment with the Directive, since the provisions of Article 19 are not relevant for the content of the act.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions in the ICJ that can be linked with Article 19 of the Directive			There is no need for alignment with the Directive	Since this act does not regulate the examination of injured party/witness of a criminal offence, it is not directly linked with Article 19 of the Directive.	There is no need for alignment with the Directive, since the provisions of Article 19 are not relevant for the content of the act.
Article 20 Right to protection of victims during criminal investigations Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that	CPC (CPC)	Art. 50, 56, 59, 127, 131, 133, 134, 140, 141 and Article 142 of the CPC	Члан 50 тачка 3 ЗКП Оштећени има право да ангажује пуномоћника из реда адвоката; Члан 56 ЗКП Ако је оштећени малолетник или лице које је потпуно лишено пословне способности, његов законски заступник је овлашћен да даје све изјаве и да	Article 50 item 3 of the CPC The injured party is entitled to hire an attorney from among attorneys; Article 56 of the CPC If the injured party is a minor or a person declared completely incompetent, his legal representative is authorized to make all	Article 20 is largely unimplemented	Article 20(a) No rules have been identified in the examined legislation which seek to limit the time between submission of complaint and first interview with victim. Article 20(b) No rules have been identified in the examined legislation which limit or seek to	It would be necessary to introduce a rule that injured party (especially in the case of certain criminal offences, which typically include secondary victimization), and when it comes to child victims of crimes, would be entitled to the support of a person

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during criminal investigation: interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority; the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;			<p>предузима све радње на које је по овом закону овлашћен оштећени. Законски заступник може своја права да врши преко пуномоћника.</p> <p>Члан 59 ЗКП Оштећеном као тужиоцу, када се кривични поступак води за кривично дело за које се по закону може изрећи казна затвора у трајању преко пет година, може се, на његов захтев, поставити пуномоћник ако је то у интересу поступка и ако оштећени као тужилац, према свом имовном стању, не</p>	<p>statements and perform all actions to which the injured party is entitled under this Code. The legal representative may exercise his rights through an attorney.</p> <p>Article 59 of the CPC</p> <p>When criminal proceedings are being conducted in connection with a criminal offence punishable by law by a term of imprisonment of over five years, at the request of the subsidiary prosecutor an attorney may be appointed for him, if</p>		<p>limit the number of interviews that victims are subjected to, nor to ensure they are only carried out where necessary.</p> <p>However, it's worth noting that with respect to collection of information from citizens the CPC, only allows citizens (including victims) to be requested to provide information once. This is only limited to pre-investigation phase of the proceedings and is not applicable later on.</p> <p>Article 20 (c) Whilst Articles 50, 56</p>	<p>they trust, and that doesn't necessarily have to be their attorney in procedural and legal sense, but it can be a person that, first of all, might provide adequate factual psychological support, or a person that the victim sees as friendly and protective, etc.</p> <p>In drafting of this solution in future amendments of the CPC or in more detailed rules elsewhere, any mechanism for excluding a chosen person should provide clear criteria</p>

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victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary; medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.			<p>може сносити трошкове заступања. О захтеву из става 1. овог члана одлучује председник претресног већа или судија појединац, а пуномоћника решењем поставља председник суда из реда адвоката по редоследу са списка адвоката који суду доставља надлежна адвокатска комора за одређивање бранилаца по службеној дужности</p> <p>Ако постоји сумња у односу на врсту и начин настанка телесне повреде, орган поступка ће одредити вештачење телесних повреда.</p> <p>Члан 127 ст. 1 и 2 ЗКП</p> <p>Телесне повреде вештаче се, по правилу, прегледом повређеног, а ако то</p>	<p>this is in the best interest of the proceedings and if the financial standing of the subsidiary prosecutor makes it impossible for him to bear the costs of representation. The request referred to in paragraph 1 of this Article is decided by the president of the trial panel or individual judge, and the attorney is appointed by a ruling by the president of the court from the ranks of lawyers according to the order on the roster of lawyers which is submitted to the court by a bar association competent for determining court appointed defence counsel. If there exists suspicion in respect of the type and manner</p>		<p>and 59 of the CPC entitle the injured party to hire an attorney or to be assigned an attorney, those rules do not explicitly set out what are the rules of accompaniment.</p> <p>It is thus not explicitly clear in the legislation whether a victim has the right to be accompanied by their attorney at any time, only in certain situations, or whether there are only some situations where this right is excluded. The CPC does not define any norms that enable the injured party (victim) to be accompanied by other close persons, or persons of trust, except if it is their formal legal representative and it</p>	<p>for the decision, explanation of a decision and appeal possibilities. Whilst this is not explicitly stated in Art 20 of the Directive, these are basic principles of the rule of law. Such exclusion mechanism would take into account the interest of the defence and help prevent a collusion risk, in an appropriate manner, i.e. the possibility of wrongfully influencing the injured party in respect of his statement, which he is giving or will give as a witness in criminal proceedings.</p> <p>The possible situation of the conflict of interest should be resolved in the CPC, between</p>

