

# **PROBLEMATIC ASPECTS OF INTERVIEWING MINOR WITNESSES (VICTIMS)**

***Ineta Lipskytė, Dalia Perkumienė***

Kazimieras Simonavičius University, Lithuania

**Summary:** The article analyzes the peculiarities of the interrogation of minor witnesses (victims) in the criminal process, which are exceptional, because such interrogation takes place taking into account the characteristics of the psychological and social development of the minor, with the participation of psychologists and state representatives of child rights protection institutions, who ensure the protection of the minor's rights during the interrogation. On the other hand, the questioning of minors, although it is oriented towards the protection of the rights of these persons, is not necessarily based on their interests, although in the last decade there have been changes in the Code of Criminal Procedure, which have improved the protection of the procedural situation of minors, during the questioning of the criminal process, with the aim that the questioning itself implements the requirements of European Union directives. Properly organized interrogation is a necessary duty of a democratic state, therefore it is necessary to ensure that the interrogation of minors in criminal proceedings has as few shortcomings as possible, starting from the organization of the interrogation, which has a negative impact on minors, and ending with the functionality of the child rights protection system. Since minors cannot adequately defend their rights due to lack of maturity, they are subject to procedural guarantees. Guarantees are inseparable from the principle of protection of minors. Procedural guarantees are divided into general and special. Namely, the special ones are designed to ensure the rights of the participants in the criminal process.

**Key words:** Juvenile, juvenile witness, juvenile victim, juvenile interrogation.

## **Introduction**

A minor may have a different procedural status during criminal proceedings. Procedural status is determined by a person's actions or inaction during the commission of a criminal act. A minor can be recognized as a witness, victim, suspect (accused).

Relevance of the investigation: the witness is an important participant in the criminal process, whose testimony may have a significant impact on the administration of justice during the trial. The status of a witness in criminal proceedings guarantees

procedural rights and duties, as well as mandatory liability, but these aspects differ depending on whether the person giving testimony is assigned the status of an ordinary witness, a special witness, or a minor witness, and the rights of the person when testifying also depend on this. According to the portal of official statistics, as well as statistical data provided by the Department of Informatics and Communications, the number of minor victims of criminal acts in Lithuania (based on preliminary data) is decreasing, as the number of crimes determined in 2019 was 2,522, compared to 2020, it was 1,720, and in 2021 - 1614, in 2022 - 1264, and currently in 2023 - the number has slightly increased - 1391<sup>1</sup>. With these statistical data, it can be seen that the situation is improving and there are fewer incidents where minors become victims, but there is room for improvement.

The purpose of the research: to reveal the problematic aspects of the interview of minor witnesses (victims).

Subject of the investigation: Interview of minor witnesses (victims) in criminal proceedings.

Research problem: This article aims to answer the question: 1. What procedural guarantees ensure the interrogation of minor witnesses (victims)?

Research methods: Comparative method, document analysis method, scientific literature analysis method, generalization method.

## **Procedural guarantees of minor witnesses (victims)**

Comprehensive protection of minors is one of the priority areas of criminal law policy<sup>2,3</sup>. „Since the duration of the survey should correspond to the child’s abilities. Naturally, the smaller the child, the faster he gets tired, it becomes more difficult to concentrate and restore information<sup>4</sup>. A child rights specialist monitors that questions are not asked during the interview that would traumatize the child and thereby violate his rights. And the psychologists participating in the surveys are specially trained in how to establish contact with a small child or teenager. He knows very well how to prepare a minor for an interview, and how to formulate questions in order to obtain the most targeted testimony. It is especially important to be able to talk and not do more harm to a child who is already in a disadvantageous situation. In General Comments of the United Nations Committee on the Rights of the Child<sup>5</sup>. With the permission of the court, these persons can ask the witness questions. „Results indicate awareness of the importance of asking open-ended questions, but training is lacking, particularly regarding

1 Rodiklių duomenų bazė - Oficialiosios statistikos portalas

2 O. Y. Guseva, M. V. Popovych, L. M. Hryndey, O. V. Melnyk, M. V. Huzela, *Features of Interrogation of Minor Victims in the Pre-Trial Investigation*, „Cuestiones Políticas” 2021, 39(70).

