K R I V I Č N O P R O C E S N O P R A V O

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BEYOND THE NORM: SPECIAL TREATMENT OF CHILDREN AND THE REALITIES OF THE HUNGARIAN CRIMINAL JUSTICE SYSTEM

Vince Vári, PhD; Dragana Cvorovic, PhD; Hlavacska Gergely

Associate professor, University of Public Service, Faculty of Law Enforcement, Department of Criminal Procedure,Hungary vari.vince@uni-nke.hu

Full professor, University of Criminal Investigation and Police Studies, Serbia, dragana.cvorovic@kpu.edu.rs

Teaching Assistant, Faculty of Law Enforcement, Department of Law Enforcement Behavioural Sciences and Criminal Psychology, Hungary, hlavacska.gergely@uni-nke.hu

Abstract: *The Hungarian criminal procedure law, which came into force in 2018 (Act XC of 2017), ambitiously restructured the procedural situation of children and vulnerable individuals by consolidating previously fragmented regulatory norms into the unified legal institution of "special treatment" (különleges bánásmód). This theoretical and socio-legal study examines the multi-level regulatory framework of child protection within the Hungarian criminal justice system, focusing on the intersection of domestic procedural codes, international child-friendly justice standards, and everyday law enforcement practices. By analyzing the structural transition from victimological concepts to procedural rights, the paper highlights the persistent gap between normative ideals and practical implementation. The findings indicate that while significant infrastructural advancements have been achieved—such as the widespread deployment of audiovisual recording facilities—the heavy reliance on the discretionary judgment of investigating authorities often limits the consistent application of child-protective measures. The study concludes that achieving a genuinely child-centred justice system requires moving beyond discretionary options by introducing mandatory, targeted training for law enforcement professionals, enhancing prosecutorial oversight, and establishing strict procedural consequences (such as exclusionary rules) for the failure to apply necessary protective measures.*

Keywords: *criminal proceedings, children, child-friendly justice, special treatment, vulnerable victims*

1. INTRODUCTION

In recent decades, children's rights within the justice system have increasingly attracted academic and legislative attention (Council of Europe, 2010; Kuhl, 2024). Recognizing children's acute vulnerability, modern democratic states must provide a tailored, rights-based response (FRA, 2017; Liefaard, 2019).

Empirical research consistently demonstrates that childhood trauma leaves lasting developmental marks. Compared to their non-abused peers, traumatized

children exhibit significantly higher rates of depression, PTSD, behavioral impairment, and suicide attempts (NIJ, 2021; Silverman et al., 1996). In the justice context, this nexus between early trauma and delinquency is critical, as traumatized youth are disproportionately represented as both victims and perpetrators (Justice Policy Institute, 2010; NIJ, 2021). Concurrently, data reveals a concerning trend of increasingly younger individuals involved in crime; minors are now implicated in over 70% of criminal markets (EPRS, 2025). This dual exposure requires justice systems to balance adequate procedural safeguards for suspects with the robust protection of injured parties (De Bondt & Lauwereys, n.d.; European Parliament & Council of the European Union, 2012).

A constitutional state must enforce children's rights across all public authorities, guided by the foundational principle of the "best interests of the child" enshrined in the UN Convention on the Rights of the Child (UNGA, 1989; Council of Europe, 2010). Consequently, "child-friendly justice" has emerged as a central reform objective. Defined by the Council of Europe (2010, p. 17) as justice systems that effectively implement children's rights while respecting their dignity, participation, and protection from discrimination, this concept is bolstered by EU Directive 2012/29/EU, which mandates a child-sensitive approach across all stages of criminal proceedings (European Parliament & Council of the European Union, 2012, Art. 22(4)).