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			<p>није могуће или по мишљењу вештака није потребно - на основу медицинске документације или других података у списима.</p> <p>Члан 131 став 2 ЗКП Ако се појави сумња у способност сведока да пренесе своја сазнања или опажања у вези са предметом сведочења, орган поступка може одредити психијатријско вештачење сведока.</p> <p>Члан 133 ст. 1 и 2 ЗКП Увиђај се предузима када је за утврђивање или разјашњење неке чињенице у поступку потребно непосредно опажање органа поступка. Предмет увиђаја може бити лице, ствар или место.</p> <p>Члан 134 ст. 1 и 2 ЗКП</p>	<p>of origin of a physical injury, the authority conducting proceedings will order expert examination of physical injuries. Article 127 paragraphs 1 and 2 of the CPC As a rule, expert examination of physical injuries is performed by an examination of the injured person, and where it is not possible or in the opinion of an expert witness unnecessary – based on medical documentation or other data in the case file.</p> <p>Article 131 paragraph 2 of the CPC If suspicion appears about the capacity of a witness to convey his knowledge or observations in connection with the object of the</p>		<p>is explained in the section Suggestions that there is no alignment with Article 20 of the Directive here.</p> <p>It is possible that by unwritten rule or convention, attorneys are present. However, in order to ensure full compliance with Article 20, this right should be expressly included in the law (CPC or otherwise). At the same time, there are no provisions allowing for the victim to be accompanied by another (non-legal) person of their choice for the purposes of emotional support. This should also be established in law.</p> <p>Article 20(d)</p>	<p>the injured party who is a minor or a person deprived of legal capacity (and as such has no procedural capabilities) and his legal representative. For example, this could be the case when the parent of a child is accused of domestic violence in relation to the child or some other crime against sexual freedom, or other abuse in relation to the child, when, of course, such parent cannot be legal representative of a child who has the capacity of an injured party/victim in the criminal proceedings. In practice, this is solved by engaging the other parent or the Center for Social Work, which usually</p>

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			<p>Увиђај окривљеног предузеће се и без његовог пристанка ако је потребно да се утврде чињенице важне за поступак. Увиђај других лица може се без њиховог пристанка предузети само ако се мора утврдити да ли се на њиховом телу налази одређени траг или последица кривичног дела.</p> <p>Члан 140 ст. 3 и 4 ЗКП</p> <p>Ради отклањања сумње о повезаности са кривичним делом, од оштећеног или другог лица затеченог на месту кривичног дела могу се и без пристанка узети отисци папиларних линија и делова тела и букални брис. Радњу из ст. 1. и 3. овог члана по наредби јавног тужиоца или суда</p>	<p>testimony, the authority conducting proceedings may order a psychiatric expert examination of the witness.</p> <p>Article 133 paragraph 1 and 2 of the CPC An examination is performed when establishment or clarification of a fact in the proceedings requires direct insight into the matter by an authority conducting proceedings. The object of the examination may be a person, an object or a location.</p> <p>Article 134 paragraphs 1 and 2 of the CPC An examination of a defendant will be performed even without his consent if it is necessary for establishing facts of</p>		<p>Articles 127, 131, 133, 134, 140-142 establish basic rules on medical examination of injured parties and others.</p> <p>In order to comply with Art 20(2), they should establish clear mechanisms to limit the number of medical examinations and to perform them only when strictly necessary for the purposes of criminal proceedings. None of the articles establish any explicit procedures or considerations to ensure limit in the number of examinations (e.g. ensuring that a defence expert is present during the collecting of evidence – which can eliminate the need for two or</p>	<p>acts in such cases, but there should also be strict rules in the CPC, as well as in the future Law on Juvenile Offenders and the Protection of Minors in Criminal Proceedings. It would also be necessary to eliminate the possibility of the psychiatric examination of witnesses from the CPC, which is now, of course, related to the injured party/victim of the criminal offence as well. It is not quite clear what is the <i>ratio legis</i> of such possibility that was introduced in the new Code in 2011. It seems that this is the example of both excessive psychiatrisation in the proceedings, as</p>

