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EXECUTIVE SUMMARY

The analysis of the Italian case-study, described here, allowed to focus on several aspects related to the opportunities and barriers to access to justice of children with disabilities that characterise the Italian national context. The analysis described derives from the finalisation of the desk research and from a qualitative data analysis through interviews with professionals. More information deriving from the analysis of children interviews may be collected at a later stage. On the basis of this, we gathered data and fundamental information on the legal framework regulating access to justice of children with disabilities, on the technologies in use in both the civil and criminal justice system and on the practices in use by the actors that deal with this typology of victimisation (justice professionals, associations, support services, etc.) for supporting victims' participation to criminal processes.

For what regards the legal framework, the following results are worth mentioning. Italy adopted a set of norms in order to implement the international framework for children with disabilities in criminal proceedings, as the Directive 2012/29/EU. The analysis also revealed that, due to an infringement procedure opened by the EU Commission, Italian Parliament adopted Law 23 December 2021 in order to comply with Directive 2011/93/EU. The analysis of access to justice rights on the basis of child's gender, disability, age and maturity allowed to clarify that the Italian legal framework adapts access to rights on the basis of the person's age, maturity, and disability. For instance, children do not have the legal competence of carrying out and receiving legal acts that produce effects on their personal or patrimonial sphere; only certain legal acts can be legally valid once the child, having turned 16 years old, is authorised by the court to marry[1]. The most important result in this area of interest is that the Italian legal regime does not change if the child also has a disability, since the child is already guaranteed with the broadest protections provided by the law. Additionally, in the Italian criminal procedure there is no specific concept to refer to a child's potential disability. In the context of criminal procedural law, a generic concept is used, namely that of "particularly vulnerable victim": the criminal procedure code states the conditions of vulnerability of the victim on the basis of age and state of infirmity or psychosocial disability, the type of crime, the methods and circumstances of the crime for which proceedings are being carried out. Even the obstacles to participation derive above all from the conditions of "minor age" of the victim, whose right to complaint under the age of 14, pursuant to art. 120 of the criminal code, can only be exercised by the parent or guardian. The analysis also allowed to clarify what happens in cases of conflict of interest between the child and legal representative and the rules that regulate the appointment of a "special curator" (usually a lawyer).

Legal analysis clarified the obligations to justice professionals to make individual assessment of children's vulnerable situation: the subjects who participate in the criminal process and come into contact with the victim (judge, public prosecutor

and judicial police) must ascertain the vulnerability of the victim in light of the criteria listed in the art. 90-quater of the criminal procedure code.

The role of support services is also described: in cases of particularly serious crime (such as sexual violence or child pornography) committed against a child, the public prosecutor informs the public prosecutor of the juvenile court in order to adopt civil measures for the removal of parental responsibility and in order to ensure the emotional and psychological assistance of the offended child by the presence of parents or other suitable persons indicated by the child.

Procedural accommodations have been also investigated, thus mainly clarifying that the Italian framework derives the level of support mainly on the age of the victim. In particular, children are offered with the highest levels of support and procedural accommodations as the "protected hearing" that takes place in particular times, places and with specific methods aimed at avoiding the risk of secondary victimisation of the subject. The information on the procedural accommodations available to the victim participating to the criminal proceeding is provided by public prosecutor, the judicial police, or the lawyer on the basis of the Italian criminal procedural code.

The analysis also put in evidence the role of special child protection units/departments on pursuing the following objectives: detecting and reporting abuse, protection from victimisation, evaluation of cases and treatment.

The analysis of training for justice professionals allowed to acknowledge the existence of adequate training paths for judges dealing with specific types of victimisation. On the contrary, we described the issues related to lawyers' training that, although generically mandatory, for what regards the selection of in-depth topics, is left to the free choice of each lawyer. This means that even lawyers that do not have training on specific types of victimisation may deal with vulnerable victims.

With reference to the diffusion of ICT technology in the Italian justice system, the analysis has shown several worth mentioning results. First, we acknowledged the advanced development of the Italian Civil Trial Online (Processo Civile Telematico, PCT in Italian) that allowed the complete digitalisation of the civil procedure. This result is also considerably important for our research goals given that decisions taken in the criminal justice system for victims are also reflected on the civil justice system (with the involvement of civil judges) as for what regards procedures for compensation or related to changes in family status (for example, limitation or loss of parental responsibility and custody of the child. The analysis describes the

[1] In the case of children above the age of 16, if they are authorized by the court to contract marriage, they enter a state of reduced competence to act, called "emancipation". The emancipated person has full capacity to act for the performance of acts of ordinary administration (those which don't modify the person's assets: for example, the purchase of a movable asset) and personal acts (e. g., will, recognition of the natural child); for acts of extraordinary administration (those which modify the consistency of the person's assets: for example, the sale of a real estate) the assistance of a "curator" is required.

Italian civil e-justice system as a complex infrastructure constituted by a Case Management System (CMS) connected through different points of access to internal (judges and court staff) and external actors (as lawyers).

On a different level, the analysis on criminal e-justice acknowledges that despite the Covid emergency and the need to accelerate the digitalisation of criminal procedures contributed to the immediate implementation and application of the different components of the electronic criminal trial, the system is not as functional as the PCT. The criminal trial online (in Italian, PPT, Processo Penale Telematico) is constituted, as PCT, by a central CMS connected through different points of access to internal (judges and court staff) and external actors (as lawyers). However, the presence in the criminal trial of different actors participating to the procedure as the public party (the Public Prosecutor) multiplies the needs of access to the central CMS and this does not correspond to an adequate level of interoperability of the different systems in use by each of these actors. The analysis on technologies also describes the legal framework regulating the use of audio-visual technologies in the justice system thus acknowledging a high level of diffusion of these types of tools both in the civil and criminal procedures also improved in the aftermath of the Covid-19 pandemic. Finally, the analysis on ICT described a set of pilots implemented in the Italian courts based on the application of AI and mostly aimed at providing systems that through the analysis of case-law can provide a forecast of the outcomes of a case.

Thanks to the interviews administered to justice and other types of professionals, we succeeded in gathering more information on the practical application of the procedure and on the role and barriers to the participation of children with disabilities in criminal proceedings, including the use of technology in justice and in the wider context to overcome these barriers. For instance, we were able to clarify the use of specific procedural accommodations in the justice system as the “probative evidence hearing” (in italian: *incidente probatorio*) or the use of videoconferencing tools. We also clarified the roles of professionals in assessing the needs for victims in terms of procedural accommodations and the role of professional training. The analysis also discusses inclusive education and community-based programs and the fundamental role of the social services in ensuring access to them.

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Key Recommendations

Through desk research and interviews we were able to identify recommendations and lessons learned fundamental for the scopes of the project. Among these, the following are worth mentioning.

- There is a need to design uniform disciplines and practices among all victims' assistance centres to promote a high-quality level of assistance throughout the Italian territory. We also acknowledged the necessity to increase the funds to be allocated to assistance structures for victims (anti-violence centres, neutral spaces, etc.).
- Additionally, there is a need to improve the correct and effective communication between the various actors who cooperate in supporting access to justice for children victims of crime.
- Stakeholders also confirmed the necessity to improve training of professionals who come into contact with child victims and victims with disabilities.
- In all stages of victim support (from filing a complaint to trial), it is desirable to provide ad hoc forms of protection to be associated with specific characteristics of the victim, as well as a specific statute of rights for victims with disabilities, as they often have different needs than those of other vulnerable victims. Moreover, it is desirable to acquire and implement services and technologies (such as AAC) to support inclusiveness and access to justice for citizens with disability.
- We acknowledged the need to further open the Italian e-justice system to citizens' access, especially as regards the retrieval of legal information and information relating to the status of proceedings. In this regard, it is needed to implement various information services on the rights of the victim, on how to file a complaint, and on support services dedicated to children and victims with disabilities (for example, in schools, recreational clubs, etc.) or also through online tools. There is also a need to overcome the critical issues of the databases of the police force and the judicial system which do not allow to flag some fundamental characteristics of the people who access justice, including disability.

“WE OWE OUR CHILDREN, THE MOST VULNERABLE CITIZENS IN ANY SOCIETY, A LIFE FREE FROM VIOLENCE AND FEAR”

NELSON MANDELA

INTRODUCTION

In Italy, access to justice for child victims and/or victims with intellectual or psychosocial disabilities is characterised, at the same time, by a high level of protection and by some gaps and critical issues: this national report aims to analyse the strengths and weakness of the Italian system, as emerged from the documentary research and from interviews submitted to the various stakeholders.

The main purpose of this national briefing is to provide up to date information on the legal framework disciplining the access to justice of children with disabilities victims of crime, describe the practice in use in both the justice system and support services for ensuring procedural accommodations for this type of victims and analyse the ICT systems in use in the Italian justice system and their impact on the level of support of children victims of crime.

The analysis of the legal framework, the practices and the ICT technologies allowed to acknowledge the peculiarities of the Italian justice system in relation to victims' access to justice. It is for instance worth mentioning that several decisions affecting victims are not only taken in the criminal justice system. For instance, victim compensation for damages caused by crime or changes in the family status deriving from a criminal justice decision (for example, suspension or forfeiture of the parents from parental responsibility) are all dealt by civil judges. Since these relevant aspects relating to the rights of victims and their family life are dealt with in the context of civil proceedings, it is important to focus on the impact that e-justice has also had in the civil sphere. On the basis of this, our analysis even though mainly focused on the criminal justice system also investigated in part civil procedures that affect victims when needed. On the same basis, the analysis of e-justice technologies focuses not only on the technologies in use in the criminal justice system but also technologies diffused between civil justice professionals.

The legal framework related to victims' access to justice is described in Section 3. The analysis allowed to verify a set of results considerable for the aims of the project as the following. First of all, age and some types of intellectual or psychosocial disabilities may affect the competence of victim to access to justice by filing a complaint: children and people with serious illness (in Italian "interdetti") do not have the legal competence of carrying out and receiving legal acts, and therefore, parents or guardians have the responsibility of filing a complaint when needed. [2] Second, the guarantees for participation in the justice procedures of victims and the relative supports and accommodations are at the highest level when victims are of minor age add therefore there is no difference related to this aspect if the child has also a disability. Third, the training of professionals related to victimisation assumes different qualitive levels depending on the category considered: while the training of judges and prosecutors

[2] In some cases, the child can report the crime. In this regard, a distinction must be made between a child under the age of 14 and a child aged between 14 and 18 years old. In the first case, the complaint can only be presented by the parent or by another person who has the legal representation of the child (for example, the guardian): in this way, if, for example, the child is the victim of violence by one of the parents, the complaint must be presented by the other parent; otherwise, the judge will have to appoint a special guardian to look after the child's interests, reporting the violent parent. A child who has reached the age of 14 can file a complaint as an adult. This aspect is analysed, from a regulatory point of view, in section 01.2 in Chapter 3.

seems to be fairly adequate, the training of lawyers and social services presents some fallacies due to the right of lawyers and social service professionals to choose independently the area of training. Because of this, sometimes there is no correspondence between the training of the professional and the type of issue (legal or social) that the same is required to address and resolve.

Section 4 describes the types of technologies developed in the Italian justice system both in the criminal and civil justice. The main result that the analysis show is that Italian justice system has already carried out an important development and diffusion of ICT between justice professionals: both in the criminal and civil justice systems there is a solid case management system connected to internal (judge and court staff) and external users (lawyers, consultants). However, the access from external users as citizens to information deriving from files stored in CMS are very limited and this may affect the access to legal information also to victims. Another important area of technological development in justice for vulnerable victims refers to video technology, that may guarantee participation to judicial procedures and relative hearings far from potential risks of secondary victimisation. The analysis acknowledged the development of a solid legal framework for the use of video technology in civil and criminal justice. It is worth mentioning that Section 4 also introduces several examples of pilots of AI technologies applied in justice system for predictive justice or related to the application of IVR (Immersive Virtual Reality) technologies in justice.

Section 5 elucidates the utilisation of procedural accommodations within the justice system to facilitate victims' involvement, such as the "probative evidence hearing" (known as "incidente probatorio" in Italian) or the integration of videoconferencing tools. It also delineates the responsibilities of professionals in evaluating victims' needs for procedural accommodations. Section 5 also explores methods of data and information exchange between social services and criminal justice professionals, along with associated challenges.

Section 6, drawing from both desk research and interviews with professionals, delves into barriers hindering the participation of children with disabilities in the criminal justice system. The section also furnishes insights into the use of Augmentative and Alternative Communication (AAC) within the justice system and beyond. The analysis in this section also outlines procedures for accessing public programs that subsidise the acquisition or rental of such technologies.

A conclusive section resumes the results of the study and provides information on promising practices in use in Italy and some recommendations useful for the purposes of the project.

In the following pages a methodology section describes the methods of analysis at the basis of the results of the study.

02

OBJECTIVES AND METHODOLOGY

To achieve the research goals, the methodological approach combined desk research and field work.

The desk research involved the identification and analysis of relevant policy documentation (e.g., national legislation, policy, strategies, reports, statistics) regarding the system of provision of reasonable and procedural accommodations in the criminal justice system for children with disabilities. Interviews addressed the practical application of procedures, the role of professionals, best practices and challenges.

The fieldwork involved 12 semi-structured interviews, conducted with key stakeholders. The participants of the study conducted in Italy consisted of: 4 lawyers (2 men and 2 women), 1 judge (woman) and 1 prosecutor (man), 4 social workers (4 women), 2 psychologists (2 women). The data was analysed using qualitative-textual analysis. In chapters three, four and five a combination of main findings of the desk research and fieldwork will be presented.

03

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

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

In Italy, Directive 2012/29/EU – which establishes minimum standards regarding the rights, assistance, and protection of crime victims – was implemented with Legislative Decree 15 December 2015, n. 212, which amended the criminal procedure code.

In order to support the implementation of Directive 2011/93/EU on the fight against sexual abuse and exploitation of children and child pornography, the Italian Government has adopted the Legislative Decree 4 March 2014, n. 39 which modified the criminal code, the decree of the President of the Republic of 14 November 2002, n. 313, and the legislative decree of 8 June 2001, n. 231 of the criminal procedure code. EU Commission has opened an infringement procedure against Italy (including Ireland, Portugal and Spain) regarding the failure to comply with Directive 2011/93/EU (procedure 2018_2335), currently at the stage of “additional letter of formal notice” ex art. 258 TFEU. The infringement procedure concerns the incorrect reception into national law of some articles of the Directive:

- Art. 2, letter. c), point iii), relating to the inclusion in the definition of child pornographic material of material that visually portrays a person who appears to be a child in explicit sexual attitudes, real or simulated, or the representation for predominantly sexual purposes of the sexual organs of a person who appears a child;
- Art. 9, letter. f), which requires that endangering, deliberately or through negligence, the life of the child has to be considered an aggravating circumstance;
- Art. 10, par. 1, relating to the provision of interdictory measures against the person responsible for child pornography crimes aimed at preventing him from having direct and regular contact with children;
- Art. 11, relating to the seizure and confiscation of instruments and proceeds deriving from crimes;
- Art. 15, par. 1 and 2, relating to the conditions for prosecuting child pornography crimes;
- Art. 18, par. 3, relating to the assistance, support and protection of children victims, even in case of doubt regarding their minor age;
- Art. 20, par. 3, letter. e), relating to the methods of taking the testimony of the child in the criminal trial.

In order to overcome the infringement procedure, Italian Parliament adopted Law 19 July 2019, n. 69 (so-called “Red Code”) and Law 23 December 2021, n. 238. Italy has ratified the UNCRC (UN Convention on the Rights of the Child) with law 27 May 1991, n. 176. UNCEDAW (UN Convention on the Elimination of All Forms of Discrimination against Women) was ratified by Italy with law 14 March 1985, n. 132. Finally, UNCRPD (UN Convention on the Rights of Persons with Disabilities) was ratified by Italy with law 3 March 2009, n. 18.

02 Intersectionality in the national legal framework

Differences in access to rights depending on the child’s gender, disability, age and maturity.

Italian legal framework differentiates access to rights depending on the person’s age, maturity, and disability. Children do not have the legal capacity of carrying out and receiving legal acts that produce effects on their personal or patrimonial sphere; only certain legal acts can be legally valid once the child is 16 years old (e.g., employment contract, marriage or recognition of a natural child). Furthermore, the child does not have the capacity to stand on a trial as a self-represented litigant but needs a legal representative. For what regards illicit acts, italian law provides that "anyone who has not reached the age of fourteen at the time of committing the act is not attributable": [3] the child who, at the time of the crime, has not reached the age of 14 cannot be held criminally responsible for the crime itself. Furthermore, the law provides that "anyone who, at the time they committed the act, was 14 years of age but not yet 18 is attributable, if they had the capacity to understand and will". [4] The law, in this way, introduces a “presumption that the child is chargeable” (in Italian “presunzione di inputabilità) for children of age between 14 and 18 years old. In this case, proofs of the lack of capacity to understand and will can be admitted to the trial. In this case, the child, despite being over the age of 14, cannot be subjected to criminal proceedings and cannot suffer punishment.

Children are legally represented by their parents, that take care of them and manage their assets. In cases of death of the parents, failure to recognise the child, suspension or forfeiture of the parents from parental responsibility or unaccompanied foreign child, the “guardianship” is opened: the tutelary judge of the district court where the child has the “main seat of interests and business” or of the place of the host community (in the case of an unaccompanied foreign child), appoints a guardian (usually a lawyer who mainly deals with family law or a relative of the child). The guardian (in Italian: *tutore*)

[3] The non-attributability of a child who has not reached the age of 14 at the time of the crime is provided for by art. 97 of the criminal code.
[4] This aspect is regulated by art. 98 of the penal code.

is responsible for managing the interests of the child under the supervision and control of the tutelary judge. Among its tasks, the following are particularly important: carrying out an inventory of the child's assets; taking care of the child's person; legal representation of the child. Guardian's activities are offered for free. Guardian's authority expires when the beneficiary becomes an adult or in the event of serious breaches by the guardian.

The legal regime does not change if the child has also a disability since the child is already guaranteed with the broadest protections provided by the law: this aspect also emerged during the interviews with criminal justice professionals. [5]

When citizens are affected by a serious and chronic intellectual or psychosocial illness, they are also protected through the institution of guardianship (in Italian: interdizione). Like the child, citizens that benefit from guardianship, can carry out legal acts through the support of the guardian, their legal representative; they can stand trial with the support of the guardian and, when they carry out illicit acts, they are presumed incapable of understanding or will, unless proven otherwise. The guardianship is pronounced with sentence by the court, following a procedure during which the judge establishes the psychosocial illness examining the person with the assistance, when necessary, of an expert consultant (e. g. a doctor or a psychiatrist).[6]

Citizens with a pathology not serious enough to justify the guardianship benefit from "curatorship" (in Italian: inabilitazione), which consists of a state similar to the one characterising the emancipated child: in this way, they can personally carry out acts of ordinary administration (for example, sale of a movable property) and personal acts (marriage or will) but, for acts of extraordinary administration that could seriously compromise their patrimonial sphere (for example, sale of a real estate), the assistance of a curator is necessary. Curatorship, for example, applies to people suffering from minor psychosocial illness, deaf-mutism or blindness from birth. The curatorship statement follows the same procedure as for interdiction and falls under the jurisdiction of the civil judge.[7] In both cases, the judgement can be introduced by these subjects:

- The subject, whether an adult or an emancipated child, affected by a pathological condition which affects his ability to look after his own interests;
- The spouse;
- The person permanently cohabiting;
- The civil union part;

[5] In particular, two lawyers (a man with 16 years experience and a woman with 15 years experience) confirmed the absence of difference, at the level of the legal regime, between children and children with disabilities.
[6] Italian legislations implement the art. 12 of the UNCRPD that recognizes that States parties have an obligation to provide persons with disabilities with access to support in the exercise of their legal capacity.
[7] These procedures are regulated by articles 712 – 720 *bis* of the civil code.

- Relatives within the fourth degree;
- The cognates within the second degree;
- The guardian and the curator;
- The public prosecutor.

The trial begins with a complaint (in Italian: ricorso), after which several phases open: the presidential phase, during which the President of the court appoints the investigating judge; the preliminary investigation phase, during which the judge acquires all the information useful for deciding (in this phase, it's necessary to proceed with the examination of the person receiving the protection measure and the judge can also order the examination of the beneficiary's relatives or medical checks); the decision phase, during which the judge decides whether or not to grant the protection measure to the interested party. When citizen have a limited competence of pursuing their interests due to transitory psycho-physical causes, the institution of "support administration" applies. In this case, the judge appoints a support administrator and identifies the actions that can be performed by the beneficiary, those that must be performed with the assistance of the administrator and those that the administrator can perform on behalf of the beneficiary. [8]

Concepts used in law or policy to refer to a child's potential disabilities

In the Italian law there is no specific concept to refer to a child's potential disabilities. In the context of criminal procedural law, a generic concept is used, namely that of "particularly vulnerable victim": in this regard, art. 90-quater of the criminal procedure code provides, probably with inappropriate language, that "the condition of particular vulnerability of the offended person is deduced, in addition to the age and state of infirmity or psychosocial disability, from the type of crime and from the methods and circumstances of the crime for which proceedings are being carried out. To evaluate the condition of vulnerability, account is taken of whether the act is committed with violence against the person or with racial hatred, whether it is attributable to areas of organised crime or terrorism, including international terrorism, or trafficking in human beings, whether it is characterised by the purpose of discrimination, and if the offended person is emotionally, psychologically, or economically dependent on the perpetrator of the crime". Therefore, the actors that participate in the criminal process and come into contact with the victim (judge, public prosecutor and judicial police) must ascertain the vulnerability of the victim in light of the criteria listed in the art. 90-quater of the

[8] The support administration protection measure was introduced into our system by law 9 January 2004, n. 6, which has implemented a real legal and cultural revolution in the protection of fragile people, combining the more rigid traditional institutions (curatorship and guardianship) with a new instrument, more flexible and therefore more adaptable to the specificity of individual situations. The legal regulation of this measure is contained in articles 404 et seq. of the civil code.

criminal procedure code. The rule presents some critical issues: first, the law still lacks clear indications on how exactly prosecutors or judges are supposed to infer or interpret, coherently and consistently, these different facts and criteria; second, rather than adopting the broader term “personal characteristic”, art. 90- quarter only lists some specific, albeit personal, characteristics, such as age, state of infirmity and mental deficit, which leaves out characteristics such as foreign nationality, ethnicity, gender and types of disabilities.