Children enter the justice system under profoundly stressful circumstances—such as abuse or domestic violence—carrying a high risk of secondary victimisation (FRA, 2017; Wielec, 2021). To prevent the justice system itself from causing additional trauma, proceedings must ensure that children are informed, supported, and treated appropriately for their age and emotional maturity (Council of Europe, 2010; European Parliament & Council of the European Union, 2012; Liefaard, 2019). However, the formal, results-oriented logic of criminal justice often conflicts with a child's developmental needs (FRA, 2017; Wielec, 2021). Mitigating this tension requires specific legal mechanisms that affirm the child's dignity, which not only ensures procedural fairness but also enhances the reliability of the evidence obtained (Council of Europe, 2010; Fantoly, 2022; Kuhl, 2024; Liefaard, 2019).

The Hungarian Criminal Procedure Act (Act XC of 2017; Be.), entering into force in July 2018, marks a significant legislative step in this direction. The Act consolidated previously scattered norms into the systematized legal institution of "special treatment" (különleges bánásmód), encompassing procedural measures to protect individuals whose personal characteristics or the nature of their offense make participation challenging (Be. § 81; Fantoly, 2022). Because this institution was designed primarily for victims and witnesses, this study focuses on the criminological and procedural dimensions of special treatment applied to child victims. By clarifying the conceptual distinctions between "victim" and "injured party" (sértett) in Hungarian law and overviewing the international regulatory framework, this study ultimately addresses the key enforcement challenges arising in law enforcement practice.

2. THE MULTI-LEVEL REGULATORY FRAMEWORK OF CHILD PROTECTION IN HUNGARIAN CRIMINAL JUSTICE

The effective protection of children within the criminal justice system cannot be sustained by procedural rules alone; it requires a coherent, multi-level regulatory framework that spans constitutional guarantees, international obligations, institutional policies, and infrastructural mandates. In Hungary, this framework has evolved significantly over the past decades, shifting from a fragmented set of rules toward a more systematised, child-centred approach.

2.1. Constitutional and International Foundations

The cornerstone of the domestic legal protection of children is the Fundamental Law of Hungary (*Magyarország Alaptörvénye*, 2011), which explicitly elevates the physical, mental, and moral development of children to the level of constitutional state obligation. This constitutional mandate is inextricably linked to Hungary's international commitments, most notably the United Nations Convention on the Rights of the Child, which was integrated into the domestic legal order via Act LXIV of 1991 (*1991. évi LXIV. törvény*). The promulgation of the Convention established the "best interests of the child" as a primary consideration in all state actions, including criminal proceedings. To ensure compliance with these fundamental rights at an institutional level, the Hungarian legal system operates an ombudsman-type fundamental rights protection mechanism for children, which actively monitors state practices and provides a non-judicial avenue for addressing systemic rights violations (Magyar Jogi Lexikon, 2020).

2.2. European Catalysts and Domestic Institutional Concepts

At the European level, the continuous advocacy of the European Parliament for the robust protection of children's rights has been a major catalyst for member state reforms (Európai Parlament, 2020). Translating these broader political objectives into specific justice-related standards, the European Commission's 2013 Recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (2013/C 378/02) set clear expectations for accommodating vulnerability in police and judicial practice (European Commission, 2013).

Domestically, the Hungarian judiciary anticipated several of these legislative reforms. Recognising the acute vulnerability of child participants, the National Office for the Judiciary developed and published the *Judicial Concept of Child-Centred Justice* in 2012 (OBH, 2012). This conceptual document laid down the institutional philosophy that an impartial court, while remaining neutral, must proactively ensure that the procedural environment is adapted to the age, maturity, and psychological needs of the child, ensuring that fundamental rights are not compromised during testimony or trial.

2.3. Victim Support and Procedural Evolution

Parallel to the evolution of judicial concepts, the substantive support provided to victims underwent significant development. Act CXXXV of 2005 on Assistance to Victims of Crime and State Compensation (*2005. évi CXXXV. törvény*) established a comprehensive state victim support service, extending legal, psychological, and financial assistance to victims independently of their procedural status. Today, digital platforms and informational networks explicitly detail the rights of victims requiring special treatment, improving accessibility to state support mechanisms and legal representation (Áldozatok Jogai, 2020).