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			<p>предузима стручно лице.</p> <p>Члан 141 ЗКП</p> <p>Узимању узорака биолошког порекла и предузимању других медицинских радњи које су по правилу медицинске науке неопходне ради анализе и утврђивања чињеница у поступку, може се приступити и без пристанка окривљеног, изузев ако би због тога наступила каква штета по његово здравље.</p> <p>Ако је потребно утврдити постојање трага или последице кривичног дела на другом лицу, узимању узорака биолошког порекла и предузимању других медицинских радњи у складу са ставом 1. овог члана може се приступити и без</p>	<p>importance for the proceedings.</p> <p>Examinations of other persons may be performed without their consent only if it has to be established whether their bodies bear a certain trace or consequence or a criminal offence.</p> <p>Article 140 paragraphs 3 and 4 of the CPC</p> <p>In order to eliminate suspicion about being connected with a criminal offence, impressions of papillary lines and body parts and mouth swabs may be taken from an injured party or other person found at a crime scene even without their consent. The action referred to in paragraphs 1 and 3 of this Article is performed by a professional acting</p>		<p>more examinations). On the other hand, the articles are explicit with respect to the purposes for which the examinations can take place.</p> <p>Art 20(c) is complied with in respect of the second part of (c) but not the first part.</p> <p>Article 56 of the CPC regulates procedural representation of persons who are injured party in criminal offences, but don't have the ability of independent action in criminal proceedings, i.e. they are not "procedurally capable". This refers to two categories of procedurally incapable persons: 1) minors and 2) persons deprived of legal capacity, such</p>	<p>well as the example of facile introduction of potentially very controversial regulatory mechanisms in the new Code.</p> <p>In fact, if such doubt in the capability of a witness appears, it is a sufficient basis for the authority of criminal proceedings, and the court in particular, to question the evidentiary credibility of the witness's testimony, even without the psychiatric expert evaluation, and generally his ability to testify. The authority in the procedure, primarily the court, evaluates evidence and at the same time uses its free belief, and this relates to the testimony of a</p>

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			<p>пристанка лица, изузев ако би наступила каква штета по његово здравље.</p> <p>Од окривљеног, оштећеног, сведока или другог лица може се ради утврђивања чињеница у поступку узети узорак гласа или рукописа ради упоређивања.</p> <p>Радње из ст. 1. и 2. овог члана по наредби јавног тужиоца или суда предузима здравствени радник.</p> <p>Лице из става 3. овог члана које без законског разлога (члан 68. став 1. тачка 2), члан 93, члан 94. став 1. и члан 95. став 2.) одбије да да узорак гласа или рукописа суд може казнити новчано до 150.000 динара.</p> <p>О жалби против</p>	<p>under an order of the public prosecutor or the court.</p> <p>Article 141 of the CPC The obtaining of samples of biological origin and performance of other medical actions which are under the rules of the medical profession required for the purpose of analyzing and establishing facts in proceedings may be conducted even without the consent of the defendant, except if it would cause harm to his health in some way. If it is necessary to establish the existence of a trace or consequence of a criminal offence on another person, the obtaining of samples of biological origin and performance of other medical actions in</p>		<p>as people with certain intellectual and psycho-social disabilities. In criminal proceedings, such persons are represented by their legal representatives - parents for a minor and legal guardian for adults deprived of legal capacity.</p> <p>Legal representative himself, of course, doesn't have the capacity of a victim or an injured party of a criminal offence, but that capacity belongs to the represented person in whose name the legal representative performs certain procedural actions, that normally fall under the rights of the injured party, such as, for example, the right of access to evidence, asking</p>	<p>witness.</p> <p>On the other hand, this is a very sensitive issue, which in practice can be manifested as an attempt of harassment of witnesses by the subjects in the proceedings that could propose this type of expert evaluation. Finally, the Code (which is logical, since any opposite solution would represent drastic violation of human rights of witnesses) does not prescribe any procedural mechanism that could be used to force the witness to undergo psychiatric evaluation, if he doesn't want to, or if he refuses such evaluation.</p>