Gender also has a strong impact on the protections and guarantees provided in favour of the victim. In Italy, gender violence is an extremely alarming phenomenon that affects women of all ages and social backgrounds. Aware of the worrying and constant commission of gender crimes, the Italian legislator has intervened, over the years, with numerous reforms, which have tightened the sanctioning treatment of existing crimes, introduced new types of offences and made procedural changes aimed at making the system faster and more efficient when it comes to deal with crimes susceptible to recurrence and degeneration. The reforms are numerous and very extensive and have involved almost every aspect of the penal and criminal procedural system: the law called by the media "femicide law" or the reform renamed "red code" are worth mentioning. The latest regulatory intervention, implemented with law 24 November 2023, deserves particular attention. The mentioned law stated "provisions to combat violence against women and domestic violence". The reform is very extensive and involves substantial and procedural institutions. Some aspects, however, are so important that they cannot be overlooked. Among these, we must remember:

- the extension of the scope of application of the police commissioner's warning measure (which allows the public security authority to intervene, before filing the complaint, inviting the recipient of the measure to behave in compliance with the law);
- the acceleration of the application times for precautionary measures;
- the strengthening of the application of the so-called "electronic bracelet", which allows remote monitoring of the suspect who has been placed under house arrest or prohibited from approaching the victim;
- the subordination of the granting of certain benefits (in particular, the conditional suspension of the sentence) to the participation and successful completion of specific recovery paths with bodies or associations that deal with prevention, psychological assistance and recovery of offenders of domestic and gender violence;
- specialisation in the handling of trials relating to violence against women and domestic violence, through the specific identification of prosecutors and magistrates delegated to handle this type of trial;

- provision of adequate and homogeneous training for operators who in various capacities come into contact with women victims of violence;
- simplifications of compensation procedures for victims of violent intentional crimes;
- introduction of the provisional and advance compensation in favour of victims;

Barriers for children with disabilities, especially with intellectual and psychosocial disabilities, to report crimes, start criminal proceedings, engage in the criminal justice system

One of the major obstacles that prevent children from reporting crimes is represented by art. 120 of the criminal code, that states that under the age of fourteen, the child, given that is presumed to be absolutely incapable of understanding and will, cannot file a complaint: in this case, the right to complain can only be exercised by the parent or guardian. Children who reached the age of fourteen, however, can exercise the right to complain, without prejudice to the fact that the parent or guardian can always exercise it in their stead, despite any contrary declaration of will, express or tacit, of the child. The interviews highlighted, in addition to the barriers related to norms, other types of barriers that children, even with disabilities, encounter when reporting a crime. [9] As stated by criminal justice professionals interviewed, one of the main challenges that arise when a child accesses the judicial system, regards the acquisition of the complaint. [10] This because the child, especially with intellectual or psychosocial disabilities, must necessarily rely on the collaboration of other adult subjects (family members, teachers, acquaintances, social services) in order to file a complaint. This difficulty is certainly greater when the crimes occur within the family and decreases as the age and emancipation of the child increases. Furthermore, it is more complicated for children to report the crime suffered because they often do not know who to address, they fear the consequences resulting from their report or because, especially when the crime takes place in the domestic and family context, they are hindered by the perpetrators of the crime themselves. [11] When the relationship between perpetrator

[9] A lawyer with 6 years of experience (woman) said during the interview: "A personal challenge that the victim encounters is shame, which is often the reason why the child does not report the crime suffered, not fully understanding his reproach. This is the instrument on which the offender often relies for the crime to remain unpunished. With reference to child with disabilities, shame is added to the difficulty of being believed and being able to tell what happened".

[10] This aspect emerged very clearly during the interview with a public prosecutor (man) with 6 years of experience who reported verbatim: "The main challenge that arises when a child accesses criminal justice is undoubtedly that of acquiring the report of the crimes of which children are victims, especially those with disabilities, precisely because of the greater difficulty they have in reporting the conduct of which they are victims, having to rely most of the time on the collaboration of adults (family members, teachers, acquaintances, social services). This difficulty is certainly greater when the crimes occur within the family, while it decreases as the age and emancipation of children increases".

[11] A psychologist and psychotherapist with 21 years of experience (woman) interviewed reported: “the main obstacle that prevents the child from reporting the crime is often the fear of prejudice: the child who experiences these situations is often labelled by society and the family itself, especially when the crime is committed in the domestic sphere".

and victim is very strong (this is the case, for example, of children who are victim of a crime perpetrated by their parent), children often fail to acquire awareness of the illegality of the perpetrator's conduct, considering it as normal; furthermore, since they depend on the perpetrator of the crime, they have feelings of affection and protective instincts towards them and this may prevent them from making the decision to report the crime. Naturally, these difficulties increase exponentially when the child is affected by intellectual or psychosocial disabilities, most of the time needing the intermediation of other subjects who understand them and help them to report the crime. Another obstacle is the child's fear of not being believed, as the adult often has suspicions towards a child's story, due to his presumed immaturity, easy suggestibility and because of linguistic and cognitive abilities that are not yet fully developed[12].

As supported by some criminal justice professionals during the interviews, the procedural tool aimed at overcoming these obstacles and guaranteeing the child easier access to justice is constituted by the ex officio prosecution of some crimes committed against them (for example, sexual violence, stalking): this allows proceedings for these crimes even in the absence of a report from the child or guardian. [13]

Solutions for cases of conflict of interest between the child and legal representative

The child's representation in criminal proceedings is regulated by art. 121 of the criminal code and articles 90 and 77 of the criminal procedure code. These rules establish a general principle according to which the child's representation lies with the parents. When the parents are missing or when there is a conflict of interest between them and the child, the judge appoints a "special curator" (usually a lawyer). Based on the art. 121 of the criminal code, in case of conflict of interests between the child under 14 and the legal representative, the right to report the crime is exercised by the "special curator". In accordance with the art. 90 of the criminal procedure code, the special curator can exercise other faculties and rights of the child: for example, the curator can present briefs or evidence, appoint a party consultant, or oppose the public prosecutor's request for dismissal. As emerged during the interviews, especially in these cases it is necessary to guarantee services to protect the families and the child:

[12] One of the lawyers (a man with 26 years of experience) interviewed said: "The main difficulty that prevents the child from denouncing the crime is reticence, the fear of not being understood, the fear of the after, the fear of not being supported by the family. This grafts into the child a situation of frustration".

[13] This accommodation was highlighted, during the interview, by a public prosecutor (man) with 6 years of experience who reported: "The strictly procedural instrument aimed at guaranteeing children's access to justice is constituted by the ex officio prosecution of crimes that offended them, even if such crimes are normally prosecutable upon complaint (e.g. sexual violence, persecutory acts, etc.). This allows criminal proceedings to be carried out for such crimes regardless of whether they become known, even in the absence of a request for punishment from the child himself or whoever has their guardianship. Otherwise, when the crime can only be prosecuted upon complaint by a party (and not ex officio), the child who has reached the age of fourteen can file a complaint independently; differently, the child under the age of fourteen must necessarily make use of his representative (parent, guardian, etc.) - the only person entitled to file a complaint - with all the limits and difficulties that this mechanism entails.

this is the case, for example, of the so-called "Neutral Spaces", which are protected places created to support and encourage the maintenance of the relationship between the child and the parent in situations where this relationship has been compromised by family events (such as separations, divorces or other hardships); in these places, families can meet in the presence of competent operators (usually psychologists and social workers), required to mediate conflicts and help parents establish a correct relationship with the child. [14] The operation of these services (health and social), despite being fundamental in resolving conflicts between children and parents, is hindered by the lack of adequate economic funds. The Neutral Space is aimed above all at children of parents who are going through phases of conflict, to the point of interrupting the exercise of visitation rights by the non-custodial parent and at children of parents who have received measures that limit contact between them due to for serious reasons (mistreatment, neglect, domestic violence). [15]

[14] This space is accessible exclusively by decree of the Juvenile Court, order or decree of the Ordinary Court, order of the Tutelary Judge, notification of the local Social Services; usually the judge also decides on the duration and periodic frequency of the meetings. In any case, these must be verified compatibly with the needs of the Neutral Space structure and with the growth of the emotional relationship between the child and the adult they meet.

[15] The importance of the "Neutral Space" was highlighted, during the interview, by a psychologist and psychotherapist with 21 years of experience (woman), expert in the sector of forensic psychology and disability.

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

03.1 Individual assessment

This section focused on providing a brief overview of individual assessment procedures. In Italy, child victims – with or without psychological disabilities – participate in what is generally called ordinary criminal procedure, which is regulated by Italian criminal procedure code and criminal law, without prejudice to referrals to complementary or specialised legislator; when the suspect or the accused of a crime is a child, child victims participate in the specialised juvenile justice procedure, regulated by Presidential Decree n. 488 of 1988. Rights, guarantees, support and protection provided by criminal procedure code in favour of children also apply to this special procedure. Therefore, this section will start by providing an overview of how individual assessments are conducted based on the law, which will act as a springboard to dive into specific issues, recommendations, and identification of potential good practices in Italy.

Obligation to make individual assessment of the child's vulnerable situation

The subjects who participate in the criminal process and come into contact with the victim (judge, public prosecutor and judicial police) must ascertain if the victim is in a particularly vulnerable condition in light of the criteria listed in the art. 90-quater of the criminal procedure code. The law involves both subjective criteria which concern the personal characteristics of the victim (such as age, infirmity, psychosocial disability or economic, emotional or psychological dependence on the perpetrator of the crime) and objective criteria which concern the nature of the crime (crime committed with violence, racial hatred, in contexts of organised crime, terrorism or human trafficking or for purposes of discrimination). The list is not exhaustive, and the assessment must be carried out on a case-by-case basis, by considering all those symptomatic indicators of the victim's vulnerable condition. When this situation is ascertained, multiple institutions and procedural accommodations are implemented aimed at preventing the victim in a particularly vulnerable condition from being exposed to the risks of secondary victimisation: some of these procedural guarantees are provided in favour of the victim of the crime regardless of his possible condition of particular vulnerability. This is the case, for example, of the probative evidence hearing: art. 392, paragraph 1 bis, of the code of criminal procedure provides that in proceedings for particular types of crimes (mistreatment in the family, enslavement, child prostitution, child

pornography, detention or access to pornographic material, tourist initiatives aimed at the exploitation of child prostitution, trafficking in persons, sexual violence, sexual acts with a child, corruption of a child, group sexual violence, solicitation of children and stalking) the public prosecutor, also at the request of the offended person, or the person under investigation may request that the testimony of the offended person, whether an adult or a child, is taken with the probative evidence hearing.

To carry out the evaluation on the particularly vulnerable condition correctly, the judge, public prosecutor or judicial police can involve experts in psychology or psychiatry. Once the victim's vulnerable situation has been ascertained, numerous support and protection measures are made available to him/her, both within the criminal process (as the procedural accommodations analysed in the following paragraphs) and externally. There is no rigid chronological relationship between the assessment of the victim's vulnerable condition and the implementation of the procedural measures envisaged for his protection. This circumstance varies case by case: for example, this assessment can be carried out by the judicial police who receive the complaint and, during the subsequent investigations, the public prosecutor can request the testimony of the vulnerable victim during the probative evidence hearing. This assessment, however, extends for the entire duration of the proceedings: consequently, even when carried out during the preliminary investigations, the vulnerable victim will benefit from the procedural measures specifically provided for by the criminal procedure code also during the subsequent phases of the trial.

With reference to protection measures external to the process, article 8 of the Victim's Directive imposes on the Member States the preparation of tools and actions that, concretely and in a specific way, address victims to the victim support centres, both the generic and specific ones. About this, art. 90 bis, point p), of the criminal procedure code charges the operators with the duty to provide information to the offended person in relation to the healthcare facilities, to the foster homes, to the anti-violence centres and to the shelters existent in the territory.

The Italian legislation indicates the following specific and limited types of structures:

- Healthcare facilities, to which investigators may direct victims of crimes hostile for physical safety;
- Foster homes, which are real estate structures intended for reception of children, people with disabilities, elderly, adults in difficulty, people with chronic diseases (such as AIDS) and psychological problems;
- Anti-violence centres, which welcome victims of gender-based violence and children, offering an immediate response of help through interviews with specialised staff composed of social workers, psychologists, educators, civil and criminal lawyers (preferably with specific training on the topic of gender violence

and registered in the free legal aid register) [16]; although anti-violence centres are designed primarily for women victims of gender or domestic violence, there are also some anti-violence centres in Italy open to all victims of abuse and violence, without distinction of gender, age, social status or culture: this is the case, for example, of the "Perseo" anti-violence centres in Milan[17], "Ankyra" in Milan[18], "Beyond the gender" in San Benedetto del Tronto (Ascoli Piceno)[19];

- Shelters, which offer the victim and their children, accommodation (from 3 days to 6 months, extendable for a further 6 months if the woman has more than 3 children or she is the recipient of special protection measures), security and social protection. The shelters may also offer legal consultancy services, psychological counselling, economic support, education for the children and projects for the reintegration in the working environment. If, after 6 months (possibly extended), the woman and her children need further assistance, they are entrusted to a second level structure (defined as a secret address shelter): in this case, the prolonged stay in the structure allows the victim to be involved in an individualised project of emancipation from violence. The reception team (composed of social workers, psychologists, educators, cultural mediators, psychotherapists and lawyers specialised in family law) structures a stable network that aims to permanently insert the vulnerable victim into the long-term social and working context and to support the child in scholastic support, offering psychological assistance in order to avoid risks of secondary or repeated victimisation.

In Italy, the victim assistance centres may have different types and structures: public or private; voluntary or professional. Furthermore, it is possible to draw a distinction between centres of assistance to generic victims, and specialised victim assistance centres: generic victim assistance centres provide aid and legal, social, emotional support addressing to all victims of crime; specialised victim assistance centres (category that also includes: some specialised health facilities, foster homes, shelters and anti-violence centres) provide assistance, even from a practical point of view, but also housing and protection, to the victims of particular offenses (in particular, family mistreatment, sexual violence, injuries and, in general, attacks on vulnerable subjects). The assistance centres for generic victims can be organised and managed directly by

[16] It is interesting to analyse the financial commitment made by Italian governments in the last decades in implementing an effective anti-violence system. Managed through three-year national plans and annual funding for anti-violence centres and shelters, this system is governed by the Department for Equal Opportunities (DPO). In Italy, since the entry into force of law no. 119/2013 (so-called "femicide law") to 2023, the economic resources allocated annually to prevent and combat violence have increased by 156%. The data relating to the last year are dramatic: the independent organisation Action aid has highlighted how the current government has cut approximately 70% of the funds for the prevention of gender violence during the last year. The reduction in funds for financing anti-violence centres also emerged during the interviews: some interviewees highlighted how the funding cuts have led to the closure of some anti-violence centres. This situation, for example, led to the closure of the "Crisalide" anti-violence centre in Brindisi.

[17] https://associazioneperseo.it (consulted 11 June 2024).

[18] http://www.ankyra.eu (consulted 11 June 2024).

[19] https://www.laviolenzanonhasesso.com (consulted 11 June 2024).

public structures: in particular by local authorities, municipalities, public health facilities. They can also be organised and managed by private structures: in particular by third sector associations. In any case, forms of collaboration between public and private structures are possible as well, sometimes involving research centres and universities.

Legal requirement to identify needs and barriers in connection to a child victim and role of support services

As mentioned, the art. 90-quater of the criminal procedure code provides for an obligation to make an individual assessment of the child's vulnerable situation (see previous section). Once the situation of vulnerability has been ascertained, the support services are involved (see the examples given in the previous paragraph) and the procedural accommodations provided for by the criminal procedure code are applied (see next section). The criminal procedure code does not formally regulate individual assessments but simply dictates some rules: the public prosecutor (during the preliminary investigation) or the judicial police (when receives the complaint or when is delegated by the public prosecutor to take the victim's statements) or the judge (during the trial) conducts their own assessments with the assistance of a child psychologist or a psychiatrist qualified expert.[20] The expert provides a report about the psychological status and makes recommendations.

The police, before whom the complaint may be filed, is an important point of reference since they may act as a bridge between the Prosecutor and other actors who take care of the child, such as the guardian and the social workers. In some cases, if there is a cooperative solid teamwork, where the actors are in synergy with each other, the Prosecutor could refer directly to those actors, without the mediation of the police (for example, it could happen that the Prosecutor contacts by mobile phone a social worker, if they work together for years in similar cases). The trial judge, however, may not come into direct contact with the child since, in order to avoid risks of secondary victimisation, most of the time the child's statements are taken during the preliminary investigation phase in the "probative evidence hearing" (in Italian: *incidente probatorio*). In this way, the trial judge will limit himself to reading the record of the statements already made by the child during the investigation or preliminary hearing and only in necessary cases the victim will be examined again. The information can be collected by the Police as well, assuming this task was delegated, and must follow the same safeguards as when it is conducted by Prosecutor, especially since the appointment of a psychologist is done by the Prosecutor. The information collected by the police is then transmitted to the Prosecutor and included in the case file. This situation seems to contradict art. 22 of the Victims' Rights Directive. Rather than a single individual assessment to identify

[20] Art. 362, paragraph 1 bis, of Criminal Procedure Code provides that the psychologists can be appointed either as experts or as consultants: it depends on whether is named by request of the judge or by request of the lawyer. The psychologist can be called to make an assessment in a separate place as a consultant or to assess the child's behavior even during the proceeding as an expert.

specific protection needs, and/or to determine special protection measures in the course of criminal proceedings, due to the child's vulnerability to secondary and repeat victimisation, to intimidation and to retaliation (Article 22 Directive 2012/29/EU), there are multiple assessments at different stages. First, at pre-trial stage, during preliminary investigations, the following assessments are conducted: 1) age assessments (art. 90-ter of the criminal procedure code), 2) an assessment to determine the need for a "probative evidence hearing" (art. 392 and 398 of the criminal procedure code), 3) an assessment of measures to prevent intimidation or retaliation (art. 362 1-bis of the criminal procedure code). Second, at trial stage, it is conducted an assessment to determine the application of protective measures for the purposes of cross-examination (art. 498 of the criminal procedure code).

Fundamental rule is represented by the art. 609-decies of the criminal code, according to which when proceedings are carried out for a particularly serious crime (such as, for example, sexual violence or child pornography) committed against a child - or when proceedings are carried out for mistreatment in the family or stalking committed in damage to a child or by one of the parents of a child to the damage of the other parent - the public prosecutor informs the public prosecutor of the juvenile court. This communication is also made for the purposes of adopting civil measures for the removal of parental responsibility for children and the removal of the mistreating parent.

The emotional and psychological assistance of the offended child is ensured at every stage and level of proceedings, by the presence of parents or other suitable persons indicated by the child (when parents are absent or have a conflict of interest with the child), as well as groups, foundations, associations or non-governmental organisations with proven experience in the sector of assistance and support to victims, registered in a specific list. Additionally, the child is guaranteed assistance from the juvenile services of the Administration of Justice and the services established by local authorities.

Concepts of age and gender appropriate procedural accommodations within the national legal system

In the Italian legal system, until recently, there was no general definition of "reasonable accommodation" compliant with the art. 2 CRPD (Convention on the Rights of Persons with Disabilities) and a connected and tacit obligation to adopt reasonable accommodation, as required by art. 5, par. 3, CRPD. In this regard, the law 227 of 22 December 2021 approved by the Italian Parliament delegated the Government to introduce the definition of "reasonable accommodation", providing adequate protection tools consistent with the provisions of the CRDP. The two implementing decrees of the law were approved, on a preliminary basis, the 3rd November of 2023.

Italian legislation lacks a definition of the concept of "procedural accommodation": nevertheless, there are numerous procedural accommodations provided in the field of criminal justice with reference to age. These procedural accommodations are available as a measure in Italy and their adoption is subject to the age of the victim or to the assessment of the victim's particularly vulnerable condition (also deducible from his intellectual or psychosocial disability).

In particular, in order to guarantee the psycho-physical balance of the child and the authenticity of the evidence, the examination of the child witness takes place through the institution of the "probative evidence hearing" (in Italian: *incidente probatorio*), which allows the declarations of the vulnerable subject during the investigation phase or the pre-trial hearing, without the necessity of waiting for the traditional hearing.

The "probative evidence hearing" is governed by art. 392-398 of the criminal procedure code and it is widely used in practice because it can be requested[21] by the public prosecutor or by the suspected/accused in many cases, listed in the art. 392; [22] the person offended by the crime cannot request the probative evidence hearing but can only request the public prosecutor to make this request; however, the public prosecutor is not obligated to accept. [23] The judge of the preliminary investigations or the judge of the preliminary hearing – depending on the procedural phase in which it is presented the request – decides whether to order or not the probative evidence hearing: if the judge accepts the request, sets the date of the hearing in which the evidence will be taken and communicates this to the parties; in proceedings for particular crimes (already listed and relating to family abuse, pornography, sexual violence, etc.), if among the people interested in taking evidence there are children, the judge also establishes the place, time and the particular methods through which to take the examination.