Within the strict domain of criminal procedure, the regulatory paradigm shifted dramatically. The old Criminal Procedure Act (Act XIX of 1998; *1998. évi XIX. törvény*) contained protective rules that were largely dispersed and lacked a cohesive underlying philosophy for vulnerable groups. This deficiency was rectified by the new Criminal Procedure Act (Act XC of 2017; *2017. évi XC. törvény*), which introduced the consolidated legal institution of "special treatment" (*különleges bánásmód*), centralising and standardising the procedural rights of vulnerable participants.

2.4. Infrastructural and Execution Guarantees

A legal framework, however, is only as effective as the physical and procedural infrastructure that supports it. To bridge the gap between procedural theory and investigative practice, the Hungarian legislator enacted specific ministerial decrees to govern the physical execution of investigative acts. Predating the new procedural code, Ministerial Decree 34/2015 (XI. 10.) IM (*34/2015. (XI. 10.) IM rendelet*) mandated the establishment and stringent supervision of specially designed police interview rooms. These facilities were explicitly created for the hearing of defendants or witnesses under the age of fourteen and for victims requiring special treatment, ensuring a non-threatening, child-friendly physical environment.

Complementing this infrastructural requirement, Ministerial Decree 12/2018 (VI. 12.) IM (*12/2018. (VI. 12.) IM rendelet*) detailed the precise rules applicable to individual procedural acts and the persons participating in them under the new procedural code. By regulating the technical execution of hearings, the use of telecommunications equipment, and the methodology of audiovisual recording, the decree operationalised the protective intent of the 2017 Criminal Procedure Act, providing law enforcement with the regulatory tools necessary to mitigate the secondary victimisation of children.

3. VICTIM AND INJURED PARTY

The term "victim" (*áldozat*) was originally coined by the founders of the science of victimology — most notably Benjamin Mendelsohn and Hans von Hentig — and is used in the discipline in a figurative and sociological sense, distinct from rigid legal categories (Görgényi, 2001; Mendelsohn, 1956; von Hentig, 1948). The concept of victimhood encompasses much broader conceptual elements than the procedural definition and can be applied on a significantly wider scale; in this

theoretical framework, we must use the term to refer to all those who suffer the disadvantages of crime, regardless of their formal legal status (Barabás, 2019; Görgényi, 2001). Victimology defines the concept of victim as follows: A victim is, first and foremost, a natural person who suffers harm—in particular, physical or mental injury, emotional suffering, or economic loss—as a direct consequence of a criminal act (United Nations General Assembly [UNGA], 1985; van Dijk, 2009). In a broader sense, victimhood is associated with the idea of harm done to a person and the irreducible reality of human suffering (Görgényi, 2001; Kiss, 2018).

This approach to the concept applies to all criminal acts. The Latin word *victima* was originally used in a sacrificial context, but in modern victimology, it refers to a person who has suffered some kind of injury in the course of a criminal act, or who is in the process of doing so, or who has to endure these injuries outside of their own will (Görgényi, 2001; Mendelsohn, 1956).

The victimological concept embraces and encompasses the victim in their totality. It does not narrow the individual down conceptually, as is often the case in procedural law, where the essence of the "injured party" status (*sértetti státusz*) is merely the sum of rights and obligations conferred by the legislator (Bócz, 2012; Elek, 2020). We are dealing with a much more complex conceptual element in victimology. The victim is someone who, during the course of the crime, "unwillingly bears the burden, difficulty, and serious consequences of misfortune, stroke of fate, human weakness, or evil, sometimes undeservedly, or who, through no fault of their own, find themselves in an awkward situation or are forced to endure minor difficulties or occasional unpleasantness without retaliation" (Görgényi, 2001, p. 18).

Although those directly involved in the action are the main victims of the events, mention must also be made of those persons who, in some way, come into contact with the criminal act itself. For example, they may be witnesses to a sexual assault or an assault or threat, suffering what is known as indirect or secondary victimisation (European Parliament & Council of the European Union, 2012; Hall, 2010). However, the term "victim" requires that the harm suffered be apparent, but this can also take a mental form. From the perpetrator's point of view, however, it is not necessary for the perpetrator to be even partially aware of who they wish to harm and to what extent (Görgényi, 2001; von Hentig, 1948). The descriptions relating to victims have been selected primarily from the perspective of victimology, i.e., from the point of view of *becoming* a victim (*victimisation*). In addition, it seems necessary to examine the legal situation of victims in criminal proceedings.