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			<p>решења којим је изречена новчана казна, одлучује веће. Жалба не задржава извршење решења. Члан 142 ЗКП</p> <p>Ако је потребно ради откривања учиниоца кривичног дела или утврђивања других чињеница у поступку, јавни тужилац или суд може наредити узимање узорка за форензичко-генетичку анализу:</p> <p>1) са места кривичног дела и другог места на коме се налазе трагови кривичног дела;</p> <p>2) од окривљеног и оштећеног, а под условима предвиђеним у члану 141. став 2. овог законика;</p> <p>3) од других лица ако постоји једна или више карактеристика која их доводи у везу са кривичним делом.</p>	<p>accordance with paragraph 1 of this Article may be conducted even without the consent of the person, except if it would cause harm to his health in some way.</p> <p>A voice or handwriting sample may be taken from a defendant, injured party, witness or other person for the purpose of establishing facts in proceedings for the purpose of making comparisons.</p> <p>The actions referred to in paragraphs 1 and 2 of this Article are performed by a healthcare professional, acting on an order of the public prosecutor or the court.</p> <p>The person referred to in paragraph 3 of this Article who without lawful reason (Article</p>		<p>questions during a trial, etc.</p> <p>Also, legal representative, as well as an injured party that is procedurally capable, has the right to hire an attorney in criminal proceedings.</p> <p>The possibility of appointing an attorney for an injured party (Article 59 of the CPC) only refers to one special category of injured party, and those are the ones who have acquired the status of a subsidiary prosecutor. Namely, in Serbian criminal proceedings, when an indictment has been confirmed and the public prosecutors decides not to continue with prosecution, the</p>	

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				<p>68 paragraph 1 item 2), Article 93, Article 94 paragraph 1 and Article 95 paragraph 2) refuses to provide a voice or handwriting sample may be fined by the court by a fine of up to 150,000 dinars.</p> <p>An appeal against the ruling pronouncing a fine is decided on by the panel. An appeal does not delay execution of the ruling.</p> <p>Article 142 of the CPC If necessary for detecting the perpetrator of a criminal offence or establishing other facts in the proceedings, the public prosecutor or the court may order the taking of samples for forensic-genetic analysis:</p>		<p>victim of the offence has the right to continue the prosecution and therefore becomes authorised prosecutor in the proceedings.</p> <p>New possibility of psychiatric examination (Article 131 paragraph 2 of the CPC), is actually completely pointless, as it is explained in more detail in the next column (suggestions), because the question is what is the point of such expert evaluation, when the court normally doesn't have to accept the testimony of a witness, if it has any doubts for any reason about his mental state, and in practice, this can be reduced to insults,</p>	

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				<p>1) from the crime scene or other location where traces of the criminal offence are located;</p> <p>2) from the defendant and injured party, under the conditions stipulated in Article 141 paragraph 2 of this Code;</p> <p>3) from other persons if there is one or more characteristics that bring them in connection with the criminal offence.</p>		and harassment of witnesses, which is particularly dangerous when it comes to victims or injured parties, and particularly when it comes to certain categories of injured parties.	
	The Police Law (PL)	Article 77.	<p>Члан 77 ст. 1 и 2 ЗП</p> <p>Утврђивање идентитета лица врши се према лицу које код себе нема прописану исправу или се сумња у веродостојност такве исправе, ако се на други начин не може проверити његов идентитет, или на</p>	<p>Article 77 paragraphs 1 and 2 of the PL</p> <p>A person's identity shall be established if the person does not have a prescribed identity document or if there are doubts regarding the authenticity of such document, or if the identity cannot be</p>	Partially aligned with the Directive	The Police Law almost doesn't contain any provisions that could be specifically linked to Article 20 of the Directive, and Article 77 regulates certain forms of determining a person's identity, which can also refer to the victim, when in some situations it is	When it comes to medical expertise on injured persons with the purpose of determining their identity (which in practice, logically, is very rare), it would be necessary to prescribe more detailed rules similar to the ones that exist in the CPC, in order

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			<p>основу посебног захтева надлежног органа.</p> <p>Идентитет се утврђује коришћењем података из форензичких евиденција, применом метода и употребом средстава криминалистичке тактике и форензике, медицинским или другим одговарајућим вештачењима.</p>	<p>established in any other manner, or based on a special request of the competent authority. Identity shall be established by using the data from forensic records, by applying the methods and using the crime police techniques, tactics and forensics, medical or other appropriate expertise.</p>		<p>necessary to apply certain medical examinations.</p>	<p>to protect the injured parties from harassment above all.</p>
	<p>General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)</p>	<p>There are no provisions in the GPDV that can be linked with Article 20 of the Directive.</p>			<p>There is no need for alignment with the Directive</p>	<p>Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.</p>	<p>There is no need for alignment with the Directive, since the provisions of Article 20 are not relevant for the content of the act.</p>

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	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions in the SPNM that can be linked with Article 20 of the Directive.			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.	There is no need for alignment with the Directive, since the provisions of Article 20 are not relevant for the content of the act.
	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	There are no provisions in the SPVP that can be linked with Article 20 of the Directive.			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.
	Ordinance on the manner of performing police duties (OPD)	There are no provisions in the OPD that can be linked with Article 20 of the Directive.			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to Article 20 of the Directive.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions in the ICJ that can be linked with Article 20 of the Directive.			There is no need for alignment with the Directive	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to	Since this act does not regulate the matter related to Article 20 of the Directive, it is not directly linked to