This institution has a significant importance, appreciable in light of the structure of the Italian criminal trial, which consists of three stages: preliminary investigations (during

[21] Art. 393 of the criminal procedure code.

[22] In particular, the public prosecutor or the suspect/accused may ask the judge to proceed with the admission of the probative evidence hearing for these types of examinations:

- Testimony of a person, when there is a reason to believe that the same cannot be examined in the hearing due to illness or other serious impediment;
- Testimony when, due to concrete and specific elements, there is a reason to believe that the person is exposed to violence, threats, offers or promises of money or other benefits in order not to testify or give false evidence;
- Examination of the suspected on facts relating to the responsibility of other people;
- Examination of justice witnesses;
- Comparison between people who have made conflicting statements when one of the previous circumstances occurs (illness, serious impediment, violence, threats, offer or promises of money or other benefits);
- Expertise or judicial experiment concerning people, places or things whose state is subject to unavoidable modification;
- Reconnaissance, when particular reasons of urgency do not allow to deed to be postponed to the hearing;
- Testimony of the child or of the offended adult person when proceeding for particular categories of crimes (listed in section 1.2 in Chapter 3. - *Obligation to make individual assessment of the child's vulnerable situation);*
- Testimony of the offended person who is in conditions of particular vulnerability;
- Expertise which would lead to a suspension of the trial for more than 60 days or which involves carrying out tests or samples on a living person (for example, sampling of mucosal cells from the oral cavity for DNA extraction).

[23] Art. 394 of the criminal procedure code.

which the public prosecutor carries out the investigative acts, usually in secret); the pre-trial hearing (which has a “filter” function, preventing the continuation of the criminal process when the elements acquired do not allow a reasonable prediction of conviction to be formulated); the hearing, during which the evidences are taken (including the testimony) in the cross-examination. As a rule, therefore, the vulnerable victim should be heard during the third phase which could take place even years after the crime occurred, due to the excessive length of criminal trials in Italy. Therefore, allowing the child’s statements to be taken in cross-examination during the investigation phase or during the pre-trial hearing prevents the child, years later from the event and even after having overcome the trauma suffered, from being forced to live it again by narrating his negative experience in the hearing. This may limit the risks of secondary victimisation. Additionally, the examination of the child takes the form of the so-called “protected hearing”, as it takes place in particular times, places and with specific methods aimed at avoiding the risk of traumatisation and of secondary victimisation of the subject. For this reason, although the criminal procedure code provides that the exam must be conducted by the president who can make use of the help of a family member of the child or of an expert in child psychology, in normal practice it is the psychologist who formulates the questions and conducts the exam (this emerged both form interviews [24] and from personal participation in protected hearings).

The involvement of the expert in the criminal trial is governed by various rules.

First of all, art. 196 of the criminal procedure code provides that every person (therefore also a child or a person with intellectual or psychosocial disabilities) has the ability to testify; however, when is necessary to verify the physical and mental suitability of the subject to give testimony, the judge, even *ex officio*, can order the appropriate investigations with the means permitted by law. In these cases, an expert is involved in the criminal proceedings, through the tools of expertise or technical consultancy (depending on the case): the expert will have to evaluate the child's personality, his psychic and evolutionary development, the affective quality and defensive mechanisms, any cognitive and affective alterations and reality testing. Interviews conducted with professionals confirmed the constant application of this rule in practice. [25]

Art. 351 of the code of criminal procedure provides that in proceedings for particularly violent crimes (sexual violence, mistreatment in the family, stalking, child pornography, etc.), the judicial police, when it has to obtain information and evidences from children, makes use of the aid of an expert in psychology or child psychiatry, appointed by the public prosecutor. In proceedings for crimes other than those indicated by the art. 351,

[24] This aspect was confirmed by the interviews to lawyers and experts appointed by judges and public prosecutors as technical consultants (so-called "CTU", in Italian *Consulente tecnico d'ufficio*).

[25] For further information on this aspect, please note Capri, S. (2011). La valutazione del minore nelle perizie in ipotesi di abuso sessuale. Available at: https://aipgitalia.org/wp-content/uploads/2008/09/Capri-P.-La-valutazione-del-minore-nelle-perizie-in-ipotesi-di-abuso-sessuale.pdf (consulted 11 June 2024).

paragraph 1 ter, of the code of criminal procedure (i.e. crimes not necessarily of a violent or sexual nature), the judicial police avails itself of the help of an expert in psychology or child psychiatry, appointed by the public prosecutor when it has to take the summaries information of the offended person who is in conditions of particular vulnerability: as emerged during the interviews, in practice the judicial police, also upon oral instructions from the public prosecutor, proceed to appoint the readily available municipal psychologist as an auxiliary, especially in cases where urgent action needs to be taken and the public prosecutor did not have time to formally assign the task to the expert; from this perspective, it is good practice for the Prosecutor's Office to prepare, with the help of the relevant Municipalities or professional associations, on-call shifts for these professionals as well, to be disseminated to the police forces and local hospital facilities.

In any case, the judicial police ensures that the particularly vulnerable injured parties, when examined, do not enter in contact with the person under investigation and they are addressed as often as it is absolutely necessary for the purposes of investigations. Identical obligations are also provided for the public prosecutor (by art. 362 of the criminal procedure code) and for the defender (by art. 391-bis of the criminal procedure code).

As a further protection measure, the child is heard in a different place from the court (e.g. specialised care facilities or even at the child's home). If heard in the specialised care facility, the child is examined in a room equipped with a one-way mirror, with a video recording system and an internal intercom: while the psychologist is inside the room with the child, the other actors involved (judge, prosecutor, lawyers) are beyond the mirror and can intervene by communicating the questions to the expert who will then translate them to the child in a language that is understandable and appropriate to his age and psychological conditions. Furthermore, the child's statements are documented with means of phonographic or audio-visual recording: this not only allows for accurate observation of the exam, but above all allows to avoid repeated examinations of the child, subjecting him to renewed stress. [26]

There is a possibility that the judge considers the child sufficiently competent to take the ordinary examination. In this case he/she may order the continuation of the exam

[26] In any case, the new art. 357, paragraph 3 ter, of the criminal procedure code (introduced by the so-called "Cartabia Reform"), explicitly provides that "the declarations of the person who is a child, mentally ill or in conditions of particular vulnerability are fully documented, under penalty of not usability, with means of audiovisual or phonographic reproduction, unless there is a contingent unavailability of reproduction tools or technical personnel and there are particular reasons of urgency which do not allow the act to be postponed".
Following the procedural innovations introduced by the so-called “Cartabia Reform”, remote participation in hearings is now also permitted, regulated by the new articles 133 bis and 133 ter of the criminal procedure code: today, both in the preliminary hearing (Art. 422, paragraph 2, of the criminal procedure code) and in the trial hearing (Art. 496, paragraph 2 bis, of the criminal procedure code, - but also in the "abbreviated trial" hearing (Art. 441, paragraph 1, of the criminal procedure code which refers to the art. 422 of the criminal procedure code), the judge, when a particular provision of law provides for it or when the parties consent, can order that the hiring of testimony taking place remotely.

in the usual ways. Differently, the police and the prosecutor are required to interview the child with the support of an expert in all cases.

For what regards accommodations relating to gender [27] and disability, as mentioned, in the Italian criminal trial, these categories of subjects are unified under the common label of “vulnerable victim” (art. 90 quarter of the criminal procedure code), to which the guarantees listed above apply during the preliminary investigation [28] and the trial. [29]

There is, therefore, no specification between the rights of children, women and people with disabilities given that these subjects are relevant, in the presence of the conditions required by law, due to their common situations of fragility: this aspect was also confirmed during the interviews.[30] A specification is provided, however, in other sectors of the legal system, such as labour law. [31]

03.2 Information Provision and Coordination

Information about procedural accommodations

During criminal proceedings, the judge (during the trail or the probative evidence hearing), the public prosecutor (during the preliminary investigation), the judicial police (when receives the complaint or when is delegated by the public prosecutor to take the victim’s statements), or the lawyer (when carrying out an act that falls within the so-called defensive investigations), from their first contact with the person offended by the crime, is responsible for informing the victim on their rights as a victim provided for by the criminal procedure code. The methods through which this information is provided

[27] As regards the issue of gender, please refer to what has already been stated in section 01.2 in Chapter 3. (Concepts used in law or policy to refer to a child's potential disabilities).
[28] For example, right to receive the information listed in the art. 90 bis of the criminal procedure code, probative evidence hearing, right to make statements to the public prosecutor (Art. 362 of the criminal procedure code) and the judicial police (Art. 351, paragraph 1 ter, of the criminal procedure code) in the presence of an expert.
[29] For example, the right not to give one’s testimony more than once unless strictly necessary, holding the hearing “behind closed doors” – without the presence of the public – when the offended person is a child (Art. 472, paragraph 3 bis, of the criminal procedure code), conduct of the child's examination by the president, with the help of a family member of the child or an expert in child psychology (Art. 498, paragraph 4, of the criminal procedure code).
[30] This aspect was confirmed by lawyers interviewed.
[31] An example of this is the law of 1 March 2006, n. 67, containing “Measures for the judicial protection of people with disabilities who are victims of discrimination”: this law promotes the full implementation of the principles of equal opportunities and equal treatment for people with disabilities in order to guarantee them the full enjoyment of their civil, political, economic and social rights. In this perspective, the law provides a definition of “discrimination” for people with disabilities valid for every context of life (not only for the workplace) and recognizes, in addition to judicial protection against discrimination regarding access and working conditions, a judicial protection against any discrimination due to disability: this type of action is subject to the general discipline of the "summary rite of cognition" (in Italian: *rito sommario di cognizione*). Consequently, the action must be exercised before the monocratic court located in the domicile of the appellant; also associations identified with a specific interministerial decree are legitimized to act in support to the victim of discrimination with a disability. This law does not apply to sectors other than the one directly regulated.

vary depending on the protection needs of the victim – possibly in a vulnerable condition – that emerge in the specific case. As a rule, the information is provided on paper: the victim usually receives a document listing his rights and faculties. [32] However, in some cases the victim is particularly vulnerable and this affects the ways in which information is provided. For example, in the case of the examination of a child close to 18 years of age (the so-called young adult), the judge, before proceeding with the examination, informs the child on the type and stage of the hearing and on their rights and guarantees: the judge may involve an expert (e.g. a psychologist) in order to facilitate the comprehension of information provided. If, however, the child to be examined is very young, the expert (psychologist, psychotherapist, psychiatrist, etc.) will ask the child the questions, also making use of alternative methods: for example, the expert may ask the child to make drawings. In any case, it emerged during the interviews[33] that everything is left to the sensitivity of the actor involved, as there is no express regulation governing the methods of sharing information with the child. This aspect also applies to AAC users, for whom the code does not expressly provide for particular information methods.

It is worth mentioning that there should be constant dialogue between the judge and social services: the latter, in fact, are called upon to integrate the judge's knowledge through periodic reports. For example, in the case of domestic crimes (e.g. parental violence against the child), the child is entrusted to social services who should periodically report to the judge on various aspects, such as the child's academic performance, the child's commitment in recreational activities, the psychological balance of the child. Sometimes, however, it happens that social services do not report or report incorrectly: this creates delays or flaws in the process. Therefore, in the interests of the child it is necessary that all parties in the process carry out their relationship correctly and promptly. Knowledge of procedural accommodations can certainly be facilitated by the use of new technologies, especially the internet. These methods, however, cannot replace the traditional dissemination methods: on this regard, during the interviews it emerged that sharing information on the internet requires a capacity for research, selection and understanding which often the victim (especially if he/she is a child victim and /or with intellectual disabilities) does not possess. [34]

[32] For an example of the paper document containing the rights and faculties of the victims, please consult the fac-simile drafted by the Prosecutor's office of Savona, available at: https://procura-savona.giustizia.it/cmsresources/cms/documents/Artt.%2090%20bis%20e%20153%20bis%20c.p.p.%20Avvisi%20alla%20persona%20offesa%20e%20al%20querelante.pdf (consulted 11 June 2024).

[33] This aspect was highlighted by some of the lawyers interviewed.

[34] The lack of these skills were confirmed, during the interviews, by two lawyers (a man with 16 years experience and a female with 15 years experience). Instead, a third lawyer (a woman with with 6 years experience) reported: "Technologies can be extremely useful for victims as well as for children with disabilities. The point is to accompany them in the correct use of them. Although, in this era, children have also developed technological abilities, it is necessary that they - especially when they have intellectual disabilities - are supported and guided in the use of the technological tools at their disposal, which they often do not know or do not know how to use. E-justice, therefore, must be able to function with a view to accessibility, evolution and continuity". A public prosecutor with 6 years experience (man) interviewed on the topic said: "Technologies can definitely

Type of information provided to child victims regarding their rights

The criminal procedure code does not specifically deal with the information that must be provided to the child victim but lists, in a general way, the information to be provided to all victims in the art. 90.bis. In particular, the offended person, from the first contact with the prosecuting authority, is provided, in understandable language (therefore appropriate to the minor age and, in general, the possible condition of vulnerability of the person), with information regarding aspects as:

- the methods of presentation of the complaint and relative documents, the role that the victim assumes during the investigations and the trial, the right to have knowledge of the date, place of the trial and of the accusation and, where civil party is constituted,[35] the right to receive notification of the sentence, even by extract;
- the plaintiff's obligation to declare or elect domicile for the communication and notification of the procedural documents, with the possibility to provide a certified e-mail address or other electronic communication service qualified for a certified delivery;
- the right to receive communication of the status of the proceedings; [36]
- the right to be notified of eventual requests for case's dismissal;
- the right to request State funded legal advice and legal aid;
- the methods of exercising the right to interpretation and translation of procedural documents;
- any protection measures that may be ordered in his favour;
- the rights recognised by law if he /she resides in a Member State of the European Union other than the one in which the crime was committed;
- the methods for contesting any violations of one's rights;

make the judicial system more accessible and inclusive for victims of children and with disabilities. They may support access to justice: for example, means such as toll-free numbers (e.g. Blue Phone – in italian "Telefono Azzurro), which lately are also equipped with instant messaging services that immediately connect the child with experts are useful. These support tools may help to frame the story, classify and represent it to the competent authorities with the necessary urgency, allowing the initiation of investigations and the possible adoption of urgent measures even in cases where the child does not have the help of adults close to him. The use of video-technologies which allow the remote audition of children, avoiding them to travel in uncomfortable and stressful environments, may help to make the judicial experience less stressful. Sometimes, however, there is a risk that such instruments may make it more difficult to establish a personal contact with the victims, and understand their non-verbal language and emotions. It is therefore necessary to weight the need to facilitate the participation of the child with that of scrupulously evaluating the cognitive contribution to the procedure".

[35] In the Italian criminal trial, the offended person (the person who has suffered damage as a result of the commission of the crime) can intervene in the criminal trial, asking the defendant for compensation for the damage suffered. The intervention of the offended person in the criminal trial is achieved through the filing of an act called "constitution of civil party" (in Italian: *costituzione di parte civile*) which allows the establishment of a civil trial (aimed at compensation for damages) in the criminal trial (aimed to ascertain the criminal responsibility of the accused).

[36] Each of the information indicated by the art. 90 bis of the criminal procedure code must be provided in a language understandable to the victim, appropriate to his age and his possible state of vulnerability.

- authorities' contacts to obtain information on the proceedings;
- the methods of reimbursement of expenses incurred in relation to participation in criminal proceedings;
- the possibility of requesting compensation for damages resulting from crime;
- the possibility that the proceeding is settled with dismissal of the complaint, where possible;
- the fact that the failure to appear without justified reasons of the injured person who has lodged a complaint at the hearing to which he was summoned as a witness, entails the tacit dismissal of the complaint;
- the possibility that the accused makes a request for suspension of the proceeding with probation;
- causes of exclusion of punishment applicable due to the particular tenuousness of the fact;
- health facilities in the area, family homes, anti-violence centers, shelters and crime victim assistance services;
- the ability to access restorative justice programs;
- the fact that the plaintiff's participation in a restorative justice program, concluded with a restorative outcome and with compliance with any behavioural commitments undertaken by the defendant, entails the tacit remission of the complaint.

Accessibility of information for children with disability

The criminal procedure code provides that the information indicated by the art. 90 bis of the criminal procedure code must be provided by the criminal justice professionals (judge, public prosecutor, judicial police and defender) who come into contact with the victims in a language they understand. In addition to this aspect, the criminal procedure code does not specially regulate the methods of providing procedural information to children with a disability. Contrary to the provisions of UNCRPD, the information is provided to children with disability trough their lawyer. The art. 90 of the criminal procedure code provides that the injured child, benefiting from guardianship, exercises the faculties and rights attributed to them through the subjects indicated in articles 120 and 121 of the criminal code. [37]

[37] The art. 120 provides that for children under the age of fourteen and for those disqualified due to psychosocial disability, the right to complain is exercised by the parent or guardian: please refer to the section 01.2 in Chapter 3.

Obligation and framework for the authorities to provide information to children and their representatives

When taking the statements of a child (with or without disabilities), a fundamental role is played by the judge: art. 498, paragraph 4, [38] of the criminal procedure code entrusts the judge with the examination of the child, so that the vulnerable source has as an interlocutor and an impartial subject, free of hostility and aggression. The role of "guarantor" of the judge manifests itself in two ways: on the one hand, the judge must perform a preliminary activity before the examination of the witness, aimed at making people aware of their role in the trial and which is essentially carried out through warnings; on the other hand, the judge is required to monitor compliance with the rules that govern the child's testimony, ensuring a peaceful interaction between the child and their interlocutors. Furthermore, in order to protect the child - as a subject with a still evolving personality and, therefore, by definition in a condition of vulnerability - and, in general, of subjects who find themselves in this condition, the procedural accommodations provided not only by paragraph 4, but also by paragraphs 4 bis, 4 ter and 4 quater of art. 498 of the criminal procedure code apply.

In particular, art. 498, paragraph 4 bis of the criminal procedure code provides that the procedural accommodations provided for by the art. 398, paragraph 5 bis of the criminal procedure code [39] apply if a party requests it or if the president deems it necessary.

Paragraph 4-ter provides that when proceedings are carried out for one of the serious crimes listed [40] the examination of the child or mentally ill adult victim [41] takes place using a mirror glass with an intercom system.

Finally, paragraph 4 quarter provides that, when it is necessary to proceed with the examination of an offended person who is in a particularly vulnerable condition, the

[38] Art. 498, paragraph 4, of the code of criminal procedure provides that "the witness examination of the child is conducted by the president on questions and objections proposed by the parties. In the examination, the president may avail himself of the assistance of a family member of the child or of an expert in child psychology. The president, after hearing the parties, if believes that the direct examination of the child cannot harm the serenity of the witness, orders that the deposition continues in the forms provided for in the previous paragraphs. The order may be revoked in course of the exam".

[39] These methods are analytically described in section 5.2. – How do relevant procedural accommodations work in practice.

[40] Domestic abuse, reduction or maintenance in slavery or servitude, child prostitution, child pornography, detention or access to pornographic material, tourist initiatives aimed at the exploitation of child prostitution, trafficking in persons, purchase and sale of slaves, sexual violence, sexual acts with a child, group sexual violence and stalking.

[41] Originally the law restricted this guarantee only to children under the age of sixteen. The Constitutional Court intervened on the issue and, with sentence no. 63 of 2005, stated that the needs of protecting the particularly fragile personality of the mentally ill person require the guarantees provided for by the art. 398, paragraph 5 bis and 498, paragraph 4 ter of the criminal procedure code, should also be extended to the adults in this condition. In particular, the Court maintains that "Giving testimony in a criminal proceeding, in the context of cross-examination, on facts and circumstances linked to the intimacy of the person and connected to hypotheses of violence suffered, is always a difficult and psychologically burdensome experience: if then who is called to testify is a particularly vulnerable person, more than others exposed to external influences and conditioning, and less able to control this type of situation, it can translate into a highly traumatizing and personality-damaging experience. On the other hand, the adoption, in these cases, of special "protected" methods of taking evidence, as regards place, environment, time, assistance of people who know the witness or experts, as well as concrete ways of proceeding with the examination, not only does not conflict with other needs specific to the trial, but, on the contrary, it also helps to ensure the genuineness of the evidence itself, which is susceptible to being compromised if the testimony were to be taken in the ordinary manner.

judge, if the offended person or his/her lawyer requests it, orders the adoption of protected methods.

03.3 Special child protection units/departments

Role of special child protection units/departments

The child protection professionals play multiple roles in the criminal justice system and mainly carry on the following activities: detection, reporting, protection, evaluation and treatment.

When the local services (social services, education professionals, healthcare providers etc.) detect an ongoing danger or a serious risk for the child coming from the family environment, they have the possibility of immediately removing him/her from the family on a temporary and urgent basis, based on art. 403 of the civil code. When there is no serious danger or high risk, the local service operator who detects cases of abuse, violence and mistreatment of the child, is required to make a report to the territorially competent social services. Then the operator will collaborate with the social services to prepare integrated interventions suitable for the child and to his family. This will make it possible to activate a possible mobilisation of the resources of the family and the child and to formulate a report, in the event of the commission of crimes. Social services may detect, if they emerge, the events or indicators of serious events that require a report to the competent Judicial Authority. Public service operators, as “public service providers”, are required to report pursuant to art. 331 of the criminal procedure code.