According to Section 50 of the Criminal Procedure Act (Act XC of 2017; Be.), an injured party (*sértett*) is a natural or legal person whose rights or legitimate interests have been directly infringed or endangered by a criminal act (Be. § 50; Fantoly, 2022). As the definition makes clear, only those who have directly suffered from the criminal act can be considered victims in the procedural sense, but the law does not provide a more precise definition of the nature of the harm. Thus, the harm may be of any kind, whether it concerns personal rights or gives rise to non-pecuniary damages (Elek, 2020; Kiss, 2018). Therefore, while the status of *victim* focuses more on the psychological state of the person and applies to almost anyone who

experiences the criminal offense as having a serious emotional or mental effect, the procedural *injured party* status can only be granted to a person who has been disadvantaged as a result of the criminal act due to some kind of harm in the criminal law sense, provided that stricter conditions are met (Bócz, 2019; Kiss, 2018).

It should be added that mental or psychological damage falling within the category of victimhood must and may be taken into account in criminal proceedings, and may even appear as a civil law claim enforceable by the victim against the defendant within the framework of adhesion proceedings (*polgári jogi igény*) (Be. § 56; Mihalov - Totova, 2019; Lukáš, 2018). In the case of child victims, it is precisely the latter — the acknowledgement of emotional harm — that must be given greater emphasis in criminal proceedings. This aspect is more significant and more vividly expresses the severity of the injury than the abstract wording of the Criminal Code, which refers to "rights and legitimate interests" (Kuhl, 2024; Wielec, 2021). From another point of view, the term "victim" is more accurate in this context because it captures the vulnerability inherent in childhood.

This distinction makes sense, as victims in the psychological sense cannot be legal entities, unlike injured parties in the procedural sense (Bócz, 2019; Elek, 2020). Incidentally, the extension of the concept of the injured party to non-legal entities in procedural law is considered a significant change that fills a gap in the current regulations (Kiss, 2018). However, from the point of view of victim assistance, the concept of victim is more than just the procedural expression of the injured party, in that state assistance is not only provided to persons defined under procedural law, but also to persons who have suffered direct physical, mental, or emotional harm or economic loss as a result of a criminal offense, in line with the objectives of Directive 2012/29/EU (European Parliament & Council of the European Union, 2012).

4. THE POSITION OF CHILDREN IN CRIMINAL PROCEEDINGS

Historical examination of Hungarian criminal procedure (the codes of 1896, 1951, and 1973) reveals a conspicuous regulatory gap regarding the protection of children, with the first substantive step taken by the 1997 Child Protection Act (Gyermekvédelmi törvény) (Komp, 2015; Rácz, 2018; Vári, 2013). Today, a differentiated legislative approach is crucial, as children—often framed as Generation Z—are increasingly involved in crime both as victims and perpetrators (Frei, 2015; Mócsáry, 2017). Empirical data shows that youth aged 12–17 commit approximately 13% of all crime despite constituting only 7% of the population (Hein et al., 2017, as cited in Pham et al., 2020).

Recognizing that childhood trauma permanently impacts life trajectories, international frameworks have established that states have a fundamental duty to protect younger generations in judicial settings (Council of Europe, 2010; UNGA, 1989; Komp, 2015; Vári, 2013). The concept of "child-friendly justice," defined by the 2010 Council of Europe Guidelines, envisions an accessible, age-appropriate system that guarantees children's rights to a fair trial, participation, and dignity (Council of Europe, 2010, p. 17; FRA, 2017; Gyurkó, 2012). This aligns with the

United Nations' parallel concept of "child-centred justice" (Gyurkó, 2012; Vári, 2013).