3 D. Murauskienė, *Teismų praktikos vertinant baudžiamajame procese liudijusių vaikų parodymus aktualijos*, „Jurisprudencija” 2015, 22(2), p. 383.

4 V. Vaivadaite, *Rekomendacijos dėl mažamečių, nepilnamečių apklausų metodikos*, ŠAT, Šiauliai 2018, s. 5.

5 *General Comments of the United Nations Committee on the Rights of the Child*, 2018. *General comment no. 10 Regarding the child rights in juvenile justice*, Vilnius 2007, p. 159.

question types. Many officers reported using techniques consistent with the Cognitive Interview such as rapport-building, avoiding leading questions, and taking additional steps to assist recall<sup>6</sup> 7. An accompanying person may also participate in the process, but compared to minor witnesses and victims, no data is provided about the person accompanying the witnesses, and the person accompanying the victims may accompany, but participation may be limited when such participation is against the interests of the victim or interferes with the investigation or consideration of the case. Pursuant to the Law on State-Guaranteed Legal Aid, minor witnesses (victims) can receive primary legal aid just like other citizens of the Republic of Lithuania. And you can get secondary free legal aid only if your assets and annual income do not exceed the specified asset and income levels for receiving legal aid. However, there is also an exception: „minor children, victims of criminal acts against human health, freedom, freedom of sexual decision and inviolability, child and family, morals and in other criminal cases, when it is recognized by the reasoned decision of the pre-trial investigation officer, the prosecutor or the reasoned decision of the court that the authorized the presence of a representative is necessary”<sup>8</sup>. In this case, the victims have the right to receive secondary assistance, regardless of the established levels of assets and income to receive this assistance. The prosecutor must file a civil lawsuit in court, if this has not been filed, among others, in cases where a criminal offense has caused harm to a person who, due to his minor age, cannot defend his legitimate interests in court. In this case, secondary guaranteed legal assistance is provided free of charge. Compared to other countries, all countries have the right to legal representation, except for: the United Kingdom, Ireland and Cyprus. „In Ireland, a victimized minor can only have a representative in the only case - when he is the victim of a sexual crime, and in Germany, representation is ensured only when the minor is questioned in court”<sup>9</sup>. Child protection measures exist at various levels throughout the process, and their implementation must be seen as the primary means of ensuring pro-juvenile justice. Procedural guarantee - the right to protection and respect for privacy, this guarantee gives the right to be informed and heard without discrimination. This is important when a minor is a victim of domestic violence. A child’s privacy is at serious risk when a case receives special media attention, and based on this, the Council of Europe guidelines establish a number of safeguards to ensure that children’s privacy is fully protected. For this reason, the media should not disclose confidential information about minors. This procedural guarantee is confirmed by Article 22 of the Constitution of the Republic of Lithuania „A person’s private life is inviolable.” Personal correspondence, telephone conversations, telegraphic messages and other communications are inviolable. Information about a person’s private life can be collected only by reasoned court decision and only in accordance with the law. The

6 A. Hyman Gregory, A. Wolfs, N. Schreiber Compo, *Witness/victim interviewing: a survey of real-world investigators’ training and practices*, „Psychology, Crime & Law” 2023,29(9), p. 957-981.

7 *Law of the Republic of Lithuania on State-Guaranteed Legal Aid*, „State news” 2000, no. 30-827.

8 E. Kavoliūnaitė – Ragauskienė, *Vaiko teisių apsauga baudžiamajame procese: atstovavimas, gynyba ir apklausų atlikimas*, Mokslo studija, Vilnius 2016, p. 10.