The report to the juvenile judiciary activates the process of protection of the child because it allows the judiciary to instruct the competent territorial services and the police forces to carry out an initial investigation (legal, social and psychological) and to adopt urgent measures to protect the child (such as, for example, temporary removal from the family with placement in a foster family or, if this is not possible, in a community). From this moment, the municipal social service (identified on the basis of different skills and constituted by child neuropsychiatry centres, family counselling centres, mental health departments of the provincial health authorities) is responsible for the control and protection of the child.

In the cases of violence by parents, the social services, considering both the legal and psychological needs of the child, carry out also a diagnostic assessment of family relationships and a prognostic assessment regarding the recoverability of sufficiently adequate parental capacity of the adult involved in the criminal proceedings. The assessment may also influence decisions on procedural accommodations made by the judges and prosecutors. This assessment, despite having a clinical component (as it

is usually carried out by the psychologist of the family consultancy), does not have therapeutic objectives but aims to verify whether the maltreating parent can accept the help offered and begin to take responsibility for the damage caused to the child. The assessment of the child victim aims to define the psychological state of the child and it is implemented on three levels: 1) assessment of the child's conditions; 2) evaluation of the affective context of reference; 3) evaluation of the social and family context. At the end of this evaluation, the social service will prepare a treatment path for the child and the family. In case of a positive prognosis, the treatment will include both interventions aimed at the child (including psychological support, intra-family foster care, etc.), and interventions aimed at the parents (among which, parental support counselling and various types of welfare and social support). This in order to allow on the one hand, the processing of the trauma suffered by the child and on the other the repair of family relationships. In case of a negative prognosis, the treatment will aim to encourage the replacement of parental references, also activating a process for recovering from the loss.

In addition to social services, numerous NGO work in the Italian territory for the support of children victims of crime as the following: CAF (Centro Aiuto Minori e Famiglie), Dalla Parte dei Minori, Prometeo Association, etc. [42] Some efforts in order to implement effective models have been done in few cases. For instance, Defence for Children Italia in cooperation with the Department of Juvenil Justice and the Ministry of Justice are working on a project for the application of Barnahus model in Italy. Some experimentations regarded also the MARAC model: for instance, the significant number of women victims of violence recorded in the Trentino area has led the Autonomous Province of Trento to carry out in-depth studies, including legal ones, to make support interventions appropriate in order to verify the applicability in Italy of the MARAC experience.

Responsible authority

Assistance services are provided and administered by the Municipalities, according to the Italian Constitution. In particular, individual municipalities are responsible for planning and implementing local social services, providing economic subsidies and controlling their quality. In large municipalities, social assistance is managed in an associated manner, through the creation of agreements or consortia between municipalities, mountain communities and local health authorities. Legislative competence regarding social services lies with the regions, based on art. 117 of the Italian Constitution, in compliance with the determination by the State of the essential levels of benefits.

[42] https://www.associazionecaf.org/; https://www.associazioneprometeo.org/; https://www.dallapartedeiminoriodv.it/chi-siamo (consulted 11 June 2024)

03.4 Trainings for professionals

Training for professionals on vulnerable victims

Not all justice workers receive adequate training. Starting from the judiciary, the Italian Higher School of Judiciary provides training for both prosecutors and judges in order to deal with delicate trials involving vulnerable victims. It should be noted on this point that, since its establishment (which took place in 2012), the School has paid particular attention to this type of proceedings, dedicating numerous courses on closely related topics (such as that of gender-based violence, sexual crimes, hate crimes etc.) of the so-called permanent training, dedicated to the periodic updating of judges. This kind of training is also foreseen for judges at the beginning of their career and in some cases they are compulsory. It is worth mentioning, for example, the course called “the right of vulnerable subjects”, organised by the Higher School of Judiciary in the year 2021: the course aimed to improve the methods of ensuring due coordination between the various authorities (Public Prosecutors, criminal judges, civil, juvenile and voluntary jurisdiction), ensuring the necessary preparation of judges in dealing with “vulnerable victims”. Particular attention is reserved to the training of the Prosecutor's Offices: in the majority of the Italian Prosecutor's Offices the “Pool for Vulnerable Groups” (in italian: *Pool Fasce Deboli*) has been established, composed of a group of specialised prosecutors, chosen for their aptitude and experience, that mainly deal with crimes of violence against women, children and vulnerable people. Training is also provided to judicial police personnel, in order to create an integrated system of operational activities aimed at strengthening the protection of women, children and other vulnerable victims. In this regard, the art. 5 of the law of 19 July 2019, n. 69 (so-called “Code Red”) provided for the activation, by the training institutes of the various police forces, of specific mandatory courses for the personnel of the State Police, the Carabinieri and the Penitentiary Police. For example, in December 2023, an advanced training course on domestic and gender violence and against vulnerable victims was organised by the Prefecture and the Public Prosecutor's Office of Benevento. Interviews to professionals, including consultants working in cooperation with the judiciary and the police, confirmed the efficacy of training for these professionals.[43] There is no statistical data at the moment regarding the quantity and effectiveness of

[43] Most of the interviewees (especially consultants working in cooperation with the judiciary and the police) confirmed the adequate training of these subjects. In particular, a psychologist (man) and psychotherapist with 21 years of experience interviewed reported that she had often been appointed as an auxiliary of the Judicial Police, an expert or technical consultant and, on the training of legal practitioners, she said: "In my experience I have always met competent and properly trained people. Judicial police and magistrates, even if they are not psychologists, are very attentive to the protection of the child, showing a particular sensitivity towards them". Two lawyers (a man with 16 years of experience and a woman with 15 years of experience) said they were not satisfied with the training of magistrates. A public prosecutor (man) with 6 years of experience argued that "The training of specialized personnel, who combines legal and procedural knowledge with the sensitivity and essential knowledge for listening, can certainly be included among the good practices that would allow us to offer a better judicial experience to children with disabilities.".

training courses on victims in a vulnerable situation, and such research is out of the scope of this report.

The training of lawyers is different. Lawyers have the obligation to ensure the continuous and constant updating of their professional competence, to ensure the quality of professional services and to contribute to the best practice of the profession in the interests of clients and of the administration of justice. The updating activity is carried out by attending courses, seminars and conferences (e.g. meetings on jurisprudence reviews or presentation of legislative innovations; seminars on regulatory updates; round tables on legal topics or cases). However, the principle of freedom of training applies: the lawyer has the right to freely choose the area of training activities and this does not affect their possibility to support clients in other legal areas. Consequently, as emerged during the interviews, it is not certain that a lawyer dealing with a vulnerable victim is adequately prepared, because it may happen that they have chosen to train on other areas.[44] This marks an important difference between the training of the lawyer of a child victim and the training of the lawyer of a child accused: the public lawyer of a child accused (appointed in the absence of a personally selected lawyer) is selected from among those registered in a specific list. In order to be included in the list, it is necessary a specific preparation in juvenile law, acquired by attending training courses on juvenile law and developmental age issues.

Related to training of professionals working on victimisation and specifically on cases of violence against women, it is worth mentioning the recent law of 24 November 2023, n. 168 – which has stated “provisions to combat violence against women and domestic violence providing an adequate and homogeneous training for operators that come into contact with women victims of violence. In particular, the art. 6 of the law - entitled "Training initiatives to combat violence against women and domestic violence" - provides that: "In accordance with the objectives of the Convention of the Council of Europe on preventing and combating violence against women and domestic violence, made in Istanbul on the 11th May 2011, ratified with law 27 June 2013, n. 77, within twelve months from the date of entry into force of this document law, the political authority delegated for equal opportunities, also with the support of the Observatory’s (on Violence against Women and Domestic Violence) [45] technical-scientific committee on the phenomenon of violence against women and on domestic violence, having heard the assembly of the Observatory itself, without prejudice to the provisions regarding the training of police operators from article 5 of law 19 July 2019, n. 69, prepares specific national guidelines in order to provide guidance adequate and homogeneous training of operators who come into contact with women victims of

[44] One of the lawyers interviewed (a man with 26 years of experience) said: "Often colleagues decide to deal with family law just because the judicial cases that affect the domestic environment are, statistically and dramatically, among the most frequent. They may not be experts in the field. We have an obligation of training only on legal subjects but to interface with children and, more generally, with subjects who are in a condition of disability would also require additional skills, perhaps psychological or pedagogical".
[45] https://ovg.giustizia.it/ (consulted 11 June 2024).

violence. In defining training programmatic lines proposed annually by the Minister of Justice to the School Superior of the judiciary, pursuant to article 5, paragraph 2, of legislative decree 30 January 2006, n. 26, initiatives include specific training courses on combating violence against women and domestic violence".

Training of agencies/authorities involved in dealing with children, persons with disabilities and or children with disabilities

Social workers are also subject to the same continuing training obligations as lawyers. These obligations represent for the professional social worker a responsibility towards people and the community, as well as the tool to contribute to realizing and protecting the general interests connected to the exercise of the profession. For the purposes of fulfilling the training obligations, the participation in the following activities is valid: a) attendance of courses, seminars, conventions and conferences; b) structured training activity in the field; c) active training through commitment to processes of theorisation, production of knowledge and skills inherent to the exercise of the profession; d) research activity; e) dissemination activity. However, the same limits that has already emerged in the training of lawyers arise, as the continuous training activities are freely chosen by the social worker professionals.

04

ICT AND AI IN CRIMINAL JUSTICE SYSTEM FOR ACCESSIBILITY AND MULTIDISCIPLINARY COOPERATION

This section describes the application of ICT technologies in the Italian justice systems. Desk research and additional data gathering through interviews allowed to provide in depth information on systems in use in the civil and criminal justice system, on the use of videoconference technology and on the AI pilots developed in Italy that may have an impact on justice procedures for victims of crime.

01 Existing technology in use in Italy

01.1 Technology in use in civil justice by justice professionals, child protection units/professionals and court staff

In the Italian civil justice, with the introduction of the Civil Trial Online (P*rocesso Civile Telematico, PCT* in Italian), the procedural file is now almost entirely dematerialised. The process of gradual increase in electronic filings over time has been significantly accelerated by the expansion of the mandatory regime during the Covid-19 emergency. At the moment, all the actors involved in civil proceedings (lawyers, court staff, judges), [46] must manage all the electronic files and documents of the civil proceeding electronically. [47] This affects all types of civil procedures including administrative and tax related proceedings. With the introduction of PCT, all the official documents and acts of proceedings both those produced by the parties and those produced by court staff or judges, are drafted, signed, preserved and archived, for their extraction and consultation, in digital format. They are also transmitted by the parties to the judicial office, and from the judicial office to the other administrations and vice versa, through electronic flows. Also notifications between parties of the proceedings are transmitted digitally. The PCT therefore did not foresaw a radical change in the traditional civil procedures but the digitalisation of all documental flows and procedures.

The introduction of PCT was supported by the draft and approval of normative amendments with the aim of legitimizing the use of the digital means for all the stages of civil procedure. The decree of the President of the Republic of 13 February 2011, n. 123 regulated the use of IT tools in civil trials, in administrative trials and in trials before

[46] The PCT system can be utilized only by lawyers, court staff, judges. For the accessibility of justice electronic systems by other actors as children or holder of parental responsibility see later in this section.
[47] During COVID-19 emergency the massive use of the PCT and IT systems was made necessary by the reduced accessibility of judicial offices due to the various emergency plans adopted by the Italian government. D''Alessandro, E. (2020). Il giudizio civile "telematico" di legittimità ai tempi del covid-19. *GIUSTIZIA INSIEME*, 1-12. Dalmotto, E. (2020). La fine anticipata della seconda fase e la ripresa dei processi dopo il COVID-19. *IL CASO*, *27*(27giugno 2020), 1-15.

the Court of Auditors, admitting the drafting, communication and notification of judicial documents electronically, through the IT system.

After an initial experimental pilot tested in some courts, the Law Decree of 18 October 2012, n. 179 and the Law Decree of 24 June 2014, n. 90 [48] introduced the obligation to electronically file civil trial documents. This contributed to the implementation of courts' electronic registries that receive, manage and store electronic files and to the complete dematerialisation of paper-based files in the civil justice. Additionally, the paragraph 1-bis of the art. 16-bis, introduced by the Law Decree of 27 June 2015, n. 83 extended from 30 June 2015 the obligation to electronically file official documents related to the trial also in proceedings before the courts of appeal.

The decree of the Ministry of Justice of 21 February 2011 n. 44 stated the technical regulations for the technologies used in electronic civil trials, delegating the indication of the technical specifications to the Ministry of justice's agency DGSIA (*Direzione generale per i sistemi informativi automatizzati*; General Directorate for Automated Information Systems).

The core of civil trial online are the court's civil registries, i.e. Case Management Systems (CMS), which receive the deposits of internal and external authorised subjects, manage the communications/notifications of the registry and constitute the documentary repository for each electronic file of each procedure. The registries are called SICID (for civil, labour and voluntary jurisdiction trials) and SIECIC (for securities and real estate enforcement, pre-bankruptcy and bankruptcy trials) and they constitute the indispensable fulcrum of the electronic civil procedure.

Through SICID or SIECIC systems, court staff receives the party documents, issues copies of the trial documents, manages documents filed to the registrar, monitors the activities of the trial, draws up the minutes of the hearings, sends communications and notifications. Additionally, court staff has the task of filing the case file into the registrar database by populating the information requested by the system.

The Italian CMS for civil trials allows the connection to the system from the external both for users within the justice system i.e. judges, and for external users, as lawyers, with different functionalities for each type of user. A limited part of information deriving from the data stored by the CMS is also available to citizens. [49]

Judges are connected to the Italian system for the electronic management of civil cases through the judges' consolle (in Italian "*Consolle del Magistrato*"). The consolle allows judges to have direct access to the electronic registrar storing the computer files of each judicial proceeding. The judge's consolle is a Java application and is the only

[48] The art. 16 bis of the Law Decree 179/2012 amended by Law Decree 90/2014 provided for the obligation to electronically file the following documents in civil proceedings or related to cases of voluntary jurisdiction: a) all procedural documents and documents coming from the lawyers previously appointed in the case (with the exception therefore of the introductory documents of the case); b) the acts and documents of the technical consultant of the case; c) the acts and documents related to insolvency proceedings; d) the acts and documents related to enforcement procedures; e) all documents related to order for payments.

[49] Judicial offices, Access points, Public consultation of registers, Public consultation of Supreme Court registers, Justices of the Peace online services, Insolvency proceedings portal, E-learning platform, Court fee settlement portal.

program that allows judges and their assistants to manage the Telematic Civil Trial (PCT). Through this system, the judge, on the one hand, has a vision of his entire case file and of the information and data of each procedure present in the registers, on the other, the judge has the possibility of drawing up, via MS Windows Word, decisions, to sign them digitally and to send them to the registrar for their publication in the electronic file. Additionally, with the console the judge can carry out jurisprudential research and examine the files viewed by other judges. Jurisprudential research include case-law of the Italian Court of Cassation and CEDU sentences through the Italgiure services. [50] The drafting of the provisions is facilitated by the possibility of preparing and using templates of provisions which, through the insertion of the so-called placeholders or phrasebooks, exploit the data present in the registers for their compilation. In some courts, PCT system allows for the automatic assignment of new cases according to pre-set criteria and to the distribution of the workload. The automatic assignment method has increased in the last three years, involving mainly small and medium-small courts, but also some virtuous large metropolitan courts, as well as some courts of appeal, in particular for civil and labour sectors, but with an increase also for voluntary jurisdiction.

The judges' consolle for PCT can be accessed also by other actors as judges' assistants, when authorised, by Honorary Judges (in Italian, *Giudici Onorari di Tribunale - GOT*)[51] and prosecutors. Honorary Judge may use PCT consolle in order to manage their own cases or temporarily replace a professional judge (in hearings, weekday sections or for any other reason). Prosecutors may have access to PCT consolle for all the functionalities related to actions and interventions of the Public Prosecutor in civil proceedings, with particular reference to Voluntary Jurisdiction and corporate and bankruptcy matters and activities related to the matter of Civil Status pursuant to Presidential Decree 3 November 2000 n. 369 (in particular the drafting of judicial rectification appeals).

The Italian legal professionals' access to PCT is allowed through two main elements: the Access Point (in italian: *Punto di Accesso –PdA*) and the Lawyers' Consolle

[50]The Italgiure services are available at the following link, last consulted on 11 June 2024: https://www.italgiure.giustizia.it/

[51] Within the Italian ordinary jurisdiction, a distinction is made between "professional" judges (who exercise traditional judicial functions and are hired on a permanent basis following a public competition) and "honorary" judges, that is "non professionals". The Constitution regulates the non-professional judiciary in art. 102, which, in the second paragraph, establishes that suitable citizens outside the judiciary can be called to be part of the specialized sections established for certain matters in the ordinary judicial bodies, and, in the third paragraph, reserves the regulation of cases and procedures for direct participation of citizens in the administration of justice; the art. 106, second paragraph, in turn, establishes that the law on the judicial system can allow the appointment, even elective, of honorary judges for all the functions attributed to individual judges. The objectives pursued are different: in the case of citizens called to be part of the specialized sections, the ultimate aim is to support professional judges with citizens capable of providing the contribution of technical knowledge or particular life experiences, when this is useful for a more effective application of the law; in the case governed by the second paragraph, the aim is to provide a qualitative and, above all, quantitative contribution to the definition of proceedings by non-professional judges and not permanently assigned to the judicial function. Honorary judges can simultaneously carry out other professional activities. Examples of honorary judges are: the honorary justice of the peace (in Italian: *Giudice onorario di Pace*) with competence in the civil sector and in the criminal sector, respectively on cases of reduced value or for crimes of reduced gravity; the honorary court judge (in Italian: *Giudice Onorario di Tribunale - GOT*), with jurisdiction in civil and criminal matters in all cases in which jurisdiction is monocratic, except for crimes for which a preliminary hearing is foreseen, or of a single judge according to the rules of the procedural codes; the honorary deputy prosecutor (in italian: *Vice-procuratore Onorario – VPO*), who represents the public prosecutor's office in all criminal cases under the jurisdiction of the ordinary court in monocratic composition, and of the justice of the peace, as well as in civil cases in which the law requires his presence.

(*Consolle dell'Avvocato*), in addition to the required certified e-mail and qualified digital signature. The Point of Access (PdA) allows users to access Courts' data at national level. PdA is a critical component of the infrastructure since it authorises the access to official (and protected) data of Italian Courts' internal system. Certification and periodic audit activities by the Ministry of Justice are performed on this component. This is to ensure proper security measures about access to the data. The platform is continuously undergoing improving development and maintenance, due to requests from customers and regulatory changes and amendments.

The Lawyer's Consolle represents the main tool for all stakeholders in the legal sector and in particular for lawyers. It is basically a software based on the main code provided by the Ministry of Justice that has been designed by authorised providers. Lawyer's Consolle provides the following functionalities: 1) Identity provider with strong authentication; 2) Automated (paper-free) legally valid deposit of judicial documents and files; 3) Real -Time enquire on PCT; 4) Digital signature on data and documents; 5) Frontend to insert and modify data; 6) Dossier completion and punctual verification. The Consolle may be used in a stand-alone (not connected) mode due to an internal and local database. Consolle profile guarantees the correct visibility of data (both Courts data and external actors data) and strong authentication[52] is required for any operation on external data. All the digital communications from the lawyers' consolle to the courts as the file of judicial documents related to a case, are based on the certified email. The lawyer's consolle is connected to courts through the external certified email manager which communicates with the internal certified email manager located within the Justice Domain, allowing the data flow of deeds and documents from internal authorised subjects (judges, court staff) to external authorised parties (lawyers, consultants) and vice versa. The external access of PCT can be also accessed by Court Consultants (in Italian: *CTU – Consulente Tecnico d'Ufficio*) [53] for filing consultancy related documents.

The external access to information coming from civil sections of the courts is guaranteed to different categories of users by the Italian Portal of Telematic Services (in Italian, *Portale dei Servizi Telematici*). Lawyers can have access to the portal through smart card: this allows them to consult acts and documents and extract copies, as well as checking the status of the proceeding and any updated event. Citizens can also access information without the strong authentication provided by the smart card: in this case, the visibility of the data relating to the names of the parties to the

[52] The strong authentication is based on the national standard used by CNS (Carta Nazionale dei Servizi). It is a frontend for a set of web services supplied by PdA and the system backend. Web services can be used in integration with other systems.

[53] The art. 61 of civil procedure code regulates the means for requesting technical consultancy, providing that, when necessary, the judge may be assisted, for the performance of individual acts or for the entire trial, by one or more consultants with particular technical expertise chosen from among citizens registered in specific registers. The technical consultant is an auxiliary of the judge and assists the judge in resolving technical issues. In this perspective, the technical consultant (so-called "CTU", in Italian *Consulente tecnico d'ufficio*) carries out the investigations requested by the judge and provides the requested clarifications. This activity results in a written report that the consultant must deposit in the judge's registry within the deadline granted by the judge.

proceedings nor of the documents and provisions contained in the electronic file is not permitted.

01.2 Technology in use in criminal justice by criminal justice professionals, child protection units/professionals and court staff to share information about what has been done in the case

The Covid-19 emergency and the need to accelerate the digitalisation of criminal procedures, contributed to the immediate implementation and application of the different components of the electronic criminal trial, as the criminal trial portal that allows the access to different functions and information related to proceedings to the public, both lawyers and citizens.

The PPT (Criminal Trial Online – in Italian Processo Penale Telematico) implementation and progressive adoption took advantage of the experience acquired so far with the electronic civil trial. However, the digitalised criminal trial is characterised by structural differences with the civil system and pose new problems and issues as: 1) the presence in the criminal trial of a public party (the Public Prosecutor) who gives impetus to the proceedings through investigations; 2) the destination of a series of acts and measures to subjects external to the proceedings (as the judicial police); 3) the need to bring the documents of the proceedings to the attention of subjects to whom these documents must necessarily be delivered or exhibited on a material support (e.g. precautionary custody order, seizure decree).