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						Article 20 of the Directive.	Article 20 of the Directive.
<p>Article 22</p> <p>Individual assessment of victims to identify specific protection needs</p> <p>1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the</p>	The Criminal Procedure Code (CPC)	There are no provisions in the Criminal Procedure Code whose content corresponds to the requirements referred to in Article 22 of the Directive.	There are no provisions in the Criminal Procedure Code whose content corresponds to the requirements referred to in Article 22 of the Directive.	There are no provisions in the Criminal Procedure Code whose content corresponds to the requirements referred to in Article 22 of the Directive.	Completely inconsistent with the Directive	There are certain provisions in the Criminal Procedure Code relating to the collection of certain information from the victims or a witness, but they don't meet the requirements of Article 22 of the Directive, so in this respect, the Serbian Criminal Procedure Code contains a significant gap. Actually, before examination, the witness will be asked about his name, personal identification number, name of their father or mother, domicile, residence, place and year of birth and his	<p>It would be necessary to amend the part of the Criminal Procedure Code related to the rights of the injured party, and to introduce specific rules that would allow for the victims-injured parties in a criminal offence to receive individual assessment in order to determine specific needs in criminal proceedings.</p> <p>The most adequate solution would be to introduce the rules in the CPC (in the part of the Code which relates to the rights of the injured party) which require the</p>

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<p>course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.</p> <p>2. The individual assessment shall, in particular, take into account:</p> <p>(a) the personal characteristics of the victim;</p> <p>(b) the type or nature of the crime; and</p> <p>(c) the circumstances of the crime.</p> <p>3. In the context of the individual assessment, particular attention shall be paid to victims who have</p>						<p>relationship with the defendant and the injured party, he will be given necessary instructions and warnings, but none of this actually corresponds to the requirements referred to in Article 22 of the Directive.</p>	<p>use of a particular form (that would be kept in electronic form), and which would contain all the data relevant for the individual assessment of the victim, as stipulated in Article 22 of the Directive.</p> <p>In addition, it would also be necessary, in line with the requests for Article 22 of the Directive, to supplement the rules in the Code relating to especially vulnerable witnesses or those witnesses that, due to their age, life experience, lifestyle, gender, health, nature, manner and consequences of the criminal offence committed, or other circumstances of the case, are especially</p>

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suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence,							vulnerable and the authority conducting proceedings may ex officio at the request of parties or the witness himself, designate as an especially vulnerable witness a (Article 103 paragraph 1 of the CPC).
	The Police Law (PL)	Article 48 of the Police Law	Члан 48 Закона о полицији Полиција ће, ако и док за то постоје оправдани разлози, предузимањем одговарајућих мера заштитити оштећеног и друго лице које је	Article 48 of the Police Law The police shall, if and while reasonable ground exists, take appropriate measures to protect a victim or other person who has provided or may	Partially aligned with the Directive	There are no provision in the Police Law whose content corresponds to the requirements of Article 22 of the Directive, and only in a broader sense certain requests from Article 22 of the	As previously explained, the introduction of the rules set out in Article 22 of the Directive in the Criminal Procedure Code would apply to actions of the police in pre-trial

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<p>exploitation or hate crime, and victims with disabilities shall be duly considered.</p> <p>4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual</p>			<p>дало или може дати податке важне за кривични поступак или лице које је са наведеним лицима у вези, ако им прети опасност од учиниоца кривичног дела или других лица.</p> <p>Мере из става 1. овог члана, предузимају се на начин да се у потпуности штити поверљивост идентитета оштећеног и других лица.</p> <p>Начин заштите лица из става 1. овог члана прописује министар.</p>	<p>provide information of importance for criminal proceedings or a person connected with such persons, if they are threatened by the perpetrator of a criminal offence or other persons.</p> <p>The measures referred to in paragraph 1 of this Article shall be taken in such manner as to fully protect the confidentiality of identities of the victim and other persons.</p> <p>The manner of protecting the persons referred to in paragraph 1 of this Article shall be prescribed by the Minister.</p>		<p>Directive can be achieved through the provisions of Article 48 of the Police Law.</p> <p>The Police Law is normally applied only when something is prescribed through that law in particular compared to the Criminal Procedure Code or when it regulates some issue that is not regulated in the Criminal Procedure Code. This relates exclusively to the role of the police in pre-trial proceedings, which means that if the Criminal Procedure Code prescribes rules that are based on Article 22 of the Directive, it would certainly apply when it comes to the actions of the police in pre-trial proceedings.</p>	<p>proceedings, but because of the importance of individual assessment of injured party or witness of a criminal offence it would be appropriate to introduce similar rules that were suggested for introduction in the Criminal Procedure Code in the Police Law as well.</p>