9 E. Kavoliūnaitė – Ragauskienė, *Vaiko teisių apsauga baudžiamajame procese: atstovavimas, gynyba ir apklausų atlikimas*, Mokslo studija, Vilnius 2016, p. 21, 22.

law and the court protect that no one experiences arbitrary or illegal interference in his personal and family life, encroachment on his honor and dignity”<sup>10</sup>. Anonymity can also be considered as a procedural guarantee. Namely, only two procedural participants can use anonymity: the victim and the witness. „It is also important to pay attention to the fact that anonymity is applied to persons who can testify, only about a certain group of crimes, which indicate greater danger and, naturally, greater danger of the person who committed it”<sup>11</sup>. Anonymity can be granted to both the witness and the victim by the investigator or the prosecutor, under all of the following conditions: there is data about a real threat to the victim or witness, as well as to the life, health, freedom or property of their family members or close relatives; the statements of witnesses (victims) are important in the criminal process (e.g. allow accurate description of the suspect); witnesses (victims) are involved in a trial for a very serious, serious or aggravated crime (e.g. armed robbery). If it is necessary to interrogate a minor victim during a trial in a courtroom, the law provides for several measures to protect the victimized children from negative effects, the application of which is decided by the judge hearing the case. Despite professional, scientifically based recommendations for interviewing children, the problem of an abundance of closed and leading questions still remains<sup>12</sup>. According to Ažubalytė, R, it is precisely because of the possible trauma of children that parents face a dilemma - to allow or not to interview their child, who has suffered from a criminal act, especially from sexual crimes in court. Summarizing these procedural guarantees, it can be concluded that minors, both witnesses and victims, can benefit from most of these guarantees, which provide as much protection from possible trauma as possible. In order to increase the confidence of the courts in interviews, the actions should not be recorded in the protocol, but in a video and audio recording, this allows to avoid repeated interviews and data being recorded inappropriately, the video clearly shows the emotional state of the child, how he reacts to that event, therefore the court takes into account the minor’s actions interview with recording devices, can make the right decision in his favor.

## Analysis of research results

The analysis of court practice shows that legal representatives of minor witnesses (victims) or defenders of witnesses (victims) in the criminal process are uncertain about the peculiarities of questioning the child, the legality of the questioning, the procedure provided by the law for the questioning of the minor witness (victim). 2021 of the panel of judges of the LAT Criminal Cases Division to be considered. February. The ruling of the 18th day in the criminal case 2K-24-1073/2021. The analysis of this case is presented in Table 1.

10 R. Žibaitė-Neliubšienė, *Asmenų parodymų patikimumo probleminiai klausimai*, „Jurisprudencija” 2016, 23(2), p. 321.

11 A. Bilson, S. White, *Representing Children’s Views and Best Interest in Court: An International Comparison*, „Child Abuse Review” 2005, 14, p. 220-239.

12 F. Pompedda, A. Zappalà, P. Santtil, *Simulations of child sexual abuse interviews using avatars paired with feedback improves interview quality*, „Psychology, Crime & Law” 2015, 21(1), p. 28-52.

Table 1

**Criminal Cases Division of the Supreme Court of Lithuania in 2021 in February 14th analysis of criminal case 2K-24-1073/2021**

The essence of the dispute (case)	Reasons of the court / essence of the decision	The end of the case
<p>In his cassation appeal, the defender of the person convicted in this criminal case challenged the testimony of the minor victim in terms of their legality, stating that the interrogation of the minor witness before the pre-trial investigation judge did not follow the procedure established in Article 186 of the Criminal Code, because the victim was not interviewed directly by the pre-trial investigation judge, but by an unauthorized person, a psychologist. therefore, the data obtained during this survey were unjustifiably recognized as evidence.</p> <p>The assessee indicated that the victim was interrogated several times in detail before the pre-trial investigation judge by persons not authorized to do so, and therefore the victim's testimony about the convicted person during the pre-trial investigation judge's interrogation could have been obtained illegally.</p>	<p>In the assessment of the panel of judges, in this case, the procedure for questioning the minor victim, established in Article 186 of the Code of Criminal Procedure, was not violated. In response to the cassation appeal, the Court of Cassation stated that the questioning of a minor witness or a minor victim, as well as the questioning of a minor witness or a minor victim regarding crimes against human life, health, freedom, freedom of sexual decision and inviolability, or in other cases when requested by the process participants or at the initiative of the pre-trial investigation officer, prosecutor or pre-trial investigation judge, a psychologist must be invited to help interrogate the minor, taking into account his social and psychological maturity (CPC Article 186, paragraph 3). Thus, the psychologist not only participates in the investigation step - the interview, but also helps in its execution, thus ensuring the pre-trial investigation officer, prosecutor or court the opportunity to obtain data relevant to the investigation or the trial, and the minor - to use procedural rights and guarantees, first of all, to be protected from negative the impact of criminal proceedings.</p>	<p>The Supreme Court of Lithuania rejected the appeal.</p>

Source: compiled according to the ruling of the Supreme Court of Lithuania in criminal case no. 2K-24-1073/2021.