A recent decree of the Ministry of Justice of 29 December 2023, n. 217 modified the decree of the Ministry of Justice of 21 February 2011 n. 44 and established the technical rules for the filing, communication and notification of deeds and documents electronically, as well as the consultation and management of computer files in criminal proceedings. For example, the decree introduced and regulated two portals: the electronic filing portal and the crime news portal; the first allows the electronic transmission by authorised external parties of the documents of the proceedings; the second allows the electronic transmission by judicial police personnel and any other subject obliged to do so of provisions and documents on a secure channel protected by an encryption mechanism, in order to ensure the identification of the author of the access and the traceability of the related activities.

The core of the Italian Criminal Trial Online is the case management system in use in the judicial offices called SICP (in Italian, *Sistema Informativo della Cognizione Penale*). The system allows to manage all stages of the proceedings and of the trial at all the different levels of the judgment up until the Court of Appeal. SICP also includes an advanced system for automatic assignment of files upon registration with the Prosecutor's Office. It also constitutes the database from which criminal statistics are extracted.

Recent developments have also integrated the register with some documentary profiles, allowing for the file of definitive measures (sentences and dismissals) or other documents as precautionary orders and validations of arrest and detention in PDF format.

The SICP presents some significant critical issues which risk compromising the reliability of the data contained in the register. In particular:

- Structural defects: the complexity of the criminal procedural system (with an articulation into multiple special rites and with the coexistence of the so-called double track between ordinary proceedings and proceedings under the jurisdiction of the District Anti-Mafia Directorate) is not always correctly reproduced in the register which requires continuous integrations and evolutions.
- Slowness in adapting to legislative changes, which necessarily requires resorting to “creative” expedients by the Court Staff.

The connection with the CMS is guaranteed to internal users, as judges by the “Consolle”. The “criminal” consolle is still very far from that used by the civil judges. It essentially constitutes a proceeding’s acts consultation tool. In fact, it allows to: visualise the cases of the prosecutor (or the judge); assign priorities to the files under discussion; set deadlines and warnings on files; manage an agenda of commitments with related warnings.

The system also includes: an automatic register of seized assets, the schedule of personal precautionary measures, it monitors the progress of the hearings of the assigned cases and allows real-time consultation of all the main statistics (of the individual judge or of the entire office depending on the visibility allowed during configuration).

Recent implementations of the Consolle of the Public Prosecutor have also included new functions related to the possibility of having access to the sentences issued by the Court of First Instance and monitoring the deadlines for appeals. These functionalities are also extended to the General Prosecutor's Office which can apply electronic approvals to transmitted sentences.

Judges’ consolle also presents critical issues that greatly reduce its practical usefulness as the partial interoperability with SICP that requires the duplication of the same intervention on cases’ files on the two different applications.

Judges’ consolle is also integrated with some functional applications. For instance, Atti e Documenti 2.0 (in English: deeds and documents) is the document editor subsystem of SICP that also allows the search for documents and procedures in the document platform and related consultation, the drafting of documents and the possibility of sharing them, to sign documents digitally, and the management of external documents. Another example is Document@ that allows the management of the electronic document, the digitalisation of the Public Prosecutor's file and, in the future, of the trial

file. It also manages the system for issuing paper copies to lawyers with an automatic calculation system for the fees to be paid. Document@ is also equipped with a service for digital notification. The service uses a certified email inbox dedicated to each judicial office, which allows the acquisition of electronic documents, consultation and sharing of the same, digital signature, management, sending, monitoring and recording of notifications. GIADA2 is another application integrated into the Consolle that supports and automates the assignments of the first hearing (collegial and monocratic) to the criminal sections of the Court. The distribution of the first hearing is carried out through an algorithm that calculates the weight of the individual trials and determines the hearing date in real time using the data present in SICP. The application can be adapted to the needs of the different offices that can independently decide the parameters that contribute to forming the weight classes influencing the distribution of the files. Another application is “Calendar” that was created to ensure a fair distribution of Prosecutor's activities and services among judges. For this purpose, a scheduling algorithm was designed and implemented, i.e. a tool capable of calculating the workload and distributing it correctly within a defined time period, on the basis of a set of parameters.

The connection with the CMS (SICP) is also available to the Police[54] through the NDR portal (in Italian: *Portale delle Notizie di Reato*). The portal allows the electronic transmission on a secure channel protected by an encryption mechanism by judicial police personnel and any other person required by law to transmit acts and documents of a crime. The portal also allows the judicial police to access the SICP to make “preliminary annotations” on the computer register of the Prosecutor's Office, annotations which can be modified and are not binding for the prosecuting office, but which reduce the timing of data entry by court staff. The use of NDR significantly speeds up registrations and, on the Prosecutor's Office side, provides immediate feedback on the number of proceedings and the judges in charge of them. To make the application even more efficient, however, it appears necessary a direct connection with the SDI (in Italian: *Sistema di Indagine*)[55] database in use by the police forces in order to allow the police to make a single data entry (currently replicated in SDI and in the portal).

[54] Italian legal system distinguishes between administrative police and judicial police; the first deals with compliance with the law and protects public order and communities’ safety; the second must take notice of the crimes, prevent them from leading to further consequences, search for the perpetrators, carry out the necessary actions to ensure the sources of evidence. At each Public Prosecutor's Office there are judicial police sections, including various bodies of the Italian police forces, and judicial police services available to the Italian judicial authority for investigative activities. Police forces are distinguished according to whether they are a civil or a military police force. The State Police (dependent on the Ministry of the Interior) which manages public order and security and the Penitentiary Police (dependent on the Ministry of Justice) which manages prisons are civilian police forces. The Carabinieri (dependent on the Ministry of Defence) which deals with maintaining public order and security and the Guardia di Finanza (dependent on the Ministry of Economy and Finance) which deals with prevention and repression of currency, financial and tax crimes are military bodies.

[55] This is a database based on the memorization of the event entered: from this insertion derive, automatically and logically, the connections with the subjects involved in it, with the objects that concern them (for example, weapons, cars, documents or other assets), with the complaints and measures that derive from them (for example e.g., pre-precautionary or security measures) as well as with any other useful report to identify the characteristics of the interested parties (e.g., dangerousness, nicknames, accommodation and passports used, checks to which they have been subjected).

The Italian PPT (Criminal Trial Online, in Italian *Processo Penale Telematico*) also allows the access to external users as lawyers or generic citizens. This is possible due to the implementation of the Telematic Services Portal of the Ministry of Justice (in Italian: *Portale dei Servizi Telematici del Ministero della Giustizia*). The portal, in testing phase at the beginning of 2020, was immediately put into operation due to the COVID-19 emergency. Through access to the Telematic Services Portal of the Ministry of Justice, multiple telematic services are available: some in the public area (available to all citizens without the need for user authentication); others in a reserved area (accessed with computer authentication). Public area services concern, for example, access to information on judicial offices or consultation of public registers; the reserved area services concern, among others, access to the Online Criminal Trial Portal, mainly utilised by lawyers and the Digital Interception Archive (in italian: *Archivio Digitale Intercettazioni*). [56] Among the documents that can be filed in the online criminal trial portal, the following should be noted: recusal of the judge; request for transmission of documents to a different public prosecutor; appointment of the trusted defence lawyer or the deputy defence lawyer; non-acceptance or revocation of the lawyer; request for the release of copies, extracts and certificates; written pleadings and requests; special power of attorney; appointment of the party's technical consultant; application for admission to free legal aid, etc.

Other systems are utilised by different offices involved in the criminal justice system as the following.

SIPPI (in Italian, *Sistema Informativo Prefetture e Procure*) is a data management system for precautionary measures. Born as a data collection application, it has evolved over time to become a true "general register" of precautionary measures. The system had intrinsic limitations consisting of poor interoperability, failure to manage the flow of information with judicial administrators and the absence of a document manager.

SIES (in Italian, *Sistema Integrato Esecuzione Sorveglianza*) manages the criminal execution registers of both the Prosecutor's Office and the Execution Judge. Also in this case, it is a stand-alone application that does not communicate with the other systems of the electronic criminal process.

SIUS is the information system of the surveillance courts. It allows full and immediate management of the enforcement order and events related to the execution of the sentence. The application then makes all the provisions issued by the various offices available through the system. The advantages of the application are partly frustrated by its limited use by judicial offices.

[56] Child protection authorities do not have a direct connection with the justice system CMS. There is no interoperability between these two areas. All the users other than the ones authorized as lawyers, can gather limited information and data only through public channel of the PST. For what regards accessibility of these online services, law 4 of 9 January 2004, n. 4, called "Legge Stanca", makes mandatory for all public administration websites to support the access and use of assisted technologies dedicated to people with disabilities on websites managed by public entities. or private individuals who provide public services (see Section 4.1.5).

SIGMA (*Sistema informativo Giustizia Minorile Automatizzato*) is the information system used by juvenile justice courts. It is a rigid application, absolutely inadequate as a file management computer system, as it is a mere repository equipped with manual indexing. Furthermore, it does not allow the flow from the prosecuting and judging offices. The migration of juvenile systems towards new, more performing applications is therefore absolutely necessary.

01.3 Use of Videotechnology in Civil and Criminal Justice

In Italy videoconferencing technologies are utilised in multiple cases as the ones requiring the hearing of vulnerable or intimidated witnesses, the hearings of experts or defendants. Videoconferencing technologies may imply the use of commercial services as Skype or Microsoft Teams or more complex systems that use a separate facility (e.g., the room where a witness is located) or other methods (e.g., mobile or portable equipment or a studio).

The use of audio-visual technology for hearings and auditions of defendants, witnesses and victims of crime [57] began in the 1990s in the wake of the major mafia trials. The article 147-bis of implementing rules of the criminal procedure code (in Italian: norme di attuazione al codice di procedura penale) introduced the use of video technology systems for the remote examination of justice collaborators. Additionally, in 1998, with the art. 146-bis of implementing rules of the criminal procedure code, for the first time, the remote participation of the accused detained was allowed. The introduction and then expansion of this new participatory method aimed to guarantee either greater efficiency in the mafia maxi-trials, characterised by cumbersome investigations, and defence faculties for the dozens of defendants who took part in them. The legislative decree of 18 October 2001, n. 374, converted into law of 5 December 2001, n. 438, overturned the logic in force until then, which had considered virtual presence an exception, and consecrated its ordinariness, no longer only towards those accused of one of the crimes referred to in the art. 51, paragraph 3-bis of the criminal procedure code (the law refers to organised crimes), but also for one of those committed pursuant to art. 407, paragraph 2, letter a), number 4 (as for instance: crimes committed with the aim of terrorism or subversion of the constitutional order; reconstitution of associations aimed at violently subverting the economic or social orders established in the State or at violently suppressing the political and legal order of the State), or in relation to international terrorism crimes.

The regulatory evolution then continued in 2001 with the law of 5 October 2001, n. 367 of ratification and execution of the Agreement between Italy and Switzerland and art. 205-ter of implementing rules of the criminal procedure code that has included the

[57] On the basis of law 4 of 9 January 2004, n. 4, called "Legge Stanca", it is mandatory for all public administration services including videoconferencing to be compatible with AAC technologies.

hypothesis of remote participation of the prisoner abroad, as well as the remote examination of the witness and the expert.

The most structural contributions on the subject were due to the issuing of the law of 23 June 2017, n. 103. The main changes involved the virtual participation of defendants at liberty for a set of specific accusations. The mentioned law also intervened on the articles 45-bis and 134-bis of implementing rules of the criminal procedure code (introduced respectively by art. 1 of law of 7 January 1998, n. 11 and art. 14 of Law Decree of 24 November 2001, n. 341) which provide for remote participation also to proceedings in council chambers and to simplified proceedings (in Italian “giudizio abbreviato”, when this takes place in a public hearing).

With the COVID-19 pandemic the use of videoconferencing both in criminal and civil proceedings, has been reinforced. Law of 27 September 2021, n. 134 (so-called “Cartabia Reform”) delegated the Government to identify the cases in which, with the consent of the parties, participation in the proceedings or in the hearing can take place remotely. As a result of the “Cartabia Reform”, and in particular with the introduction of art. 8 of the legislative decree of 10 October 2022, n. 150 (issued by the Government in implementation of the criteria and directive principles established by the law of 27 September 2021, n. 134), remote participation was regulated through the introduction of a specific title, included in book II of the code of criminal procedure, namely title II-bis, precisely entitled "Remote participation" which regulates the methods and guarantees of remote participation.

For what regards the specific topic of the audition of victims in a vulnerable situation (as children with disabilities), the modalities and the actors that decide for the use of these technologies are described in section 3.1.2.1. For instance, for children the video connection can be placed in specialised care facilities or even at the child's home. If heard in the specialised care facility, the child is examined in a room equipped with a one-way mirror, with a video recording system and an internal intercom.

01.4 AI projects in civil and criminal justice that may improve victims’ access to justice

In Italy, above all thanks to the collaboration of courts and research centres, there are several examples of AI pilots that are testing the application of these technologies in the civil and criminal justice.

- The Court of Florence has programmed, as part of an initiative in cooperation with the Metropolitan City of Florence, the Chamber of Commerce of Florence and the “Cassa di Risparmio” Foundation, the implementation of a predictive justice algorithm analysing civil cases’ opportunities for mediation. This project may not have direct implication for victims in the criminal justice, but may involve

civil procedures regarding family status and compensation that are related to victims' procedures.

- The Bari Court of Appeal started a project, called "Praedicta", involving a working group including judges from the various offices and sectors throughout the territory (civil, criminal, juvenile, labour), coordinated by the President of the section and in agreement with the University of Bari, aimed precisely at developing ideas on the possible applications of predictive justice in the Court of Appeal district, also through the creation of databases and the development of algorithms. The potential development and use of the system in criminal justice may improve the performances of justice systems thus having a positive effects also for victims (and children with disabilities accessing the justice system).

- The Court of Appeal of Reggio Calabria started the "IustitIA" Project, in partnership with the Mediterranean University and the Dante Alighieri University for Foreigners, both from Reggio Calabria, with the main objectives of reducing litigation and processing times. The IustitIA Project, through the use of new technologies, and, in particular, Artificial Intelligence, aims to raise the level of performance of the judicial system, also focusing on training and research. This may have a positive effect for access to justice of victims.

- The Court of Appeal of Venice in collaboration with the Ca' Foscari University of Venice promoted a project aimed at creating an artificial intelligence device capable of providing a probabilistic prediction of the outcome of a trial, by analysing a three-year case-law database. The area of application is labour law. Law experts in cooperation with AI engineers from the Deloitte Company, have built a definitional grid in which to place all the sentences considered and have "instructed" the algorithm to: a) anonymise the sentences through specific filters; b) recognise the factual elements and the corresponding legal qualifications on the basis of cognitive maps built on case-law collected. The system developed is able to read a question in discursive form and to provide a probabilistic answer of the outcome of a trial based on case-law. The software also indicates all cases of rejection/acceptance of appeals in identical or similar cases. This project is applied in a justice field that is not of interest of Link project. However, the experimentation of predictive justice may provide results and data that can be applied to other justice areas as criminal justice.

- "Predictive Justice" is a pilot project of the Scuola Superiore S.Anna involving the Courts of Pisa and Genoa. The project focuses on three main aspects related to the application of AI in justice: a) anonymisation for Legal Analytics that aims to facilitate the use and reuse of data of jurisprudential or medico-legal origin by developing anonymisation or pseudonymisation protocols and tools; b) development of a case-law database automatically annotated and

semantically enriched by creating innovative jurisprudence archives capable of identifying the types of sentences within the decision; c) predictive or forecasting model(s) for justice. Through the analysis carried out by artificial intelligence, the system is able to reconstruct orientations, common trends and practices of jurisprudence thanks to a semantically enriched access mechanism to jurisprudential data together with the explanation of legal reasoning. The aim of the project is to reduce litigation and litigation times and the facilitation of solutions agreed between the parties for the resolution of disputes. The anonymisation system can be of great use in procedures involving vulnerable groups such as children victims of crime. Furthermore, the development of a predictive justice system can have a positive effect on the performance of the justice system and improve victims' access to justice.

- A predictive justice project of the Court of Appeal of Brescia in cooperation with the Court of Brescia and the University of Brescia aims to provide users and lawyers with two fundamental data: the foreseeable duration of a proceeding on a given matter and the orientations existing in the various offices starting from the first instance Court and the Court of Appeal of Brescia. The project also worked on the simplification of legal language. The areas of application of the system are the following: business court (corporate, industrial), tenders, banking contracts, dismissals, accidents at work. The system for the simplification of legal language can be of considerable importance for improving access to justice for citizens and victims, in particular through the dissemination of more inclusive legal information.

- Giove is a new predictive system for police operation that the Italian Ministry of the Interior would like to provide to police stations throughout Italy. The software would be able to indicate where and when certain types of crime are likely to occur, based on past data, so as to prevent crimes with the greatest social impact. Technically, Giove is described as a software based on an artificial intelligence algorithm, which uses law enforcement databases relating to crimes, to try to predict where and when similar crimes might occur again. The system can help to improve the safety of citizens, limit the spread of crime and support the prevention of victimisation.

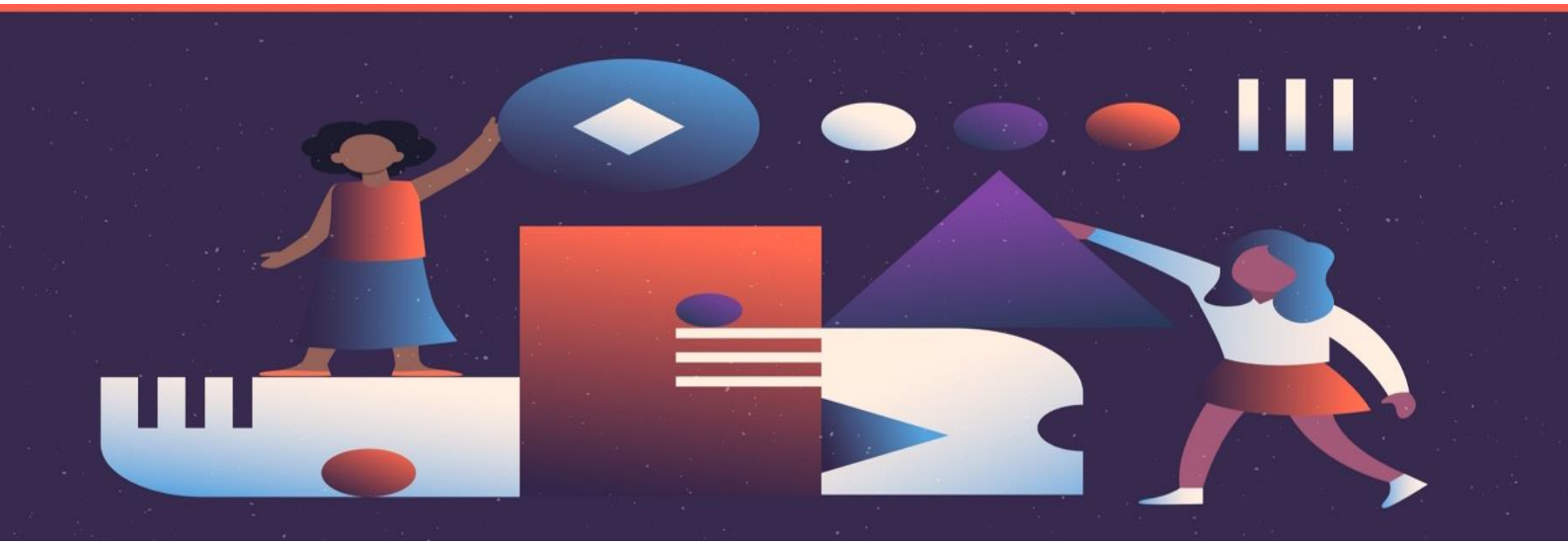
- Even though Meta-Just, is not an AI based project, it is worth mentioning for the aims of LINK project. Meta-Just is a project (going from 1/12/2023 to 1/12/2025) that sees the cooperation of University of Salento (Lecce, Italy), ISASI-CNR and POLIBA (Bari polytechnic university). MetaJust carries out various research activities aimed at exploring a) the different legal and ethical aspects related to the use of the Metaverse by citizens, b) the potential opportunities offered by this new technology to improve access to justice, enhance the basic judicial services and support judicial professionals' training. A final activity of the project, which considerably interests Link's objectives, regards the implementation of an

IVR-based (Immersive Virtual Reality) system that reproduces a courtroom, its application to legal clinics and the analysis of Metaverse as an alternative place of justice and as a training tool for legal professionals. The project can therefore provide solutions that can be used as procedural accommodations, for example by allowing vulnerable groups to participate in hearings or other phases of the trial in a protected setting, thus limiting situations of secondary and repeated victimisation.

01.5 Technical accessibility for persons with disabilities

The accessibility of the IT systems in use in the Italian judicial system is guaranteed and regulated by law 9 January 2004, n. 4, containing "Provisions to facilitate the access of people with disabilities to IT tools". The legislation makes it mandatory for public entities or private individuals who provide public services to allow the access and use of assisted technologies on websites and software to people with disabilities.