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<p>assessment as provided for in paragraph 1 of this Article.</p> <p>5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.</p> <p>6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.</p>	<p>General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)</p>	<p>There are no provisions in the GPDV that could be linked with Article 22 of the Directive.</p>			<p>Not aligned with the Directive. There is no need for alignment with the Directive</p>	<p>General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships is not a typical bylaw, and it represents a list of general guidelines and instructions and there is no need to introduce all the requirements from the Directive into this bylaw, i.e. specifically the ones from Article 22, when it is normally prescribed in the Criminal Procedure Code and the Police Law.</p>	<p>There is no need for interventions in the General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships</p>
	<p>Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)</p>	<p>There are no provisions that can be related to Article 22 of the Directive.</p>			<p>Not aligned with the Directive. There is no need for alignment with the Directive</p>	<p>The same explanation as in terms of the GPDV.</p>	<p>There is no need for interventions in the Special protocol on the conduct of police officers in order to protect minors from abuse and neglect.</p>

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7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	There are no provisions in the SPVP that can be related to Article 22 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the SPNM.	There is no need for interventions in the Special protocol on the conduct of police officers and cases of violence against women in partner relationships.
	Ordinance on the manner of performing police duties (OPD)	There are no provisions in the OPD that can be related to Article 22 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the SPVP.	There is no need for interventions in the Ordinance on the manner of performing police duties.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	There are no provisions in the ICJ that can be related to Article 22 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the OPD.	There is no need for interventions in the Instructions on the conduct of police officers towards juveniles and young adults.
Article 23 Right to protection of victims with specific protection needs during criminal proceedings The Directive	The Criminal Procedure Code (CPC)	There are no provisions in the CPC that can be related to Article 22 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	In practice, adequate assistance is provided to injured parties that fall under the category of persons with special needs, but there are no strict norms in the Criminal Procedure Code, that would	It would be necessary to insert into the Criminal Procedure Code, in the part related to the rights of an injured party, norms that would be aligned with Article 23 of the Directive,

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prescribes special protection of victims with specific needs during criminal proceedings (Article 23 of the Directive). Interviews with such victims shall be carried out in premises specially adapted or designed for that purpose.						systematically and specifically regulate that issue, especially in terms of specially adapted premises, as prescribed in Article 23 of the Directive.	i.e. to specifically prescribe special protection of victims with special needs during criminal proceedings, as well as the norm that interviews with them must be carried out in specially adapted premises.
	The Police Law (PL)	There are no provisions in the Police Law that can be related to Article 22 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as the previous one in terms of the Criminal Procedure Code, whereby it should be noted that the police in the Serbian criminal proceedings doesn't have the right to interview witnesses, which includes injured parties in criminal offences, but they can only carry out the so-called informative interviews with them, i.e. to collect information from them as citizens. If	The same explanation as the previous one in terms of the Criminal Procedure Code. This means that the Police Law should stipulate that when the police is collecting information from injured parties with special needs in pre-trial proceedings, that must be done in accordance with the rules contained in Article 23 of the Directive regarding the special protection of such

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						these are victims with special needs, then, even though formally they are not witnesses, the rules contained in Article 23 of the Directive would have to be applied.	injured parties, i.e. victims of criminal offence, and interviews with them should be carried out in especially adapted premises.
	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)	There are no provisions in the GPDV that prescribe this issue specifically.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	There is no need for particular alignment with the Directive, since the provisions of Article 23 are not relevant for the content of this act
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions in the SPNM that can be related to Article 19 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	There is no need for particular alignment with the Directive, since the provisions of Article 23 are not relevant for the content of this act.

Article of Directive	Instrument	Instrument Article	Serbian wording	English Wording	Analysis of compliance (Yes, partial, contrary, gap)	Explanation	Suggestions
	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	There are no provisions in the SPVP that can be related to Article 19 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	There is no need for particular alignment with the Directive, since the provisions of Article 23 are not relevant for the content of this act.
	Ordinance on the manner of performing police duties (OPD)	There are no provisions in the OPD that can be related to Article 19 of the Directive.			Not aligned with the Directive. There is no need for alignment with the Directive	The same explanation as in terms of the Police Law.	There is no need for particular alignment with the Directive, since the provisions of Article 23 are not relevant for the content of this act. As previously explained, it would be sufficient to introduce norms in the Criminal Procedure Code and the Police Law that would be aligned with Article 23 of the Directive.
	Instructions on the conduct of police officers towards juveniles and	Item V 31 of the ICJ			Not aligned with the Directive. There is no need for alignment with the Directive	Since this act doesn't regulate the examination of injured party/victim of a criminal offence, it has not direct link	There is no need for particular alignment with the Directive, since the provisions of Article 23 are not relevant for the