The 1989 UN Convention on the Rights of the Child (CRC) serves as the international cornerstone, setting minimum treatment standards and explicitly rejecting discrimination (UNGA, 1989; Komp, 2015). This framework was significantly expanded by the Beijing Rules (UNGA, 1985), the Riyadh Guidelines (UNGA, 1990a), and the Havana Rules (UNGA, 1990b), alongside later ECOSOC guidelines, which collectively mandate needs-based application of the law and robust procedural rights from first contact through adjudication (Gyurkó, 2012; Joutsen, 2017; Lencse, 2018; OHCHR, 1997; Penal Reform International, 2020).

At the EU level, child-friendly justice is embedded in the Treaty on European Union, the Charter of Fundamental Rights, and the European Commission's 2011 agenda (EPRS, 2025; European Parliament, 2011; European Parliament & Council of the European Union, 2012; Kuhl, 2024). Hungary strived to meet these expectations early by integrating the CRC via Act LXIV of 1991 and participating in the 2012 ENOC Year of Child-Friendly Justice to better enforce these paradigms (Gyurkó, 2012; Jámbrik, 2015; Komp, 2015; Rácz, 2018).

Domestically, the National Office for the Judiciary's 2012 concept reinforced that while courts remain impartial, ensuring a minor's healthy development warrants heightened procedural attention without compromising constitutional guarantees (Komp, 2015; Lencse, 2018; National Office for the Judiciary, 2012).

Practically, this child-sensitive approach materialized through the massive expansion of designated children's interview rooms (gyermekkihallgató szobák). Prompted by the new Criminal Procedure Act (Be.) and Ministerial Decree 13/2018. (VI. 17.) IM, rooms equipped with compliant audio-visual systems grew from just 25 nationwide in 2017 to 202 by September 2018 (Helsinki Bizottság, 2018; Lencse, 2018). This vital infrastructural shift physically embodies European best practices for reducing secondary victimisation and improving evidence quality (Barnahus Europe, 2025b; E-ViVi Project, 2025).

5. SPECIAL PROVISIONS IN THE BE. WITH PARTICULAR REGARD TO CHILDREN

Chapter XIV of the Hungarian Criminal Procedure Act (Act XC of 2017; Be.) establishes the comprehensive, consolidated regulatory framework for special treatment (különleges bánásmód) in Sections 81 through 97 (Be. §§ 81–97; Lencse, 2019). Section 81(1) makes it expressly clear that the possibility of facilitating participation in the proceedings through special treatment is primarily available to the victim and the witness, though it may also apply to other participants (Be. § 81(1); Fantoly, 2022). Section 81(2)(a) separately identifies age as a qualifying circumstance of distinctive procedural significance, establishing a principled normative basis for age-sensitive differentiation (Be. § 82(a)–(c); Helsinki Bizottság, 2018).

Since the consideration of age-based circumstances appears as a general regulatory principle—one that does not require a separate, constitutive official

decision—it is primarily young or elderly persons who may benefit from special treatment automatically (Lencse, 2019; Wielec, 2021). Notably, not having reached the age of eighteen in itself triggers automatic eligibility for special treatment for the victim-witness, without the need for any individual assessment (Be. § 82(a); Helsinki Bizottság, 2018). Furthermore, the new Be. limited this age-based presumption to the actual age at the time of each individual procedural act, a temporal qualification with significant practical implications for lengthy proceedings (Be. § 82; Lencse, 2019).

It should be noted that when deciding on the granting of special treatment, the legislator draws a meaningful distinction between the victim and the witness: in the case of the witness, there is no binding requirement to reject a motion for a finding, unlike in the case of the victim, where such requirements operate with greater rigidity (Be. §§ 83–84; Fantoly, 2022). This asymmetry reflects a deliberate legislative choice regarding the varying degrees of vulnerability and protection needs that attach to different categories of participants (Lencse, 2019; Wielec, 2021).