As can be seen from the information provided in the substance of the case, in his cassation appeal, the defender of the convicted person, among other things, contested the statements of the minor victim and their legality by presenting the following arguments: during the interrogation, the procedure established by Article 186 of the Code of Criminal Procedure was not followed; the victim was interviewed by a psychologist, not a directly authorized pre-trial investigation judge; data obtained during such a survey cannot be recognized as evidence; „there is no data in the file that the psychologist who interacted with the victim during the interview signed a written pledge before the interview to honestly perform the tasks assigned to her and that she was warned of liability under Article 235 of the Criminal Code for providing a false conclusion or explanation; the victim was interrogated several times in detail before the pre-trial investigation judge, by persons not authorized to do so, calling such interviews conversations, conversations, introductions, consultations, lessons, training, classes, clarifications, identifications, drawings; the testimony given about the convicted person could have been obtained illegally, by interviewing the victim not for the first time on questions known to her in advance, requiring the interviewer to have prior knowledge, teaching the victim to give relevant incriminating testimony, encouraging her with promises of a reward for the previously discussed testimony”. According to the assessment of the panel of judges, it can be seen from the data presented in the case that in the questioning of the young victim before the judge of the pre-trial investigation, in addition to the prosecutor, the suspect’s defense attorney, the victim’s representative and the representative of the child’s rights protection, a psychologist was also present, who communicated directly with the victim in the premises adapted for the questioning of children, and during the entire questioning the progress and circumstances for which the victim was questioned were observed and controlled by the judge of the pre-trial investigation from an adjacent room together with other participants in the process, during the interrogation she instructed the psychologist through headphones what questions to ask the victim. All this means that the questioning of a minor, regulated in Article 186 of the Code of Civil Procedure, was not violated. In summary, it can be said that the analysis of the examined case shows that in the criminal process, the defense attorneys are uncertain about the peculiarities of the interrogation of the minor witness (victim), the legality of the interrogation, the order of the procedures provided by the law for the interrogation of the minor. In the case under consideration, the cassation complaint contested the testimony of the minor (minor) victim and their legality, arguing that during the interrogation, the procedure set forth in Article 186 of the Code of Criminal Procedure was not followed, the victim was interviewed by a psychologist, and not a directly authorized pre-trial investigation judge; the testimony about the convicted person may have been obtained illegally; the legality of the interview conducted by the psychologist and the possibility of recognizing such data as evidence were questioned. The court stated that based on the provisions of Article 186, paragraph 1 of the Criminal Procedure Code, a minor witness or victim is questioned by the judge of the pre-trial investigation in accordance with the procedure set forth

in Paragraphs 3, 4 and 5 of Article 184 of the Criminal Procedure Code, when requested by his representative, prosecutor or defense attorney in the interests of the minor, or under Article 184, Paragraph 1 of the Criminal Procedure Code in established cases (when it will not be possible to interview the witness during the court hearing, the witness may change his testimony during the court hearing or use the right to refuse to testify, the witness will give more detailed testimony to the judge of the pre-trial investigation). The court found that the questioning of a minor witness (victim) regulated in Article 186 of the Criminal Code was not violated, because in addition to the prosecutor, the suspect's defense attorney, the victim's representative and the child's rights protection representative, a psychologist was also present, who communicated directly with the victim in the premises adapted for the interrogation of children. When preparing a minor witness (victim) psychologically for legal procedures, the judge of the pre-trial investigation can also perform such actions as interviews, introductions, consultations with the minor. This does not contradict the criminal procedure law and at the same time corresponds to the specifics of preparation for the interrogation.

Aspects of the interrogation of minors are also discussed in the 2018 meeting of the Chamber of Judges of the Criminal Cases Division of the Lithuanian Criminal Court in November. The ruling of the 14th day in the criminal case no. 2K-343-719/2018. The analysis of this case is presented in Table 2.

