

Mgr Katarzyna Osiak -Krynicka

Summary

A child is a creature that is in a period of strong mental and physical development, and the greatest threat to this development are traumatic experiences in early life. An example of such a traumatic and traumatic experience, which may affect the further development of the child and cause negative consequences for him, is his participation in the criminal trial as a participant, regardless of whether he is the accused, the victim or a witness.

For a child, not only the very fact of obtaining the status of a participant in the proceedings may be traumatic, but most of all the way in which he is treated by law enforcement and judicial authorities, failure to respect his rights, adjusting the level of difficulty of the information provided to him / her to his age and level of development and health, and the inability to obtain support from relatives whom the child trusts. Therefore, regardless of the role in which the child participates in the criminal trial, it should be conducted in a manner conducive to the sense of dignity and values, which strengthen the child's respect for fundamental rights and freedoms, and there must be procedural standards and modifications or additional solutions distinguishing the child's situation as a participant. criminal trial from the situation of adults, protecting them from the negative effects of participation in these proceedings. In addition, procedural authorities should ensure that in all cases involving a child, the overriding issue is to secure his interests, the correct implementation of his rights and existing standards, and that procedural activities are carried out in a manner that takes into account the child's age, level of development and health.

Preliminary analysis of the literature as well as research conducted, among others by the Empowering Children Foundation in 2020 regarding the standards of interrogating minors as witnesses and the Helsinki Foundation for Human Rights in 2017 regarding the exercise by minors accused of the right to defense, gave grounds to assume that the applicable provisions governing the Polish criminal trial do not provide for fully appropriate regulations and institutions that would protect the interests of the child in the ongoing criminal proceedings and in practice the implementation of the existing solutions is not correct and reliable, despite the fact that the child's participation in the criminal trial carries the risk of a negative impact on the further development of the child and its functioning in adult life.

The above findings were the basis for writing this dissertation, the aim of which is to create a comprehensive study on the participation of a child in the criminal trial as the accused, victim and witness, and to analyze this issue in a normative, dogmatic and pragmatic context, and to evaluate the changes proposed by the legislator in this regard, as well as presenting de lege ferenda postulates that could help to improve the procedural situation of the child as a participant in the criminal trial.

15.09.2022r.

Katarzyna Osiak-Krynicka