5.1. General and Specific Measures

In structuring the substantive content of special treatment, the legislator operated with a clear distinction between general and special rules (Be. §§ 85–90; Lencse, 2019). Sections 85–86 detail the general measures—provisions of a broadly enabling character that include increased communication and data protection, the possibility of using telecommunications equipment, and the use of video and audio recordings (Be. § 85(1); Helsinki Bizottság, 2018). Critically, these general measures are not mandatory obligations; rather, they entrust the acting authority with the option of applying them at its discretion (Lencse, 2019). Similar to certain witness protection measures—such as the restriction of the right to ask questions or the prevention of confrontation—these measures are included in the proceedings purely at the discretion of the authority (Be. § 85; Wielec, 2021).

As a result, Hungarian legislation in its current form does not fully comply with the normative expectations set out in the European Commission Recommendation 2013/C 378/02, which stipulates that interrogations should be recorded on audiovisual media during the pre-trial phase (European Commission, 2013; Lencse, 2019). This gap has wider significance in light of Directive (EU) 2016/800, which introduces specific mandatory safeguards—including provisions on audio-visual recording of questioning—that Member States were required to implement in full (Cras, 2016; FRA, 2022).

Because the actual application of general measures relies heavily on the discretionary judgment of the acting authority and requires separate motions, the enforceability of the child's procedural protections is structurally deficient. This is compounded by the fact that the law provides no legal remedies for the failure to apply these measures unless a formal motion has been officially rejected (Be. § 83; Helsinki Bizottság, 2018; Lencse, 2019).

Within the scope of the specific rules (Sections 87–90 Be.), the law provides a more structured framework by prescribing mandatory and discretionary measures for three distinct groups (Be. §§ 87–90; Helsinki Bizottság, 2018):

- Section 87 — Persons under the age of eighteen. For this group, image and sound recording of procedural acts and the presence of a forensic psychologist are prescribed where feasible (APSAC, 2024; Be. § 87). Furthermore, instrumental verification of statements (polygraph) is strictly prohibited, and confrontation may only be ordered with the minor's consent (Be. § 87; Lencse, 2019).
- Section 88 — Persons under the age of fourteen. Here, the rules apply cumulatively with additional mandatory safeguards. Procedural acts may not be performed if the evidence can be replaced by other means. Mandatory requirements include: the use of a suitable, designated room; questioning by the same person on each occasion; and obligatory video and audio recording by the court, public prosecutor's office, and investigating authority. Confrontation is prohibited, and the accused and defence counsel may not be present during the interrogation (Be. § 88; Helsinki Bizottság, 2018). This strict separation aligns with the best-practice standard of the Barnahus model, which advocates for separating the forensic interview from adversarial actors to minimise secondary victimisation (Barnahus Europe, 2025a; EUCPN, 2016).
- Section 89 — Victims of crimes against sexual freedom and sexual morality. This section sets out detailed mandatory rules based on age. For victims of sexual offences under eighteen, interrogations must be conducted by a person of the same sex, procedural acts must be performed by the same person on each occasion, and confrontation requires the victim's consent (Be. § 89(1); Lencse, 2019). Additional safeguards include designated rooms, mandatory audio-visual recording, and the exclusion of the accused and defence counsel from the interrogation room. The right of adversarial actors to ask questions is restricted to the submission of proposed written questions, and the public must be excluded from the trial (Be. § 89(2); Helsinki Bizottság, 2018). Most importantly, for victims under the age of fourteen, the victim or witness shall not be questioned again at trial if they have already been questioned during the investigation and their statements recorded (Be. § 89(3)). This provision is directly aligned with the research-based principle that the repeated questioning of child victims is inherently harmful, compromising both the psychological wellbeing of the child and the quality of the evidence (APSAC, 2024; OJJDP, 2015).

5.2. Critical Assessment

When examining the measures applicable to minors—particularly those under fourteen—it becomes evident that despite clearly defined mandatory rules, significant gaps remain in the systematic protection of child victims (Lencse, 2019; Wielec, 2021). Crucial safeguards—such as the mandatory use of designated interview rooms (gyermekkihallgató szoba), the presence of a forensic psychologist, and the designation of a single, non-changing interviewer—are not universally

binding outside the specific context of sexual offences involving victims under fourteen (Be. §§ 87–89; Helsinki Bizottság, 2018). Yet, international best practice considers the presence of a trained forensic psychologist a cornerstone of child-sensitive interviewing, as evidence-based protocols elicit more accurate information while reducing psychological harm (APSAC, 2024; OJJDP, 2015).