In the justice sector, the DGSIA (*Direzione generale per i sistemi informativi automatizzati*; General Directorate for Automated Information Systems) provides useful information and regulatory references, based on the laws currently available on the subject to public entities, such as the Ministry of Justice and courts for the implementation of IT services and accessible websites. According to the legislation, accessibility is understood as the ability of IT systems including websites and mobile applications, in the forms and within the limits permitted by technological knowledge, to provide services and provide usable information, without discrimination, also by those who, due to disabilities, require assistive technologies or particular configurations. Particular attention is given to some critical pages, for example those that contain data tables, forms, clickable maps, images with information content, facsimiles of forms or diagrams, Adobe PDF documents, Microsoft Excel documents. In addition, the Agency for Digital Italy: a) monitors the implementation of the law; carries out periodic monitoring of the compliance of websites and mobile applications in terms of accessibility, also making use of the Higher Institute of Communications and Information Technologies (ISCOM).



05

PRACTICAL FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM

Results of the Qualitative Study

01 Individual assessment and referral

Individual assessment of barriers and needs – implementation of Articles 22-24 of the VRD

Article 22 of Directive 29/2012 introduces the need to establish promptly an individual assessment of the victim, in order to identify their specific needs during the criminal proceeding. D.Lsg 212/2015, with the introduction of the new art. 90-quater of the ccp (codice procedura penale, procedural code in English), defined the position of offended person, who might have special protection needs. In order to assess such needs, certain characteristics of the victim and the crime are analysed, such as the age of the victim, the psychological status of the offended person, whether the victim has disabilities, and the type of crime committed. [58]

Additionally, it should be considered whether the victim is dependent on the perpetrator of the crime from an emotional, psychological and economic point of view.

In relationship to the norm some considerations are worth mentioning. The first one concerns the fact that there is no precise definition of victim with special protection needs: art. 90 quarter of the criminal procedure code does not set a notion, but merely establishes the criteria above mentioned. These criteria, if on the one hand are an adaptation to some of the indications provided by art. 22 of the Directive, on the other hand they are limited and exclude other cases of fragility and vulnerability not expressly established. The second consideration concerns the practical formalities and procedures to be used to assess particular vulnerabilities. On this point, art. 90 quarter of the criminal procedure code does not indicate a clear procedure and leaves the judgement to the discretion of the judicial policy, the public prosecutor and the judge. This normative void may increase conflicts between agents of opposing interests, particularly between subjects involved in the legal trial, interested in highlighting the particular vulnerability of the offended person and the defence of the person suspected or accused in the criminal proceeding. Furthermore, this regulatory gap is worrying especially in light of the importance that the evaluation of the victim's condition of particular vulnerability assumes in the context of criminal proceedings: the victim who finds himself in this case is entitled to additional rights, guarantees, options and possibilities that are not provided for generic victims.

Art. 23 of Directive 29/2012 prescribes that during the trial, the treatment of victims with particular needs and vulnerability must proceed with caution and protection particularly as regards their hearings. On this point we can observe that:

[58] In particular, regarding the crime committed, the condition of victim with special protection needs is assessed by considering whether the act was committed: a) with violence against the offended person; b) with racial hatred; c) with discriminatory motivation; d) in the field of organised criminal activity; e) in the field of organised terrorist activity; f) in the field of activity of organisations involved in human trafficking.

- Art. 134, paragraph 4, of the criminal procedure code, allowed, even outside of the cases of absolute indispensability, the audio-visual reproduction of the statements of the offended person in a condition of particular vulnerability; the "Cartabia Reform", extending the audio-visual and phonographic reproduction of the procedural documents to all cases in which this is permitted by law, has repealed this rule, which no longer has any reason to exist, as this form of documentation is now the ordinary one;

- Art. 190 bis of the criminal procedure code (as modified by Legislative Decree 212/2015) establishes that, in proceedings for particular crimes[59] when it is requested the examination of a child witness who has already testified in the probative evidence hearing and in the cross-examination hearing, the examination is permitted only if it concerns facts or circumstances different from those covered by the previous declarations or if the judge or some of the parties deem it necessary based on specific needs; this rule applies in all proceedings when the witness examination concerns an injured person in conditions of particular vulnerability.

- Art. 351 of the criminal procedure code (ad modified by Legislative Decree 212/2015) provides that in proceedings for particularly violent crimes (sexual violence, mistreatment in the family, stalking, child pornography, etc.), the judicial police, when it has to obtain information and evidences from children, makes use of the aid of an expert in psychology or child psychiatry, appointed by the public prosecutor. In proceedings for crimes other than those indicated by the art. 351, paragraph 1 ter, of the code of criminal procedure (i.e. crimes not necessarily of a violent or sexual nature), the judicial police avails itself of the help of an expert in psychology or child psychiatry, appointed by the public prosecutor when it has to take the summaries information of the offended person who is in conditions of particular vulnerability;[60]

- Art. 362 of the criminal procedure code (as modified by Legislative Decree 212/2015) imposes on the public prosecutor the same obligations set out in the art. 351 for the judicial police;

- Art. 392 of the criminal procedure code disciplines the probative evidence hearing; [61]

- Art. 398 of the criminal procedure code regulates the particular methods that the judge can adopt for taking in the probative evidence hearing the testimony

[59] Child prostitution, child pornography, possession or access to pornographic material, virtual pornography, tourist initiatives aimed at the exploitation of child prostitution, sexual violence, sexual acts with children, corruption of children and group sexual violence.
[60] This aspect was analysed in section 1.2 in Chapter 3. – Concept of age and gender appropriates for particular methods to be observed when examining the child or injured person who is in condition of particular vulnerability; appropriate procedural accommodations within the national legal system.
[61] For an in-depth examination of this institute, please refer to the section 1.2 in Chapter 3. – Concept of age and gender appropriate procedural accommodations within the national legal system.

of the child or the offended person who is in a condition of particular vulnerability;[62]

- Art. 498 of the criminal procedure code provides for particular methods to be observed when examining the child or offended person who is in a condition of particular vulnerability.[63]

Finally, art. 24 of Directive 29/2012 prescribes further measures in favour of child victims with specific protection needs: during the investigations, the child's interviews may be reordered and these recordings form evidence in the trial; furthermore, the competent authorities appoint a special representative if those exercising parental responsibility find themselves in a conflict of interest or when the child is separated from the family and in this case the have the right to advice and legal representation.

The Italian procedural system is made up of institutions aimed at providing maximum protection to subjects naturally exposed to greater vulnerabilities, such as children: among these, mention should be made of 1) the probative evidence hearing, 2) the necessary presence of an expert when the child makes statements to the judicial police and to the public prosecutor, 3) the protected methods for taking the child's statements and all other procedural accommodations already analyzed in the previous sections. [64] Since access to this more favourable procedural regime is necessarily subordinate to the minor age of the victim, the art. 90, paragraph 2 bis, of the criminal procedure code provides that "when there is uncertainty about the minor age of the person offended by the crime, the judge orders, even ex officio, an expert opinion. If, even after the expert opinion, doubts remain, the minor age is presumed, but only for the purposes of applying the procedural provisions". [65] The appraisal conducted to certify the minority must be of the most respectful and least invasive as possible. In particular:

- the certification must be within an adequate structure in the presence, if possible, of those exercising parental control, or of other significant persons;

- the certification must take place, if possible, with limited use of radiographic techniques, but seeking help from a multidisciplinary consultation which will include the intervention of: an auxologist, a paediatrician, an endocrinologist and a paediatric neuropsychiatrist.

[62] This discipline will be analytically examined in section 5.2.
[63] This rule has already been examined in section 1.1 in Chapter 3. – Obligation and framework for the authorities to provide information to children and their representatives.
[64] The good practical functioning of the procedural arrangements was confirmed by a public prosecutor (man) with 6 years experience who, during the interview, said: "The judicial experience of children is facilitated by the provision of means and procedures to protect their confidentiality and integrity, such as: 1. The use of auxiliary experts in speech therapy, psychology/psychiatry, etc. in support of the judicial authority and the judicial police; 2. Protected forms of hearing (inside a comfortable room together with the auxiliary, with the support of games, drawing tools, etc. to express themselves, sheltered from the eyes of others behind a glass-mirror, without the participation of the audience at the hearing); 3. The extension of the possibilities of recourse to the probative evidence hearing in order to anticipate victim's cross-examination and to allow them, among other things, to leave the crime behind".
[65] This provision is homologous with that contained in the art. 8 of the decree of the president of the republic n. 488 of 22 September 1988 (so-called code of juvenile criminal proceedings), according to which "When there is uncertainty regarding the minor age of the accused, the judge orders, even ex officio, an expert opinion. If, even after the appraisal, doubts remain about the child's age, this is presumed for all purposes".

As highlighted during the interviews, this evaluation takes on crucial importance especially with regards to unaccompanied children, who usually do not have identity documents.

Assessment of Child's Communications' Barriers and Needs

Italian legislation does not expressly regulate the methods of communication with regard to particular categories of victims: especially, there are no legal provisions with respect to communication registers for people with intellectual and psychosocial disabilities, elderly, social minorities, children or people who have hearing and visual difficulties. As already explained in the previous sections, art. 90 bis of the criminal procedure code provides, rather generically, that the injured person, from the first contact with the prosecuting authority, must be provided, in an understandable language, with the information listed by the law. It can be deduced, therefore, that this information must be provided in a language appropriate to the age, disability and, in general, the possible state of vulnerability of the offended person. Additionally, there is a general rule (artt. 348 [66] and 351 of the criminal procedure code [67]) that states that judicial police officers can use technical consultants to make their work more effective: [68] from the interviews it emerged that these rules are always respected and, in practice, the child or the victim in a particular vulnerability condition is listened to with the help of personnel specialised in psychology; the child is always accompanied and assisted by parents (or by the guardian, when parents have been deprived of parental responsibility or when they have a conflict of interest with the child) and the victim in a particular vulnerability condition is always accompanied and assisted by a significant person. [69]

Secondary Victimisation of Children with Disabilities

The absence of procedural accommodations can undoubtedly lead to a risk of secondary victimisation towards particularly vulnerable victims. As already argued in Section 3, the main procedural arrangement regulated by the criminal procedure code

[66] Paragraph 4 of art. 348 provides verbatim that "the judicial police, when, on its own initiative or following delegation from the public prosecutor, carries out acts or operations that require specific technical skills, can make use of suitable people who cannot refuse their work".

[67] Consult the section 1.2 in Chapter 3. – Concepts of age and gender appropriate procedural accommodations within the national legal system.

[68] Identical obligations are also provided for the public prosecutor (by art. 362 of the criminal procedure code) and for the defender (by art. 391-bis of the criminal procedure code).

[69] A public prosecutor (man) with 6 years of experience reported: "In performing the functions of public prosecutor at the court, it happened, sometimes, to work with children - even with disabilities - as persons offended in criminal proceedings. It has often happened to listen to them, personally or through the judicial police, always with the help of experts in psychology or psychiatry, both in the course of preliminary investigations, in their familiar environments (such as school) or in the trial through probative evidence hearing. When the testimony of the child was decisive or the facts narrated were particularly distressing, I always preferred to proceed personally (with the help of experts) listening to the child, also to grasp the meta-verbal and emotional expressions, as well as to safeguard the child without prejudging the finding of facts".

is the “probative evidence hearing” (in italian: *incidente probatorio* (articles 392 and 393 of the criminal procedure code).[70]

The absence of this institution would lead to the secondary victimisation of the offended person which, according to the general rules of the criminal trial, would have to be recalled in the context of the hearing (in italian: *dibattimento*). This would constitute a real trauma for the victim, subjected to the continuous questions from the prosecution and defence. This may trigger the traumatic experiences, perhaps years after the commission of the crime. An aspect connected to this issue also emerged during the interviews: the lawyers highlighted the limits of the probative evidence hearing, which can be requested by the judge, by the accused (and his defender) and by the public prosecutor. However, this request can also be rejected by the judge, if he/she does not consider it necessary. [71]

Even the possibility of recording the statements of the offended person is a procedural accommodation that aims to avoid secondary victimisation: if the first statements of the vulnerable person are recorded, he/she will not be forced to narrate his traumatic experience again in the other phases of the process, because it will be sufficient to listen the recording again. Even in this case, however, during the interviews the limits of this accommodation emerged: some lawyers reported that judicial offices are often not adequately equipped, lacking the technical tools necessary for the audio-video recording of the vulnerable person's statements.

Fundamental to avoid the phenomenon of secondary victimisation is the adequate training and specialisation of the legal operators who intervene in proceedings in which vulnerable victims are involved: also in this case, the interviews highlighted how operators are often not adequately trained; this problem arises especially for lawyers, that can freely choose their area of training without affecting their area of practice (this aspect was explored in depth in chapter 3).

Finally, risks of secondary victimisation also arise in proceedings (civil and juvenile) collateral to the criminal trial: the lack of coordination between the judicial authorities required to adopt measures, in the different areas of competence, exposes the victim to repeated investigations and hearings. Take as an example, the case of a civil or juvenile proceeding which concern requests for custody of children, in which a woman alleges that she is a victim of violence. In this case, several proceedings could be pending under the jurisdiction of different judges: a) the civil judge, responsible for regulating the methods of custody of the child; b) the juvenile judge, competent in the event that applications pursuant to articles 330 and 333 of the civil code (loss of parental responsibility for children, removal of the maltreating or abusive parent from the family residence) have been proposed at the same time; c) the criminal judge,

[70] The probative evidence hearing was explored in depth in section 1.2 in Chapter 3. – Concepts of age and gender appropriate procedural accommodations within the national legal system.

[71] Two lawyers (a man with 16 years experience and a woman with 15 years experience) reported that they had requested, in the context of criminal proceedings, the hearing of a 16-year-old girl in the probative evidence hearing; however, the judge rejected the request, not considering the conditions adequate for accepting the request.

competent to ascertain the criminal responsibility of the accused. The lack of coordination between the various authorities may produce serious forms of secondary victimisation of the victims who are exposed to numerous potential traumas, as well as to the risk of uncoordinated and potentially divergent decisions. [72]

02 Procedural Accomodations

How do relevant procedural accommodations work in practice

As mentioned in previous sections (in which the procedural accommodations and relative experience gathered from interviews have already been described), the most relevant procedural accommodation is the “probative evidence hearing” regulated, with specific reference to the victim and the offended person in condition of particular vulnerability, by art. 398, paragraph 5-bis, 5-ter and 5-quarter.

Paragraph 5bis provides that in the case of proceedings for particularly violent crimes (e.g. sexual violence, group sexual violence, child pornography, domestic abuse, stalking), the judge, if he/she considers it necessary or appropriate to protect the child, establishes the place, the time and the particular methods through which to proceed with the probative evidence hearing.

The law then dictates the conditions through which this protection can be concretely guaranteed: the hearing can also take place in a place other than the court (e.g. in a specialised care facility and in the child's home); the child's declarations are fully documented with audio-video recordings (if this is not possible due to the unavailability of tools or a technician, an expert opinion or technical consultancy is arranged) and transcribed if the parties request it.

Paragraph 5-ter extends the application of these rules also when it is necessary to listen to an adult person but in conditions of particular vulnerability.

Paragraph 5-quater extends the application of the special rules provided for by the art. 498 of the code of criminal procedure for the hearing also during the probative evidence hearing.[73]

In general, courts (especially juvenile courts) are usually equipped with child-friendly rooms, equipped with games and furnished to make the child feel at ease: the examination of the child takes place in this room, in which the child is with the psychologist who asks him/her the questions; the child can respond to the expert's

[72] This aspect was highlighted by an interviewed public prosecutor (man) with 6 years of experience who said: "A challenge that often manifests itself when a child comes into contact with the judicial system consists in overcoming the limits of coordination and exchange of information between the different judicial offices involved in the events concerning children: power of attorney and ordinary court, on the one hand, civil court (for voluntary jurisdiction) and prosecutor’s office and court for children, on the other. Sometimes, in fact, the measures of these authorities are not coordinated or even consistent".

[73] Art. 498 of the criminal procedure code has been analytically examined in section 1.1 in Chapter 3. – Obligation and framework for the authorities to provide information to children and their representatives.

questions in various ways (for example, with words, gestures, drawings). A mirror glass with an intercom system is installed in the room and allows other legal operators (judge, public prosecutor, defendant, defence attorney, clerks, etc.) to see and hear the examination of the child without being seen or heard by the child himself. If any of these subjects want to ask specific questions to the child, the judge will call the psychologist in the adjoining room, will tell him the question to ask and the psychologist, returning to the child-friendly room, will formulate the requested question. These rooms are often also present in the offices of the police force.[74]

Examples of Procedural Accommodations

For an in-depth analysis of the procedural accommodations provided for by the criminal procedure code, please refer to the previous sections and in particular to 3.1.3 and 5.2.

Decisions on procedural accommodations

Procedural accommodations are the result of an individual assessment that the subjects of the process carry out on the basis of the criteria set out in the art. 90-quater of the criminal procedure code. The law and its practical application have already been examined in the previous sections. [75]

Practical application of training for professionals

The training for professionals on vulnerable victims and the training of agencies/authorities involved in dealing with children, persons with disabilities and or children with disabilities have already been discussed, also in their practical scope, in section 3.1.2.4. – Trainings for professionals.

03 Provision of support and information

Professionals' awareness on age-, gender- and disability- appropriate procedural accommodations

The interviews confirmed that justice professionals have considerable awareness on age, gender and disability appropriate procedural accommodations. In particularly, Italian Higher School of Judiciary (in Italian SSM, Scuola Superiore della Magistratura)

[74] Sometimes, however, these facilities are lacking, as reported by a public prosecutor interviewed.
[75] Please refer to sections 01.2 in Chapter 3. – Concept used in law or policy to refer to a child's potential disabilities; 01.2 in Chapter 3. – Obligation to make individual assessment of the child's vulnerable situation; 01.2 in Chapter 3. – Legal requirement to identify needs and barriers in connection to a child victim and role of support services.

organised meetings, training courses, seminars and awareness campaigns on the topic under analysis. The following initiatives are worth mentioning:

- As part of the EJNita 2.0 project, the SSM, in collaboration with the Italian Association of Family and Minor Lawyers (AIAF, in Italian Associazione Italiana degli Avvocati per la Famiglia e per i Minori.) and the National Union of Juvenile Chambers (UNCM, in Italian Unione Nazionale Camere Minorili), and with the support of the International Child Abduction Lawyers Italy (ICALI) and the Association of Lawyers for People and Families (APF, in Italian Avvocati per le Persone e le Famiglie), organised a cycle of four meetings on the topic of international abduction, aimed at officials of the Central Authority, magistrates, lawyers, notaries, civil registrars and bailiffs. The meetings, which will take place starting from 19 April 2024, will focus on the following topics: jurisdictional competence in matters of parental responsibility; repatriation and relocation procedures; the recognition and execution of return decisions; cross-border family mediation. [76]

- In collaboration with the Ministry of Justice, the SSM organised an extraordinary training course, in implementation of the EUROPROM project which aims to deepen knowledge of policies regarding unaccompanied foreign minors within the European Union and to improve the protection of children migrants with the development of common European good practices. The course was launched on 13 December 2023. [77]

- In collaboration with the HELP Unit of the Council of Europe, the SSM organised a course on children's rights in judicial proceedings, with the aim of increasing the knowledge of legal professionals on children's rights and on European and international standards (CoE and EU). The course, launched on 26 February 2024, involved 20 ordinary magistrates and 10 honorary magistrates - judge or public prosecutor – who have experience in the subject matter of the seminar.[78]

- In collaboration with the United Nations High Commissioner for Refugees (UNHCR), the SSM organised an extraordinary training course on the theme "The protection of minors", which took place in the months of June and July 2022 and in which 35 extraordinary magistrates were admitted

[76] The meeting poster is available at the following link (consulted 11 June 2024):
https://www.scuolamagistratura.it/documents/20126/4289665/EJNita+ciclo+di+incontri+2024.pdf/
[77] The course sheet is available at the following link (consulted 11 June 2024):
https://www.scuolamagistratura.it/documents/20126/564830/FPFP22016_scheda.pdf
[78] The notice for participation in the course is available at the following link (consulted 11 June 2024):
https://www.scuolamagistratura.it/documents/20126/4289665/2024+Interpello+HELP+Child-Friendly+Justice.pdf/

to participate (with preference for those who carry out judging and prosecuting functions for children).[79]

- In July 2023, the SSM launched a virtual classroom for ongoing training on the theme "The reform of the process in family matters", with the involvement of 950 magistrates from the Juvenile Courts and the Public Prosecutor's Offices at these Courts, as well as to the judges of the ordinary courts, the Courts of Appeal, the Court of Cassation, the Attorney General's Office at the Court of Cassation and the Office of the Supreme Court, who deal, even non-exclusively, with family matters including guardianship.[80]
- The SSM launched the Strasbourg workshops project in 2022: the first two workshops took place in Naples in May and October with the participation of the DEJ (Department of Judicial Organization, of Personnel and Services – in Italian Dipartimento dell'organizzazione giudiziaria, del personale e dei servizi). The workshops focused on the effective implementation of sentences against Italy regarding the adoption of children (Zhou group of cases), fostering of children (R.V. and others), failure to implement judicial decisions regulating the right of access of parents (Terna case group), domestic violence (Talpis case group) and secondary victimisation (J.L. case).[81]
- In collaboration with the HELP Unit of the Council of Europe, the SSM organised a course on rights of people with disabilities. The course, launched on 11 April 2023, involved 30 ordinary magistrates and 10 honorary magistrates - judge or public prosecutor – who have experience in the subject matter of the seminar.[82]
- As part of the Human Rights Education for Legal Professionals (HELP programme) of the Council of Europe, the SSM organised, in the months of April, May and June 2022, 3 courses on the following topics: ethics for judges, prosecutors and lawyers; combat violence against women and domestic violence; environment and human rights. Ordinary magistrates (judges and prosecutors) participated in the courses.[83]