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	young adults (ICJ)					with Article 23 of the Directive, but the quoted norm (Item V 31) does have certain significance since it points to the specific rules of conduct in terms of minors or young adults with problems in psychological and physical development or with certain disorders, which also applies to injured parties with such disorders, when they are minors or young adults.	content of this act. As previously explained, it would be sufficient to introduce norms in the Criminal Procedure Code and the Police Law that would be aligned with Article 23 of the Directive.
Article 25 Training of practitioners Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both	The Criminal Procedure Code (CPC)	There are no provisions in the Criminal Procedure Code that can be linked to Article 25 of the Directive.			Not aligned with the Directive.	The Criminal Procedure Code doesn't contain specific provisions that would be related to training and specialization of the authorities in the proceedings, and such types of specialization can be achieved through special laws, which is	It is not in accordance with criminal law tradition to insert in the provisions of the Criminal Procedure Code the rules on specialization of any kind, and this is mostly achieved through certain special laws, such as the Law on Juvenile

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<p>general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner (Article 25 paragraph 1 of the Directive)</p> <p>Article 25 paragraph 2 of the Directive specifically insists on appropriate training and raising the awareness of public prosecutors and judges, but in such manner that it doesn't</p>						<p>particularly the case when it comes to children and minors that are injured parties in certain types of criminal offences, when in relation to them, and in line with the Law on Juvenile Offenders and Criminal Protection of Juveniles, specialized subjects act in all parts of the criminal proceedings.</p>	<p>Offenders and Criminal Protection of Juveniles.</p> <p>However, given the importance of protecting injured parties in criminal proceedings, and in particular certain categories of victims of criminal offences, the Criminal Procedure Law should include a special norm in line with Article 25 of the Directive, and that issue should be elaborated in more detail in a bylaw, that would, in line with that norm, be passed by the Minister of justice, or when it comes to the conduct of public prosecutors, that issue could be further elaborated in one mandatory general guidelines of</p>

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compromise «judicial independence».							the Republic public prosecutor.
	The Police Law (PL)	There are no provisions in the Criminal Procedure Code that could be linked with Article 25 of the Directive.			Not aligned with the Directive.	The same explanation as in terms of the Criminal Procedure Code.	The same explanation as the one previously given for the Criminal Procedure Code.
	General protocol on procedures and cooperation of institutions, bodies and organizations in situations of violence against women in family and partner relationships (GPDV)	There are no provisions in the GPDV that could be linked with Article 25 of the Directive.			There is no need for alignment with the Directive	As this act does not regulate the matter referred to in Article 25 of the Directive, it has not direct link to Article 25 of the Directive.	There is no need for any particular alignment with the Directive, since the provisions of Article 25 of the Directive are not relevant for the content of the act.
	Special protocol on the conduct of police officers in order to protect minors from abuse and neglect (SPNM)	There are no provisions in the SPNM that could be linked with Article 25 of the Directive.			There is no need for alignment with the Directive	As this act does not regulate the matter referred to in Article 25 of the Directive, it has not direct link to Article 25 of the Directive	There is no need for any particular alignment with the Directive, since the provisions of Article 25 of the Directive are not relevant for the content of the act.

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	Special protocol on the conduct of police officers and cases of violence against women in partner relationships (SPVP)	Item 6.1. of the SPVP	<p>6.1. Обука полицијских службеника о примени Посебног протокола Управа полиције, Управа криминалистичке полиције и Управа за образовање, оспособљавање, усавршавање и науку организоваће обуке које за тему имају насиље над женама у породици и у партнерским односима и о примени Посебног протокола о поступању полицијских службеника из ове проблематике.</p> <p>Програм обуке треба да је у складу са принципима из Општег протокола и Посебног протокола о поступању полицијских</p>	<p>6.1. Training of police officers on the implementation of the Special protocol General Police Directorate, Crime Investigation Police Directorate and the Directorate for Police Education, Professional Training, Development and Science shall organize training on domestic and intimate partner violence against women and on the implementation of the Special protocol of conduct of police officers in cases of domestic and partner violence against women.</p> <p>The training program shall be designed in accordance with the principles of the General Protocol and the Special Protocol</p>	Partially aligned with the Directive	Provisions of Item 6.1. of the Special protocol on the conduct of police officers and cases of violence against women in partner relationships regulate mandatory basic and specialized training of the police with regard to domestic violence and violence in partner relationships, which is partly related to requirements referred to in Article 25 of the Directive.	There is no need for particular alignment with the Directive, since the Special protocol on the conduct of police officers and cases of violence against women in family and partner relationships applies only to one type of victims, which is adequate, and the requirements from Article 25 of the Directive can be met in a more complete manner when it comes to the Police Law or partly in the Criminal Procedure Code, as already explained.