The most severe systemic deficiency is that the new regulations actually represent a regression from the former Be.—most critically regarding the mandatory requirement for a same-sex and non-changing interrogator in non-sexual offences (Lencse, 2019). Authorities are no longer legally obliged to apply these provisions in cases like bodily harm or child endangerment, where they are clearly necessary for both psychological and tactical reasons (Helsinki Bizottság, 2018; Lencse, 2019). Paradoxically, the legislator narrowed mandatory protections precisely where minors most frequently appear and are highly vulnerable (Lencse, 2019; Wielec, 2021). This legislative choice conflicts with Directive 2012/29/EU, which requires appropriately tailored protection measures for child victims across all offence categories (European Parliament & Council of the European Union, 2012, Art. 22).

Beyond the mandatory rules, investigating authorities retain wide discretionary latitude to decide whether to apply specific protective measures (Helsinki Bizottság, 2018). Even when rules are mandatory, numerous statutory exceptions allow authorities to deviate, further eroding the framework's normative force (Be. §§ 87–89; Lencse, 2019).

Although legal representatives, authorised representatives, and defense counsel may file a motion requesting protective measures, the authority decides on these motions—including rejections—without issuing a formal, appealable administrative decision (Be. § 83; Lencse, 2019). This lack of a legal remedy effectively hollows out the institution, leaving it vulnerable to arbitrary non-application (Helsinki Bizottság, 2018; Lencse, 2019). This structural deficiency directly contravenes Point 66 of the Council of Europe Guidelines on Child-Friendly Justice, which demands consistent, verifiable application of child-protective measures with appropriate oversight (Council of Europe, 2010).

This critical assessment is strongly corroborated by empirical research from the Hungarian Helsinki Committee, revealing that authorities almost never apply special treatment measures in practice, except for minors and persons with proven intellectual disabilities (Helsinki Bizottság, 2018). Statistical data shows that since the new Be. entered into force, special measures were ordered in only about 29% of eligible cases, with only a fraction involving actual audio-visual recording. Furthermore, surveys of defence attorneys indicate that the new regulations have brought no significant practical change: video and audio recordings occur in only about 5% of interrogations, mostly as remote hearings via telecommunications equipment (Helsinki Bizottság, 2018). This systematic gap between the normative framework and procedural reality represents a fundamental enforcement challenge requiring urgent legislative and institutional action (Lencse, 2019; Wielec, 2021).

6. CONCLUSIONS AND RECOMMENDATIONS

While the 2017 Criminal Procedure Act codified the vital institution of special treatment (különleges bánásmód), a persistent gap remains between these normative ideals and everyday procedural reality (Council of Europe, 2010; Helsinki Bizottság, 2019; Liefaard, 2019). Without mandatory guarantees, robust oversight, and targeted training, this child-protective framework risks becoming merely an aspirational declaration rather than an effective legal instrument (Wielec, 2021).

Empirical research highlights significant institutional inertia: investigating authorities acknowledge the theoretical importance of child-sensitive measures but consistently fail to prioritize them operationally (Helsinki Bizottság, 2019; Magyari & Vári, 2020). This reflects a broader comparative finding: highly discretionary regimes yield low, uneven application, whereas the degree of mandatory legislative prescription is the critical variable driving the actual use of protective measures for child witnesses (Cooper, 2009).

Enforcement is further hindered by police performance metrics that reward clearance rates over the qualitative handling of vulnerable participants (Maslov, 2015). Because clearance rates omit the quality of victim care and legal scrutiny, child-protective obligations lacking immediate quantifiable outputs are systematically under-prioritized (Maslov, 2015). Furthermore, the wide discretion granted to frontline officers in child abuse cases often leads to subjective victim identification, driving unequal access to protection (Espeute, 2023; Quarles van Ufford et al., 2024).