[79] More information is available at the following link (consulted 11 June 2024): https://www.scuolamagistratura.it/web/portalessm/avvisi?p_p_id=Avvisi&p_p_state=normal&p_p_mode=view&_Avvisi_javax.portlet.action=dettaglioAvvisoAction&_Avvisi_idAvviso=739&p_auth=Vg1WI0W8&p_p_lifecycle=0
[80] More information is available at the following link (consulted 11 June 2024): https://www.scuolamagistratura.it/web/portalessm/avvisi?p_p_id=Avvisi&p_p_state=normal&p_p_mode=view&_Avvisi_javax.portlet.action=dettaglioAvvisoAction&_Avvisi_idAvviso=1168&p_auth=Vg1WI0W8&p_p_lifecycle=0
[81] More information is available at the following link (consulted 11 June 2024): https://www.scuolamagistratura.it/web/portalessm/avvisi?p_p_id=Avvisi&p_p_state=normal&p_p_mode=view&_Avvisi_javax.portlet.action=dettaglioAvvisoAction&_Avvisi_idAvviso=1151&p_auth=Vg1WI0W8&p_p_lifecycle=0
[82] The notice for participation in the course is available at the following link (consulted 11 June 2024): https://www.scuolamagistratura.it/documents/20126/564830/HEUII+Launch+DISAB+ITA.pdf/
[83] the notice for participation in the courses is available at the following link (consulted 11 June 2024): https://www.scuolamagistratura.it/documents/20126/564830/20220329_Interpello-HELP.pdf

There were also numerous initiatives aimed at training and raising awareness of the police. By way of example, the following are worth mentioning:

- in 2001, the Presidency of the Council of Ministers, the Department for Social Affairs, the National Observatory for Children and Adolescents and the Coordination Committee for the Protection of Minors from Sexual Exploitation and Abuse approved the " Guideline document for training on child abuse and maltreatment", which contains indications for creating multidisciplinary training courses aimed at improving the network of protection and protection of children. [84]
- The guarantor authority for children and adolescents has developed a handbook for the police forces which, in light of the good practices already tested on the national territory, has the aim of promoting the adoption of uniform procedures and practices, in line with the Convention on the Rights of the Child, in all situations involving children and in which the police is required to intervene. [85]
- The Police Force Training School organised a conference on 2 October 2023 on the topic "The application limits of the Red Code". [86]

As for the initiatives aimed at lawyers, the following are worth mentioning, by way of example:

- The National Forensic Council organised, on 16 March 2023, an advanced training course for the prevention and fight against gender violence. [87]
- The Nation Forensic Council organised, in the months of September, October and November 2022, a training course for lawyers that work as special guardians of children in civil matters. [88]

[84] The document is available at the following link(consulted 11 June 2024): https://www.poliziadistato.it/articolo/457
[85] The paperback version of the handbook is available at the following link (consulted 11 June 2024): https://www.garanteinfanzia.org/sites/default/files/documenti/Vademecum_Forze_di_Polizia_tascabile_0.pdf
[86] For more information, please see the following link (published on 2023 and last consulted on 11 June 2024): https://scuolainterforze.interno.gov.it/alla-scuola-di-perfezionamento-il-dibattito-sul-femminicidio/
[87] More information is available at the following link (consulted 11 June 2024): https://www.consiglionazionaleforense.it/web/cnf/search?p_p_id=com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_CjtoMX1EbUiu&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_CjtoMX1EbUiu_mvcPath=%2Fview_content.jsp&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_CjtoMX1EbUiu_assetEntryId=2786614&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_CjtoMX1EbUiu_type=content&p_l_back_url=%2Fsearch
[88] The course details are indicated at the following link (consulted 11 June 2024): https://www.consiglionazionaleforense.it/it/web/cnf/calendario-cnf?p_p_id=com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_hd9ln5EwxOIj&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_hd9ln5EwxOIj_mvcPath=%2Fview_content.jsp&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_hd9ln5EwxOIj_assetEntryId=2625971&_com_liferay_portal_search_web_search_results_portlet_SearchResultsPortlet_INSTANCE_hd9ln5EwxOIj_type=content&p_l_back_url=%2Fit%2Fcalendario-cnf%3Fdelta%3D60%26start%3D1

- The council of the Lecce Bar Association organised, on 3 December 2022, a training seminar on the topic of "disability: tools for protection". [89]

Some initiatives also involved social services. Among these, the following are worth mentioning:

- The National Council of the Order of Social Workers has organised an inter-institutional roundtable on the processes of support and protection of children and their families and has developed - with the participation of the Department for Family Policies of the Presidency of the Council, Justice, Internal Affairs and Forces of the order - guidelines regarding the removal of children from their families. [90]
- The Public Prosecutor's Office of Benevento and the bodies of the inter-institutional table for the protection of vulnerable victims and gender violence, in collaboration with the project "Luana. Prevention of violence and Empowerment", have organised a training and specialisation course for operators' territorial, social, health and justice services aimed at early recognition of inter-family violence and providing adequate skills to avoid secondary victimisation. [91]

Specialist Services or Multi-Disciplinary Approaches Practiced

Social services, when they intervene to protect the child – and, in general, the person who is involved in the criminal proceedings (in a particularly vulnerable condition) – adopt a multidisciplinary and case-by case approach. This emerged both with reference to the structures dedicated to victims of gender violence (for the analysis of which please refer to section 3.1.2.1. - Obligation to make individual assessment of the child's vulnerable situation), and with reference to the specifically dedicated services to children (analysed in section 3.1.2.3 and explored in depth, from a practical point of view, in section 5.3 - Inclusive Education and Community-Based Programs).

Information Sharing System Between Social Services and Criminal Justice/Child Protection Professionals

Social services share information about the child with justice professionals (judge, prosecutor, defender) through written reports (on paper). These reports are then inserted by court staff (in digital format) into the case file of the criminal proceedings.

[89] The seminar poster is available at the following link (consulted 11 June 2024): https://www.ordineavvocatilecce.it/avvocati-e-praticanti/prova-subitem-01/eventi/item/la-disabilita-strumenti-a-tutela
[90] The guidelines are available at the following link (consulted 11 June 2024): https://cnoas.org/processi-di-sostegno-e-tutela-dei-minorenni-e-delle-famiglie/
[91] Further details are available at the following link (consulted 11 June 2024): https://ordineavvocati.bn.it/wp-content/uploads/2023/11/locandina-formazione-luana-bn-.pdf

When social services receive a complaint (from teachers, doctors, relatives of the child, etc.) about abuse or violence committed against a child, they make a report to the competent judicial authority (the juvenile court). [92] From this moment, the proceedings begin before the juvenile court, which also involves the territorially competent municipal social services: these services must adopt urgent measures to protect the child (e.g. temporary removal from the family with placement in a foster family or, if this is not possible, in a community) and must provide for the protection of the child, periodically reporting to the judge (through written reports) the psychological and social state of the child (e.g. scholastic performance, commitment in recreational activities, the psychological balance of the child). However, during the interviews it emerged that social services often do not report, report with considerable delays or in an incorrect manner: this creates delays or errors in the process since the competent judicial authority (the public prosecutor, the juvenile court, etc.) adopts its measures also on the basis of reports from social services. [93]

Inclusive Education and Community-Based Programs

Social services have a fundamental role in ensuring access to inclusive education and community-based programs.

After making their assessment of the recoverability of family relationships (examined in more depth in Section 3, paragraph 3.1.1.2.), social services will prepare a treatment path for the child and the family: in the case of a positive prognosis, the treatment will include both interventions aimed at the child (including psychological support, intra-family foster care, etc.), and interventions aimed at the parents (among which, parental support counselling and various types of welfare and social support). This in order to allow, on the one hand, the processing of the trauma suffered by the child and, on the other, the reestablishment of family relationships. In case of a negative prognosis, the treatment will aim to encourage the replacement of parental references, also activating a process for recovering from the loss.

In this regard, it is appropriate to highlight the Intervention Program for the Prevention of Institutionalisation (in Italian: P.I.P.P.I., Programma di Intervento per la Prevenzione dell'Istituzionalizzazione), born in 2010 from the collaboration between the Ministry of Labour and Social Policies, the Laboratory for Research and Intervention in Family Education of Padua's University and the social and child protection services of ten Italian cities (among these, private social cooperatives, schools and local health institutions of Bari, Bologna, Florence, Genoa, Milan, Naples, Palermo, Reggio Calabria, Turin and Venice). The Program aims to support vulnerable parenting and to

[92] Instead, with reference to the child's complaint, please refer to the section 01.2 in Chapter 3. - Barriers for children with disabilities, especially with intellectual and psychosocial disabilities, to report crimes, start criminal proceedings, engage in the criminal justice system.

[93] The justice professionals interviewed highlighted these shortcomings in the work of social services. A public prosecutor (man) with 6 years of experience said "It could be useful to stipulate agreements between the judicial system and other professional orders pedagogues, psychologists, child psychiatrists, interpreters, etc.), aimed at allowing the judicial police and magistrates, in cases of urgency, to find immediately available auxiliary experts".

innovate practices to support “negligent families” in order to reduce the risk of mistreatment and the consequent removal of children from the family of origin. The primary objective is to increase the safety of children and to improve the quality of their development.

The intervention envisaged by the PIPPI program is divided into 4 phases.

The first is a pre-assessment stage: during this stage the multidisciplinary team carries out, together with the families, a pre-assessment analysis of the family environment, of its internal and external organisation, of the child's development, in order to establish the level of risk of estrangement for the child. Families at risk of “neglect” are consequently invited to participate in the P.I.P.P.I. program.

The second phase is evaluation and planning: the multidisciplinary team - made up of teachers, social workers, health workers, psychologists and other voluntary collaborators - maintains constant contact with the family and children.

The third phase is the implementation of the program. This stage lasts eighteen months and includes four types of activities:

- Family education interventions with families to support parents, strengthen parent-child relationships and improve children's development;
- Participation in groups of parents and children to carry out parenting support activities
- Collaboration between schools, families and social services through the conclusion of agreements that allow the PIPPI program to be integrated with other forms of school support.
- Intervention of the "Support Families", made up of volunteer helpers (including relatives, friends, neighbours) who offer concrete support to the family.

The fourth phase is the ex-post evaluation: the objective is to establish whether the family will have to continue its participation in the P.I.P.P.I. program, or return to the normal care of social services.

Information Materials Targeting Children Victims of Crime

There are numerous information initiatives aimed at children. Among these, an important initiative is the following: in March 2001, the Ministry of the Interior and the Department of Public Security, in agreement with the Ministry of Education and the Italian Committee for Unicef, launched the project "The policeman: one more friend". The initiative has included visits by children to police offices, meetings in schools and the distribution of information materials (including a booklet with cartoons and advice to help children to defend themselves in risk situations, encouraging dialogue with

teachers, parents, policemen). [94] Other information campaigns and services have been described in section 7.2.

Barriers for Professionals Working with Children with Intellectual and Psycho-Social Disabilities

The following barriers for professionals working with children with intellectual and psychosocial disabilities emerged from the interviews and have been discussed in the previous sections:

- Communication difficulties: the child often uses non-verbal language to express his needs, tends to isolate and shows no interest in communicating;
- The child often has profound difficulties in expressing and understanding his own needs and requirements;
- The person without the necessary skills (for example, the magistrate or the judicial police) relies on the intermediation of an expert: it is therefore necessary that this person is adequately prepared, because the conduct of the criminal proceedings sometimes depends on his/her work. In this regard, it emerged during the interviews that very often the magistrate, knowing the skills of an expert, appoints him/her every time, fearing to appoint someone else who is not equally trained; in this way, only a few experts are appointed thus resulting in high workload. [95]
- when the criminal proceedings involve a child - with or without disabilities - the intervention of social services is necessary; if social services do not carry out their activities adequately and promptly (for example, they do not report or report late), the efficiency and effectiveness of criminal proceedings may be compromised.
- In some cases, the institutions appear hostile towards disability. Justice professionals may consider less credible above all people with psychosocial disabilities, but also people with a physical disability. [96]

[94] To know more: https://www.poliziadistato.it/articolo/il-poliziotto-un-amico-in-piu (published on 2007 and last consulted on 11 June 2024).

[95] This emerged during an interview with a psychologist (woman) with 21 years experience, often appointed as an expert or technical consultant. Behind this situation there is often a shortage of experienced personnel readily available. In this regard, a public prosecutor (man) with 6 years of experience said: "Often there is a lack of specialized personnel readily available for the listening of children (especially if suffering from disabilities), lack of rooms and adequate means (thus forcing to adapt for the occasion the courtrooms, which are not suitable to put children at ease). Moreover, the huge amount of pending procedures limits the time and attention that can be devoted to listening to a child - perhaps with disabilities - who for their peculiarities require more time".

[96] A public prosecutor interviewed said: "The greatest difficulty for children is to be believed. There is often the suspicion that what they tell - because of their immaturity, easy suggestibility and cognitive and language skills not yet fully developed - does not correspond faithfully to reality. It may happen that, in the case of discordant versions, greater credibility is given to the

- Rules and procedures do not always contemplate unconventional methods of interaction and collection of information. It is always necessary to negotiate with justice professionals in order to adapt the procedure. It would be necessary for law enforcement agencies, prosecutors and judges to have a better knowledge of the phenomenon, to be supported by specific skills (interdisciplinary groups) and adopt stable procedures (multi-agency treatment protocols).
- The anti-violence centres have standards that are not always suitable for welcoming a person with a disability.

06

CHILDREN'S EXPERIENCES OF THE CRIMINAL JUSTICE SYSTEM

This section has been mainly completed through desk research and interviews with professionals: in particular, the interviews involved 4 lawyers, 1 judge and 1 prosecutor, 4 social workers and 2 psychologists. This because despite the efforts, researchers did not succeed in recruiting children with disabilities for interviews. However, in other to ensure children's participation and inclusion, CNR undertakes to administer interviews with children at a later stage integrating the data described in this report.

In order to recruit children, we pursued the following activities:

- Request and approval of an ethical clearance by the CNR ethical commission.
- Request and approval of a DPIA (Data Protection Impact Assessment) with the involvement of CNR DPO (Data Protection Officer).
- Researchers contacted the following associations in order to gather contacts of parents or tutors that may be interested in being recruited for the interview:
    - Centro anch'io Cavallino (Lecce)
    - AIAS Bologna
    - La Nostra Famiglia (Brindisi);
    - Avvocati per le Persone e le Famiglie;
    - Centro diurno socio-educativo riabilitativo "Dante Cappello" (Brindisi);
    - Società cooperativa sociale Onlus "Lavoro e Progresso 93" (Brindisi);
    - Società cooperativa sociale Onlus "Eridano" (Brindisi);
    - Centro socio-educativo riabilitativo "Oltre l'orizzonte" (Brindisi);
    - Società cooperativa sociale "Ferrante Aporti" (Brindisi);
    - Società cooperativa sociale "Alba (Mesagne, Brindisi);
    - Centro ambulatoriale privato "Officine Autismo" (Mesagne, Brindisi);
    - Società cooperativa "Fuori dal sommerso" (Mesagne, Brindisi);
    - Società cooperativa sociale Onlus "San Bernardo" (Latino, Brindisi);
    - Società cooperativa sociale Onlus "Si può fare" (Latiano, Brindisi";
    - Centro diurno socio-educativo riabilitativo "Raggio di Sole" (San Vito dei Normanni, Brindisi);
    - Società cooperativa sociale "Carpe Diem" (Ostuni, Brindisi);
    - Centro diurno "Villa Nazareth" (Ostuni, Brindisi);

  - Società cooperativa sociale Onlus "Remedios" (Ceglie Messapica, Brindisi);
  - Centro diurno socio-educativo riabilitativo "San Giovanni di Dio" (Oria, Brindisi);
  - Centro diurno socio-educativo riabilitativo "Mysotis" (Erchie, Brindisi);
  - Centro diurno socio-educativo riabilitativo "Madre Teresa – La Casa Protetta" (Villa Castelli, Brindisi);

- Researchers contacted the following anti-violence centres in order to gather contacts of parents or tutors that may be interested in being recruited for the interview:
  - Centro Anti-violenza "Crisalide" (Brindisi);
  - Centro Anti-violenza "Ricomincio da me" (Brindisi);
  - Centro Anti-violenza "Io donna" (Brindisi);
  - Centro Anti-violenza "Ricominciamo" (Francavilla Fontana, Brindisi);
  - Centro Anti-violenza "Insieme si può" (Fasano, Brindisi);
  - Centro Anti-violenza "La luna" (Latiano, Brindisi)

Researchers created a flyer (in annex 1) with a set of information on the project and contacts to be distributed in associations or schools and foresaw an incentive in order to be involved in the project.

01 Role and barriers to the participation of children with disabilities in criminal proceedings

Opportunities and obstacles for children with disabilities to have a role in criminal justice.

The main obstacles for children to report a crime and participate to the criminal proceedings, emerged during the interviews, have already been analysed in the section 3.1.2. (Barriers for children with disabilities, especially with intellectual and psychosocial disabilities, to report crimes, start criminal proceeding, engage in the criminal justice system). One of the main barriers that the analysis allowed to highlight concerns the fact that these subjects are represented by their guardian or curator; consequently, they are usually heard with the guarantees and particular methods provided for by the criminal procedure code and already discussed in the previous sections.

The interviews confirmed that usually children with disability victims of crime tend to express their discomfort to the adults with whom they usually interface (for example, teachers or social service workers). When these subjects detect an ongoing danger for the child, they take action according to the methods already described in the section 3.1.1.2. (Special child protections units/departments).

The interviews revealed a general and constant effort on the part of all criminal justice operators (judges, prosecutors, judicial police, etc.) to apply the procedural adaptations provided for by the code in favour of children and, in general, of victims who find themselves in conditions of particular vulnerability. However, the interviews also revealed some difficulties in the implementation of procedural arrangements aimed at the access of children (including children with disabilities) to justice: in particular, as claimed by a public prosecutor interviewed, the greatest challenge is to overcome the structural lack of finance, staff and resources needed to ensure that they do not remain a dead letter. Often there is a lack of specialised personnel readily available for the listening of children (especially if suffering from disabilities), rooms and adequate means (thus forcing to adapt for the occasion the courtrooms). In addition, the huge amount of pending proceedings limits the time and attention that can be devoted to listening to a child. A further challenge is to overcome the limits of coordination and exchange of information between the various judicial offices involved in the events concerning children: prosecutor and ordinary court, on the one hand, civil court (for voluntary jurisdiction) and prosecuting and juvenile court, on the other. Sometimes, the measures taken by these authorities are not coordinated or even consistent.

When the child is the victim of a crime, the procedure already described in the section 3.1.1.2. (Special child protections units/departments) is activated, aimed at giving support to the child within the judicial system. However, the interviews also highlighted some gaps in this system: in particular, the lack of funds sometimes prevents the effective functioning and availability of structures aimed at supporting children and, in general, individuals in particularly vulnerable conditions (e.g. , anti-violence centres, neutral spaces, etc...). These critical issues have already been addressed in the previous sections. [97]

Additionally, from the interviews it emerged that, in most cases, the professionals who come into contact with children - with or without intellectual or psychosocial disabilities - have the adequate skills to support them. Some gaps have emerged with reference to the training of social services and, above all, of lawyers: for further information on these aspects, please refer to the section 3.1.1.3. – Training for professionals.

[97] Please see the sections 01.2 in Chapter 3. – Solutions for cases of conflict of interest between the child and legal representative, and section and 01.2 in Chapter 3. – Obligation to make individual assessment of the child's vulnerable situation.

02 Role and barriers to the participation of children with disabilities in criminal proceedings

02.1 Using technology to overcome barriers-wider context

Assistive technologies can compensate for specific disabilities, innate or acquired, and are widely used as a rehabilitation and compensation tool for residual abilities. In Italy, for more than fifteen years now, different types of aids, hardware or software, have been created and used providing help both in the rehabilitation field and in accessing to the computer and internet.

In Italy, people with disabilities, under certain conditions, are entitled to a series of aids and prostheses, paid for by the National Health Service (in Italian, Servizio Sanitario Nazionale). But it often happens, especially in the case of people who acquire a disability, due to accidents or illnesses, that citizens do not know these opportunities and do not know how to navigate the various steps of the path that leads to the acquisition of AAC and assistive technologies and the correct use.

In Italy, aids can be prescribed to these types of people:

- subjects who have obtained recognition of disability (civil invalid, war invalid, service invalid, civilian blind, deaf);
- children under 18 (for prevention, treatment and rehabilitation of a permanent impairment and/or disability);
- subjects who are awaiting recognition of disability (for whom disability has already been ascertained by the medical commission) or awaiting assessment of disability;
- people hospitalised in public or private facilities, in need of prostheses and aids before hospital discharge.

The list of AAC and assistive technologies at disposal is contained in the so-called Tariff Nomenclature of Aids and Prosthetics (in Italian, Nomenclatore Tariffario degli Ausili e delle Protesi) which, in the form of a Decree, is updated periodically. The latest version is from 2017. AAC can be prescribed completely free of charge or with co-payment depending on the case. Additionally, AAC can be given permanently or on loan, or to be returned at the end of their use, because many aids, once reconditioned, can be usefully reused by other people.

General practitioners can only prescribe some limited types of very widespread types of tools for greater autonomy at home (es. standard wheelchair, stair lift, etc.). For all other more complex aids, (such as electronic wheelchairs, keyboards modified for the PC, eye pointers, orthopaedic shoes, etc.), whether standard or custom-made (for

which, in this second case, there is a need for an accurate evaluation and possible training in use) a specific visit is required and a prescription from a specialist doctor in a public facility (physiatrist, orthopaedist, neuropsychiatrist, ophthalmologist). The same specific prescription is also used for the so-called "life-saving aids", such as breathing ventilators.