In the analyzed case of the Supreme Court of Lithuania, the essential argument of the assessee was that the principle of adversariality was violated when the underage witness was interviewed by the judge of the pre-trial investigation. It is not enough for the suspect and his defense attorney to participate in the examination of a minor witness. Before the interview, the appraiser and his defense counsel were not allowed to familiarize themselves with the case materials, so the procedural position of the persons who participated in the interview was unequal, which is a gross violation of the rights of the convicted person, because the witness was not given the opportunity to ask questions about her previous testimony and about the objections in the case, which did not exist can be removed during the judicial proceedings, because under the guise of the provisions of the Code of Criminal Procedure, the witness who gave incorrect testimony was not invited to the court session. The Supreme Court of Lithuania stated that the courts of both instances impartially investigated the circumstances of the case and made correct conclusions based on the evidence collected in the case. All the evidence on which the courts based their conclusions, determining the factual circumstances of the case, were obtained by legal means, checked and examined at the trial. All evidence was assessed without violating the provisions of the Code of Criminal Procedure. The arguments of the cassation complaint that the court, refusing to summon and question the minor witness R.V. at the court session, did not properly check the reliability of the testimony, and also violated the defendant's right to defense and the principle of competition. The minor witness R.V. was questioned by the judge of the pre-trial investigation. The suspect and his defense attorney participated in this interrogation. The minor witness R.V.

Table 2

**Criminal Cases Division of the Supreme Court of Lithuania in 2018 in November 14th analysis of criminal case no. 2K-343-719/2018**

The essence of the dispute (case)	Reasons of the court / essence of the decision	The end of the case
<p>The person D.R. was sentenced for the fact that, acting in a group of accomplices with persons not identified during the pre-trial investigation, in a public place, in front of other people, he disturbed the seriousness and order of the society in an insolent, aggressive and moral manner.</p> <p>According to the assessee, the principle of competition was violated when interviewing a minor witness before the judge of the pre-trial investigation.</p> <p>It is not enough for the suspect and his defense attorney to participate in the examination of a minor witness. Before the interview, the appraiser and his defense counsel were not allowed to familiarize themselves with the case materials, so the procedural position of the persons who participated in the interview was unequal, which is a gross violation of the rights of the convicted person, because the witness was not given the opportunity to ask questions about her previous testimony and about the objections in the case.</p>	<p>The Supreme Court of Lithuania stated that the courts of both instances impartially investigated the circumstances of the case and made correct conclusions based on the evidence collected in the case. All the evidence on which the courts based their conclusions, determining the factual circumstances of the case, were obtained by legal means, checked and examined at the trial. All evidence was assessed without violating the provisions of the Code of Criminal Procedure.</p> <p>The arguments of the cassation complaint that the court, refusing to summon and question the minor witness R.V. at the court session, did not properly check the reliability of the testimony, and also violated the defendant's right to defense and the principle of competition. The minor witness R.V. was questioned by the judge of the pre-trial investigation. The suspect and his defense attorney participated in this interrogation. The minor witness R.V. was interviewed during the pre-trial investigation, the only time the suspect and his defense attorney participated in this interview and exercised their rights to ask questions to the witness being interviewed.</p> <p>During the questioning of the minor witness, the requirements of the Law on Criminal Procedure were not violated, so there is no reason to conclude that they were obtained by illegal means and cannot be evidence in a criminal case. Paragraph 2 of Article 186 of the Criminal Procedure Code establishes that a minor witness and a minor victim are summoned to a court hearing only in exceptional cases.</p>	<p>The Supreme Court of Lithuania rejected the cassation appeal of the convict.</p>

Source: compiled according to the ruling of the Supreme Court of Lithuania in criminal case no. 2K-343-719/2018.