To address these issues, introducing mandatory, targeted training for police handling child victims is an urgent priority. This training—mandated by EU Recommendation 2013/C 378/02—must cover children's psychological needs, the prevention of secondary victimisation, and the systematic application of special treatment (Council of Europe, 2010; European Commission, 2013). Adequate training and organisational support are also indispensable for mitigating the "moral stress" police face when balancing the risks of harming the child against compromising the investigation (Langvik et al., 2025; OJJDP, 2015).

A second reform axis requires strengthened prosecutorial and judicial oversight during investigations. Hungarian defence practitioners observe that without proactive intervention from prosecutors and courts, investigating authorities are unlikely to increase their voluntary use of special measures (Helsinki Bizottság, 2019; Magyari & Vári, 2020). Strict prosecutorial monitoring is a critical enforcement mechanism that compensates for the limitations of discretionary investigative compliance (Biggs, 2016).

Third, key discretionary provisions—most notably the audio-visual recording of all procedural acts involving children—must become mandatory. As highlighted by the European Commission (2013), recording reduces statement disputes and prevents repetitive questioning, directly mitigating secondary victimisation. Where audio-visual recording is mandatory, it becomes normalised, successfully removing the burden of subjective discretionary assessment from officers (Cooper, 2009).

Finally, the legislative framework must attach clear procedural consequences to the violation of child-protective requirements. Currently, the lack of effective remedies for failing to apply special treatment severely undermines the Hungarian framework's normative force (Helsinki Bizottság, 2019; Magyari & Vári, 2020). Introducing an exclusionary rule—invalidating evidence obtained in violation of mandatory special provisions—would serve as a vital deterrent and a principled guarantee of procedural fairness.

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ИЗВАН НОРМЕ: ПОСЕБАН ТРЕТМАН ДЕЦЕ И РЕАЛНОСТ МАЂАРСКОГ КРИВИЧНОГ ПРАВОСУЂА

Vince Vári, Dragana Cvorović, Hlavacska Gergely

Vanredni profesor, Univerzitet javne službe, Fakultet za sprovođenje zakona, Katedra za krivični postupak, Mađarska, vari.vince@uni-nke.hu

Kriminalističko-policijski univerzitet, Srbija, dragana.cvorovic@kpu.edu.rs

Fakultet za sprovođenje zakona, Odsek za bihevioralne nauke o sprovođenju zakona i kriminalističku psihologiju, Mađarska, hlavacska.gergely@uni-nke.hu

Апстракт: *Мађарски закон о кривичном поступку, који је ступио на снагу 2018. године (Закон XC из 2017. године), амбициозно је реструктурирао процедурални положај деце и рањивих појединаца консолидацијом претходно фрагментираних регулаторних норми у јединствену правну институцију „посебног третмана“ (különleges bánásmód). Ова теоријска и социо-правна студија испитује вишеслојни регулаторни оквир заштите деце у оквиру мађарског кривичног правосуђа, фокусирајући се на пресек домаћих процесних закона, међународних стандарда правосуђа прилагођеног деци и свакодневних пракси спровођења закона. Анализирајући структурну транзицију од виктимолошких концепата до процесних права, рад истиче стални јаз између нормативних идеала и практичне примене. Резултати указују на то да, иако су постигнути значајни инфраструктурни напредак – као што је широко распрострањена примена аудиовизуелних уређаја за снимање – велико ослањање на дискреционо просуђивање истражних органа често ограничава доследну примену мера заштите деце. Студија закључује да постизање правосудног система усмереног на дете захтева превазилажење дискреционих опција увођењем обавезне, циљане обуке за стручњаке за спровођење закона, побољшањем тужилачког надзора и успостављањем строгих процедуралних последица (као што су правила о искључењу) за непримењивање неопходних заштитних мера.*

Кључне речи*: кривични поступак, деца, правосуђе прилагођено деци, посебан третман, рањиве жртве*