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			<p>службеника. Садржај обуке треба да обухвати информације о: прописима, правилима и принципима полицијског поступања у складу са Посебним протоколом. Садржај обука треба да обухвати и информације о: динамици партнерског и породичног насиља, предрасудама и специфичностима насиља у породици у односу на разлике у култури и начину живота појединих група становника, информације о раду тужилаштва, судским процедурама, о групама за подршку жртвама насиља, ефикасној размени информација са другим</p>	<p>on Conduct of Police Officers. The content of the training shall include information on the following: regulations, rules and principles of police conduct in accordance with the Special protocol. The content of the training shall also include information on: the dynamics of partner and domestic violence, prejudice and specific characteristics of domestic violence in relation to the cultural differences and lifestyles of some populations, information about the work of the public prosecutor, court procedures, support groups for victims of violence, efficient exchange of information with other institutions and</p>			

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			<p>институцијама и организацијама. Пожељно је да међу предавачима буду и особе које нису полицијски службеници, али су у свом раду укључени у заштиту жртава од насиља у породици и у партнерским односима.</p> <p>Основна обука треба да обухвати све припаднике/це полиције који су током свог свакодневног рада у контакту са пријавом насиља у породици. Ова обука се реализује кроз годишњи Програм стручног усавшавања полицијских службеника Министарства унутрашњих послова.</p> <p>Специјализована</p>	<p>organizations. It would be preferable if the trainers included persons other than police officers, who work on the protection of victims of domestic and intimate partner violence.</p> <p>Basic training shall include all police officers whose daily work includes domestic violence reports. This training shall be implemented through the annual Program of Professional Development of Police Officers with the Ministry of Interior.</p> <p>Specialized training can be organized for police officers who will more often than others have the opportunity to work with the issue of</p>			

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			<p>обука се може организовати за полицијске службенике који ће чешће бити у прилици да раде на проблему насиља у породици и у партнерским односима. Овај вид обуке реализује се на предлог начелника подручне полицијске управе. Управа полиције ће заједно са Управом за стручно образовање, оспособљавање, усавршавање и науку, реализовати исту, са могућношћу ангажовања стручњака из предложене области (судије, тужиоци, професори на факултетима, удружења грађана и сл.).</p>	<p>domestic and intimate partner violence. This type of training shall be provided on proposal of the Area Police Directorate Commissioner. Police Directorate shall together with the Directorate for education, training, professional development and science organize the trainings, and if possible engage experts in the proposed area (judges, prosecutors, university professors, civil society organizations, etc.).</p>			
	Ordinance on the manner of performing	There are no provisions in the OPD that can be			There is no need for alignment with the Directive	As this act does not regulate the matter referred to in Article	There is no need for particular alignment with the Directive,

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	police duties (OPD)	linked with Article 25 of the Directive.				25 of the Directive, it has not direct link to Article 25 of the Directive	since the provisions of Article 25 of the Directive are not relevant for the content of this act.
	Instructions on the conduct of police officers towards juveniles and young adults (ICJ)	Item II 7 of the ICJ	Ознака II 7 Упутства о поступању полицијских службеника према малолетним и млађим пунолетним лицима Са дететом поступају овлашћена службена лица која су стекла посебна знања из области права детета, преступништва младих и кривично-правне заштите малолетних лица.	Item II 7 of the Instructions on the conduct of police officers towards juveniles and young adults Authorized officials who have acquired special knowledge in the field of children's rights, juvenile delinquency and criminal protection of minors shall engage with children.	Partially aligned with the Directive	Instructions on the conduct of police officers towards juveniles and young adults is a special type of bylaw that is primarily related to detailed regulation of certain problems that are, generally, regulated by the Law on Juvenile Offenders and Criminal Protection of Juveniles. The quoted norm is related to the conduct of specialized police officers in relation to a child, which applies both to the cases when criminally and legally irresponsible person commits a criminal offence, and the cases when a	There is no need for particular alignment with the Directive, since the provisions of Article 25 of the Directive are not relevant for the content of this act.

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						child is a victim of a crime.	