In addition to public services dedicated to the disabilities of children, adults and the elderly, independent specialised aid centres, offer free consultations on aids and technologies. Some of them also have exhibitions/aid libraries where citizens can try the assistive technologies in real life situations.

In Italy some fundamental data on the use of assistive technologies were collected by the study ("Access to assistive devices in Italy 2022 - Results of the rapid Assistive Technology Assessment (rATA) survey)[98] whose results are partly described in this section. The report was drafted in collaboration with the following associations and public bodies: AIAS Bologna onlus, GLIC (Italian Network of Technological Aid Centres), CENSIS Foundation, National Centre for Rare Diseases, National Institute of Health, National Centre for Innovative Technologies in Public Health, Superior Institute of Health.

Here are some results. In Italy, the need for assistive technologies increases with the degree of functional difficulty and especially with age. Currently, the needs for assistive devices appear to be satisfied overall. This is true both for aids generally purchased/obtained through private suppliers, and for more specialized products generally supplied by public operators. The barriers in using the tools vary greatly depending on the type of functional difficulty (communication, cognitive, vision-related) and are relatively uncommon in developmental age (around 1/3 of users) and reach more than 75% of users over the age of 50. Consumer digital technologies such as smartphones and tablets are not only considered assistive technologies in all respects, but are also among the most widespread solutions among those with functional difficulties or disabilities. The aids in use seem to overall meet the needs of users and are suitable for their contexts. On the other hand, satisfaction decreases with regards to some services necessary to make the aid usable and adequate over time. With respect to the opinion on the process of supplying aids and needs' assessment, the satisfaction of around half of the interviewees seems to indicate a need for improvement both with respect to the evaluation and selection of solutions, and with regards to the process of acquiring and putting them into use (World Health Organization, & United Nations Children's Fund, 2022).

In Italy, some interesting projects on the use of innovative assistive technologies for disabilities have concerned two fundamental fields. On the one hand, the application of assistive technologies in the university and pedagogical fields, on the other, the

[98] World Health Organization, & United Nations Children's Fund. (2022). Global report on assistive technology. World Health Organization.

application of these technologies to promote the inclusion of public administration workers.

For what regards universities and schools, numerous projects involve middle schools and high schools while others have seen the collaboration of universities with associations and public bodies. it is useful to mention the project for the application and development of innovative assistive technologies which resulted from the collaboration between the University of Bari and the computer scientists without frontiers association (in Italian, Informatici Senza Frontiere) and the activity of the University of Modena aimed at ensuring the inclusion of students with disability in all university courses.

In the context of the PA, the ISCOM (Higher Institute of Communications and Information Technologies) project is configured as a pilot experiment in the Italian public administration for the involvement with teleworking and the use of assistive technologies of personnel with even serious disabilities, and therefore as a step forward for the inclusion of these subjects in working and social life. In this context, a feasibility study was carried out together with the creation of a prototype of a computer workstation equipped with advanced connectivity services and integrated with the assistive technologies necessary to achieve autonomy and enhance the residual potential of the person with disabilities.

02.2 Using technology to overcome barriers- in the justice system

Although Italy was one of the first nations within the European Union to adopt legislation on accessibility (Stanca Law, Legge 9 gennaio 2004, n. 4), even today there are many challenges that people with disabilities encounter when interacting with justice system services. Furthermore, at the moment, our analysis has not revealed "best practices" in the justice sector related to this aspect. It has been clarified by the analysis that within the justice context, the DGSIA (General Directorate for Automated Information Systems, or Direzione generale per i sistemi informativi automatizzati) offers pertinent information and regulatory guidelines drawn from prevailing laws to public entities like the Ministry of Justice and courts. This aids them in the deployment of IT services and the creation of accessible websites also for people with disabilities

02.3 Data Collection

In Italy, data collection activities regarding crime and victimisation on the basis of age, gender, disability and other personal characteristics are mainly collected by the Criminal Analysis Service (in Italian SAC – Servizio di Analisi Criminale), an inter-force

structure[99] based within the Central Directorate of the Criminal Police of the Department of Public Security (in Italian, Direzione centrale della Polizia Criminale). The SAC carries out studies and research on analysis techniques, develops integrated inter-force projects, uses electronic police archives, and correlates them with other databases. It also promotes the analysis of criminal police statistical data.

Data available at the moment deriving from SAC analyses, that can be useful for the aims of the LINK project, regard on the one hand children victims of crime (report "Minorenni Vittime di Abuso" SAC – 2022, 2020-2021 dataset) and on the other the report "Woman victims of crime" (in Italian "Donne vittime di violenza" – SAC – 2023, 2021-2022 Dataset).[100]

The first report on children victims of crime, presented during the World Day of Child and Adolescent Rights focuses on typologies of crimes involving children in the two-year period 2020-2021.

The work showed an overall decrease in crimes committed against children (-10%) and, conversely, the increase in crimes of abuse in correctional facilities or related to sexual violence and aggravated sexual violence committed in educational institutions.

The report also stated that female children victims are predominant for almost all types of crime, with the exception of the abandonment of children, the abduction of children and the violation of family care obligations. The age group with the highest number of victims is the under-14 age group and among the authors, men aged between 35 and 64 are predominant. The analysis also focuses on the Web-related crimes: it emerges, in the years 2020 and 2021, a significant growth in all indicators relating to the illicit diffusion of sexually explicit images and a significant increase in cases handled regarding online solicitation, cyberbullying and sextortion.

The second report mentioned ("Women victims of crime"), also contains a paragraph entirely dedicated to violence against women with disabilities. Data have been gathered by SAC through innovative methods of data retrieval utilized in order to overcome the limits of police forces' and justice systems' databases that do not allow for the flag of any kind of disability associated to citizens' entries. The report states that women with disabilities, being subject to multiple discrimination (a type of discrimination based on multiple risk factors), are more exposed than other women to all forms of gender violence, but also to particular forms of violence, connected to their disabilities, such as: a) pharmacological abuse, which may consist of administering a greater or lesser dose of medicines or in denying access to essential medicines; b) the denial of essential care; c) requesting sexual services in exchange for help or support; d) subjection to forced sterilization and coercive abortion, practices which constitute serious violations of human rights.

[99] The SAC is composed by personnel with various roles and qualifications of the State Police, the Carabinieri, the Financial Police and the Penitentiary Police.
[100] The report includes information contained in the Police Force databases, and collected by the Observatory for Security against Discriminatory Acts (OSCAD), a body specialized in hate crimes and all forms of gender violence.

The study acknowledges that in the period under review, the crimes in question, also committed against children, have suffered a decline: mistreatment against family members or cohabitants went from 129 (of which 37 on children) in 2021, to 111 (of which 31 on children) in 2022; the persecutory acts went from 15 (of which 3 on children) in 2021, to 9 (of which 2 on children) in 2022, and were mainly committed by partners and ex-partners, but also by neighbours or acquaintances of the victim; finally, regarding sexual desire (including group sexual violence), there were 30 cases (of which 6 involving children) in 2021, and they dropped to 25 (including 5 involving children) in 2022. Regarding sexual violence, it is reported that in the years considered, 27 (2021) and 24 (2022) cases were recorded, which mostly affect women with cognitive disabilities who have difficulty recognizing the abuse and reporting it. The report also states that sexual abuse often takes place within the family or in the structures responsible for care and assistance. Generally, the perpetrator is a close person who enjoys the trust of the victim, such as a family member, a friend, a healthcare worker, a teacher, a volunteer or a caregiver.

With regards to online crimes, the report specifies that young women are mainly contacted on social networks, where they are approached and induced to produce sexually explicit material. In some cases, there are extortionate requests, even of a sexual nature, under the threat of disclosing pornographic material depicting the victim. With regard to these crimes, it is underlined that there is a considerable amount of undeclared data due to the difficulty of reporting by people with disabilities. This is due to the lack of real or perceived alternatives, the fear of not receiving support, the inability of those who receive the request for help or the complaint to recognize that particular form of violence and document it adequately. Additionally, it must be considered that the satisfaction of the primary needs of women with disability is often entrusted to another person and it is precisely the fear of losing this support that places women in a condition of dependence and submission, increasing the risk that violent conduct remain hidden.

07

CONCLUSIONS AND RECOMMENDATIONS

The analysis presented in the current document is the culmination of an extensive desk research and qualitative data collection via interviews with professionals. Additional insights from interviews with children will be obtained in the future. Through this process, we have gathered crucial data and insights on several key areas, including the legal framework governing access to justice for children with disabilities, the technological landscape within both civil and criminal justice systems, and the practices employed by various stakeholders (such as justice professionals, associations, and support services) to facilitate victims' participation in criminal proceedings.

01 Conclusions

The desk research and the qualitative data analysis described in the report, allowed to shed light on gaps and best practices related to the normative framework, its practical application, the procedures and the role of bodies and institutions connected to the access to justice of children with disabilities, victims of crime.

The legal analysis highlighted a complex legal framework which aims to support high levels of protection for crime victims belonging to vulnerable groups (children, women, people with disability), but which presents some gaps especially linked to specific characteristics of the victim.

First of all, in Italian law, there isn't a distinct concept specifically addressing potential disabilities in children. In criminal procedural law, a broader notion is employed, (particularly vulnerable victim). Article 90-quater of the criminal procedure code, albeit with phrasing that may be considered inadequate, states that “the condition of particular vulnerability of the offended person is inferred not only from their age and physical or mental condition but also from the nature of the crime and the circumstances surrounding it for which proceedings are underway." Therefore, the evaluation of vulnerability is entrusted to the discretion of individuals involved in the criminal process who interact with the victim (such as judges, public prosecutors, and judicial police), and this procedure presents several criticalities: the law does not provide clear guidelines on how prosecutors or judges should implement the assessment; additionally, Article 90-quater while enumerating certain personal traits related to vulnerability like age, physical or mental impairment, thus excludes factors such as nationality, ethnicity, gender, and specific types of disabilities. Despite this, it is worth saying that for certain crimes and in cases of extreme vulnerability, the levels and types of protection are high. Evaluation of vulnerability are implemented usually in cooperation with experts in psychology or psychiatry. Once the vulnerable condition of the victim is identified, various support and protection measures become available as: emotional and psychological support, the presence, at any stage of proceedings, of parents or other suitable individuals designated by the child (or foundations, associations, or non-governmental organisations with expertise in victim assistance

and support), assistance from juvenile services within the Justice Administration and services established by local authorities.

Additionally, the analysis highlighted some procedural accommodations that support the participation of a generically vulnerable victim (as a child with disability). For instance, if the child has to be heard as a witness of crime, different places from the court (e.g. specialised care facilities in rooms with one-way mirrors or even at the child's home with the use of videoconferencing) can be utilised. Additionally, we described the "probative evidence hearing" (known as "incidente probatorio" in Italian) procedure which enables the vulnerable individual to provide statements during the investigative phase or the pre-trial hearing without having to wait for the conventional trial session.

The analysis also put in evidence a set of gaps that prevent children from reporting crimes. These primarily stem from Article 120 of the criminal code, which establishes that children under the age of fourteen are presumed to be absolutely incapable of understanding and intent, thus unable to file a complaint. Consequently, the right to file a complaint can only be exercised by a legal representative (for example, parent or guardian). The interviews brought to light additional barriers that children, including those with disabilities, face when attempting to report a crime as the following: 1. Children must rely on the assistance of adults (such as family members, teachers, acquaintances, or social services) to initiate legal action and this is critical in cases where the crimes occur within the family; 2. children often encounter obstacles in reporting crimes due to uncertainty about whom to approach, fear of repercussions resulting from their report, or coercion by the perpetrators themselves, especially in cases of domestic or familial abuse; 3. fear among children that their accounts will not be believed, as adults often have doubts regarding the credibility of a child's testimony due to perceived immaturity, susceptibility to suggestion, and underdeveloped linguistic and cognitive abilities.

Another gap regards the procedural information provided to children with disability victims of crime. The criminal procedure code does not regulate the methods of providing procedural information to children with a disability. The information is usually provided to the legal representative of the child minor with a disability that may or may not transmit the information to the victim.

The results of the analysis concerns also gaps related to social services' work: in instances of domestic crimes, such as parental violence against the child, the child is placed under the care of social services, who are responsible for providing regular updates to the judge on various aspects of the child's well-being through specific reports. However, there are occasions when social services fail to report or provide inaccurate information, leading to delays or shortcomings in the legal process.

The investigation shed light on the training of professionals that varies in quality and quantity depending on the type of actor involved. Regarding the judiciary, the Italian Higher School of Judiciary offers training programs for both prosecutors and judges to

handle sensitive trials involving vulnerable victims: the School has prioritized this aspect, organizing numerous courses focused on related subjects. On the other hand, social services' workers and lawyers, only have a generic obligation to continue training through specific courses without the need to associate the training area with the area related to professional activity. This represents a fundamental gap in the training of professionals who come into contact with crime victims.

The analysis of the technologies in use in the justice system has highlighted an important development of e-justice in Italy in both criminal and civil matters (the civil sector has been investigated since decisions related to criminal cases involving victims are also taken in the civil justice, as compensation and civil status measures). The technological infrastructure allows the different actors involved in criminal and civil procedures such as judges, lawyers, consultants to be connected through CMS and e-filing systems. However, there is a clear lack of free access to legal information and personalised information on the different stages of the procedures for citizens in general and for victims of crime. These categories can only access a limited amount of data. The analysis highlighted an increasing use of videoconferencing technologies in the judiciary for hearing of vulnerable or intimidated witnesses, experts or defendants, and its recent regulation in the aftermath of COVID-19 pandemic. The sections on technologies also described some interesting projects related to predictive justice, that have the aim of improving the performances of the justice system and interesting frontier projects that may improve participation of victims to criminal procedures with the use of virtual reality technologies.

02 Promising practices

The desk research and the interviews allowed to gather information on promising practices that can be shared for the scopes of the LINK project.

In Italy, there is a dedicated telephonic number, (number 114)[101] that provides an emergency service aimed at all those who want to report a dangerous and emergency situation involving children and adolescents. The number is multilingual and accessible for free 24/7 (via call, chat, WhatsApp and app). The service provides multidisciplinary consultancy - psychological, legal and sociological - and offers a network connection with the competent territorial institutions and structures in the social, judicial and public security fields. From 2003 (the year of its establishment) to today the service has managed over 20,000 emergency cases.

[101] More information on 114 – Emergency Children number can be found on the official page of the Department for family Policy: https://famiglia.governo.it/it/politiche-e-attivita/infanzia-e-adolescenza/114-emergenza-infanzia/#:~:text=Il%20numero%20114%20%2D%20Emergenza%20infanzia,sono%20coinvolti%20bambini%20e%20adolescenti (consulted 11 June 2024).

The Telefono Azzurro[102] Foundation promotes respect for the rights of children and adolescents. With its activities it supports their potential and protects them from abuse and violence that can jeopardize their well-being and growth path. It listens to children and adolescents every day and offers concrete answers to their requests for help, also through collaboration with institutions, associations and other local entities. It operates in an international context to promote a culture of rights. The 1.96.96 Helpline of Telefono Azzurro, for children, adolescents and adults, is a free service and welcomes requests for help from the national territory 24 hours a day, 7 days a week. Specifically, it offers listening, support, concrete help to children and adolescents up to 18 years of age, regarding all the problems and needs that concern them, both in reference to uncomfortable and emergency situations. It also offers consultancy and support for families and adults who for various reasons wish to discuss the problems of childhood and adolescence.

Another interesting initiative is the communication campaign “Come out of the darkness. Ask for help” (in Italian, “Esci dal buio. Chiedi aiuto”),[103] created with the aim of informing young people and making them more aware of the tools available to them to ask for help in case of abuse and need. The entire campaign was created thanks to the technical support of the Istituto degli Innocenti of Florence. The commercial shows, in cartoon mode, situations of violence suffered and witnessed. For the first time it will be an advert broadcasted exclusively on the Internet, giving priority to social channels, in order to reach, in a targeted and widespread way, the adolescents’ target identified as the main recipient of the campaign.

It is also worth mentioning the establishment in the Emilia Romagna Region of the Guarantor for Children and Adolescents, [104] which has the task of guaranteeing the rights of children and adolescents, accepting reports from citizens (including children), social services and associations relating to possible violations of children's rights and acting independently through requests and recommendations addressed to public bodies and institutions.

It is interesting also the national awareness campaign against child abuse “Invisible to the eyes” (in Italian “Invisibile agli occhi”) [105] involving the CNR-IRIB of Catania, the Italian Society of Paediatrics and Terre des Hommes. The campaign aims to bring to everyone's attention the issue of violence against children. The working group dealt with the analysis, research, and contrast of the phenomenon, in different and therefore complementary fields: scientific research, the study of the epidemiological dimension of the phenomenon, the diagnosis and treatment of child victims as well as the training

[102] The official website of Telefono Azzurro is available at: https://azzurro.it/ (consulted 11 June 2024).
[103] The communication campaign, published on 18 November 2021, is available at the following link (consulted 11 June 2024): https://famiglia.governo.it/it/politiche-e-attivita/comunicazione/campagne-di-comunicazione-istituzionale/esci-dal-buio-chiedi-aiuto/
[104] The officiale website of the Guarantori for Children and Adolescents is available at: https://www.assemblea.emr.it/garante-minori (last consulted on 11 June 2024).
[105] The campaign is available at the following link: https://www.invisibileagliocchi.org/ (consulted 11 June 2024).

of health workers, precious sentinels in the interception of the many complex forms of mistreatment.

It is worth mentioning the Anti-Violence Office created by AIAS Bologna and Mondo Donna, that provides a multi-disciplinary support services for woman victims of crime with a disability. The office provides support for victims of crime (legal and social support) by involving both professionals with experience on woman victims of crime and professionals expert on disabilities.

03 Recommendations

The desk research, the interviews and the relative analysis allowed to collect a set of recommendations useful for the scopes of the project.

For example, the analysis of the activities of victim assistance centres has highlighted a marked lack of homogeneity in their work and assistance practices. Therefore, it would be important to design uniform disciplines and practices among all victims' assistance centres to promote a high quality level of assistance throughout the Italian territory.

Another weak point, as we have seen, is the training of professionals who come into contact with children victims and victims with disabilities. If on the one hand, the level of training of judges seems adequate, on the other, the training of professionals who work in assistance centres and of lawyers can be improved. It would be useful to establish specific training requirements for lawyers who work with children and victims with disabilities: this to ensure that these types of professionals have adequate training in this specific area. This should also apply to all criminal justice workers (judicial police, prosecutors, judges, defenders) that work with victims with intellectual or psychosocial disabilities. From the interviews also emerged a difficulty of the judges in finding immediately available experts who can help them in listening to the child: it would be appropriate, therefore, to conclude agreements with orders of auxiliary experts who can assist the judicial police and magistrates in their listening (pedagogues, psychologists/child psychiatrists, interpreters, etc.), which also may guarantee their immediate availability in case of emergency.

The analysis highlighted a critical issue relating to the allocation of funds for assistance centres and for all victim support activities in Italy. The need to implement the funds to be allocated to assistance structures for victims (anti-violence centres, neutral spaces, etc.) is therefore evident.

The interviews also highlighted a critical issue relating to correct and effective communication between the various actors who cooperate in supporting access to justice for children victims of crime. For example, reports made by social services are often late and inadequate. It is therefore necessary to improve, also through ICT

technology, the level of communication between prosecutors, courts, and social services.

There is also a clear gap in justice structures related to the needs of people with disabilities that come into contact with the justice system. It is therefore important to acquire and implement services and technologies (such as AAC) to support inclusiveness and access to justice for citizens with disability.

From the documental analysis and from the interviews with justice professionals, it is clear that the Italian judicial system includes vulnerable victims in the category, and associates with this a whole series of procedural accommodations, based on very different characteristics without providing for a distinction and therefore an adaptation of the procedure to specific characteristics of the victim, such as disability for example. It is therefore useful to suggest the provision of ad hoc forms of protection to be associated with specific characteristics of the victim. Furthermore, a specific statute of rights for victims with disabilities would be useful, as they often have different needs than those of other vulnerable victims. In association with a customised procedure with respect to specific characteristics of the victim, a better specification and formalisation of the process to be followed for the recognition of the victim's particularly vulnerable condition will be necessary.

Another important critical issue concerns the level of access to information for crime victims. This also concerns the technologies used in the judicial system. It is in fact clear that the level of digitalisation of both criminal and civil justice is high but still represents a closed system accessible only to justice professionals. Therefore, in order to obtain information on the status of someone's proceeding and to obtain legal information, a general victim of crime or a citizen does not have adequate technological tools available and must interface with their lawyer for these operations. This represents a barrier to crime victims' access to justice. Therefore, it will be necessary to further open up the Italian e-justice systems to citizens' access, especially as regards the retrieval of legal information and information relating to the status of proceedings. On the other hand, there is a clear need to implement various information services on the rights of the victim, on how to file a complaint, and on support services dedicated to children and victims with disabilities (for example, in schools, recreational clubs, etc.).

Finally, it would be desirable to overcome the critical issues of the databases of the police force and the judicial system which do not allow to flag some fundamental characteristics of the people who access justice, including disability. this both to facilitate the proposed customisation of support services, procedural accommodations and the connection with assistive technologies to assist various disabilities, and for statistical purposes, therefore, to understand the dimension of the phenomenon of victimisation of people with disabilities.

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ANNEXES

Annex 1 – Flyer created for incentivizing children's participation