was interviewed during the pre-trial investigation, the only time the suspect and his defense attorney participated in this interview and exercised their rights to ask questions to the witness being interviewed. The Supreme Court of Lithuania stated that the requirements of the law on criminal procedure were not violated during the questioning of the minor witness, therefore there is no reason to conclude that they were obtained illegally and cannot be evidence in a criminal case. Paragraph 2 of Article 186 of the Criminal Procedure Code establishes that a minor witness and a minor victim are summoned to a court hearing only in exceptional cases. In summary, it can be said that the Supreme Court of Lithuania in this case, speaking about the questioning of a minor, noted the uniqueness of the legal status of a minor. Pursuant to Part 2 of Article 186 of the Criminal Code, a minor as a witness and a minor as a victim are summoned to a court hearing only in exceptional cases. The minor witness was interviewed during the pre-trial investigation for the only time in which the suspect and his defense attorney participated and exercised their rights to ask questions of the witness being interviewed. During the questioning of the minor witness, the requirements of the Law on Criminal Procedure were not violated, so there is no reason to conclude that they were obtained by illegal means and cannot be evidence in a criminal case. As Kavoliūnaitė - Ragauskienė observes, „in the theory of the criminal process, it is recognized that participation in the court process is a difficult test for a minor, therefore the rules of the criminal process usually aim to ensure the safety of the child in this process. One such safeguard, which is applied in many states of continental law, is the possibility not to call a minor witness or victim to court when he has been properly questioned in the pre-trial process. Interrogation of a minor during the pre-trial process allows to achieve several important goals: firstly, such statements of the child can be heard at the court hearing, without inviting the child to testify in it; secondly, the legal regulation of the questioning before the pre-trial investigation judge provides prerequisites to protect the child from the harmful effects of the criminal process, avoiding direct contact with the perpetrator”<sup>13</sup>.

In conclusion, the courts once again approve the questioning of a minor uniqueness. Based on the interpretation of the Supreme Court of Lithuania, the interview of the minor witness and the victim conducted in accordance with the rules guaranteeing the security and defense rights of the interviewee referred to in paragraph 3 of Article 283 of the Code of Criminal Procedure. Minor witnesses and victims are only interviewed in exceptional cases. A minor victim of crimes against human life, health, freedom, for the freedom of sexual decision and inviolability, for the child and the family, for profiting from a minor prostitution or involvement of a minor in prostitution or in other cases where it is requested for examination participants in the court or at the initiative of the court, a psychologist must be invited to help with the questioning a minor, taking into account his social and psychological maturity, as well as state child rights a representative of the security authority, who observes

13 E. Kavoliūnaitė-Ragauskienė, *Vaiko teisių apsauga baudžiamajame procese: atstovavimas, gynība ir apklausų atlikimas*, Mokslo studija, 2016, p. 35.

from another room whether there are any violations during the interrogation rights of the minor victim. A representative of the state child rights protection institution can ask questions to the interviewee and make requests for the interview. To the accused and other participants in the process, except for the psychologist and the representative of the minor victim, are not allowed to be in the room where the interview is conducted. The minor victim and his representative in court may not participate in the entire time of the trial.

## Conclusions

Summarizing these procedural guarantees, it can be concluded that minors, both witnesses and victims, can benefit from most of these guarantees, which provide as much protection from possible trauma as possible. In order to increase the confidence of the courts in interviews, the actions should not be recorded in the protocol, but in a video and audio recording, this allows to avoid repeated interviews and data being recorded inappropriately, the video clearly shows the emotional state of the child, how he reacts to that event, therefore the court takes into account the minor's actions interview with recording devices, can make the right decision in his favor.

After analyzing the cases of the Supreme Court of Lithuania, the identified problematic aspects of the interrogation of minor witnesses (victims) are related to violations of the requirements for the interrogation of minor witnesses (victims). In judicial practice, difficulties arise when interviewing minors in cases where the object of the interview is their closest people (parents), in those cases they are affected by objective circumstances (relationship between parents - high conflict), minors may be harmed during such interviews to their mental health. The judge of the pre-trial investigation must ensure that they do not have an impermissible influence on the minor witness (victim). As court practice shows, the right of minors not to testify about their family members or not to answer some questions during interrogation is not always guaranteed.

## References

- Guseva O. Y., Popovych M. V., Hryndey L. M., Melnyk O. V., Huzela M. V., *Features of Interrogation of Minor Victims in the Pre-Trial Investigation*, „Cu-estiones Políticas” 2021, 39 (70).
- Hyman Gregory A., Wolfs A., Schreiber Compo N., *Witness/victim interviewing: a survey of real-world investigators' training and practices*, „Psychology, Crime & Law” 2023, 29(9).
- Murauskienė D., *Teismų praktikos vertinant baudžiamajame procese liudijusių vaikų parodymus aktualijos*, „Jurisprudencija” 2015, 22(2).
- Ažubalytė R., *Baudžiamasis procesas: Nuo teorijos iki įrodinėjimo. Nepilnamečio apklausa baudžiamajame procese*, MRU, Vilnius 2016.
- *Jungtinių Tautų Vaiko teisių komiteto bendrieji komentarai. Bendrasis komenta-*

ras Nr. 10, „Dėl vaiko teisių nepilnamečių justicijoje” Vilnius, 2007.

- Ragauskienė E., *Vaiko teisių apsauga baudžiamajame procese: atstovavimas, gynība ir apklausų atlikimas*, Mokslo studija, Vilnius 2016.
- Žibaitė - Neliubšienė R., *Asmenų parodymų patikimumo probleminiai klausimai*, „Jurisprudencija” 2016, 23 (2).
- Bilson A., White S., *Representing Children, s Views and Best Interest in Court: An International Comparison*, „Child Abuse Review” 2005, 14.
- Pompedda F., Zappalà A., Santtila P., *Simulations of child sexual abuse interviews using avatars paired with feedback improves interview quality*, „Psychology, Crime & Law” 2015, 21(1).
- Vaivadaitė V., *Rekomendacijos dėl mažamečių, nepilnamečių apklausų metodikos*, ŠAT, Šiauliai 2018.
- *Law on the Approval, Entry into Force and Implementation of the Code of Criminal Procedure of the Republic of Lithuania. Criminal Procedure Code*, „State Gazette” 2002, no. 37-1341.
- *Civil Code of the Republic of Lithuania*. No. 74-2262; 200, 2000.
- *Constitution of the Republic of Lithuania. Echo of Lithuania*, no. 220, 1992.
- *Law of the Republic of Lithuania on State-Guaranteed Legal Aid*, „State Gazette” 2000, no. 30-827.

## PROBLEMATYCZNE ASPEKTY PRZESŁUCHANIA MAŁOLETNIICH ŚWIADKÓW (OFIAR)

**Streszczenie:** w artykule poddano analizie specyfikę przesłuchania nieletnich świadków (ofiar) w procesie karnym, która ma charakter wyjątkowy, gdyż przesłuchanie to odbywa się z uwzględnieniem cech rozwoju psychospołecznego nieletniego, przy udziale psychologów i państwa przedstawiciele instytucji ochrony praw dziecka, zapewniających ochronę praw małoletniego w trakcie przesłuchania. Z kolei przesłuchanie nieletnich, choć nastawione na ochronę praw tych osób, niekoniecznie opiera się na ich interesach, choć w ostatniej dekadzie nastąpiły zmiany w Kodeksie postępowania karnego, które poprawiła ochronę sytuacji procesowej nieletnich podczas przesłuchania w procesie karnym, tak aby samo przesłuchanie realizowało wymogi dyrektyw Unii Europejskiej. Prawidłowo zorganizowane przesłuchanie jest niezbędnym obowiązkiem państwa demokratycznego, dlatego należy zadbać o to, aby przesłuchanie nieletniego w postępowaniu karnym miało jak najmniej niedociągnięć, począwszy od organizacji przesłuchania, która ma negatywny wpływ na nieletniego, a kończąc na funkcjonalności systemu ochrony praw dziecka. Ponieważ małoletni nie mogą należycie bronić swoich praw ze względu na brak dojrzałości, podlegają one gwarancjom proceduralnym. Gwarancje są nierozzerwalnie związane z zasadą ochrony małoletnich. Gwarancje proceduralne dzielą się na ogólne i szczególne. Mianowicie te szczególne mają na celu zapewnienie praw uczestników procesu karnego.

**Słowa kluczowe:** nieletni, świadek nieletni, ofiara nieletnia, przesłuchanie nieletniego.