

TRAUMA-INFORMED APPROACH IN THE JUSTICE SYSTEM AND INTERNATIONAL LEGAL STANDARDS FOR THE PROTECTION OF VULNERABLE PERSONS

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Annotation. The present article advances the proposition that the trauma-informed approach (TIA) constitutes, in contemporary international and European human rights law, not merely a professional best practice, but an emerging interpretive and operational framework through which binding obligations concerning the protection of vulnerable victims and witnesses are increasingly implemented. Contemporary justice systems are required not only to investigate and adjudicate cases effectively, but also to ensure that legal proceedings do not reproduce trauma or cause secondary victimisation. Methodologically, the article relies on an integrated legal-psychological analysis, combining doctrinal analysis of international and European legal standards with insights from trauma studies, victimology, vulnerability theory and ECtHR case law.

The article demonstrates that procedural insensitivity, including repeated questioning, victim-blaming reasoning, confrontational examination and failure to provide protective measures, may constitute a measurable and legally cognisable harm. It further argues that the Victims' Rights Directive, child-friendly justice standards, the Istanbul and Lanzarote Conventions, the Rome Statute, the Murad Code and ECtHR jurisprudence together form a coherent normative basis for trauma-informed justice.

The article identifies key obligations for States and competent authorities, including individual vulnerability assessment, prevention of secondary victimisation, adapted interviewing procedures, professional training and survivor-centred safeguards. The novelty of the article lies in conceptualising the trauma-informed approach as a normative bridge between trauma science, vulnerability theory and international legal standards for the protection of vulnerable persons in justice proceedings.

Key words: trauma-informed approach, secondary victimisation, vulnerability theory, Directive 2012/29/EU, Istanbul Convention; Murad Code, Lanzarote Convention, EctHR, Rome Statute, procedural protection.

1. Introduction.

The governance of legal proceedings involving vulnerable victims and witnesses of crime, sexual violence, and child abuse has undergone a fundamental normative transformation in the past two decades. What was once regarded as the province of therapeutic sensibility, adjusting the tone of an interview, providing adapted physical environments, or sequencing investigative steps to minimise distress, has progressively been incorporated into binding international and European legal instruments as a condition of procedural legality itself. For the purposes of this article, this development is important not only because it broadens the content of victims' rights, but also because it changes the understanding of what a fair and effective justice process requires. A justice system cannot be regarded as genuinely protective if its own procedures reproduce fear, shame, helplessness or distrust in persons whose participation it seeks to secure. The ECtHR made this shift most explicitly in *J.L. v. Italy* (2021), in which the Court held that judicial reasoning

reproducing sexist and moralising tropes directed at a sexual-assault survivor constituted secondary victimisation in violation of Article 8 of the Convention [29].

This article understands the development of trauma-informed justice through the interaction of two strands of scholarship and practice. The first is the development of vulnerability theory in legal scholarship and ECtHR jurisprudence, which has reframed vulnerability not as an individual deficit but as a universal human condition demanding institutional responsiveness [13, 14]. The second is the maturation of trauma science and victimology, which has empirically demonstrated that contact with legal institutions can itself intensify post-traumatic stress symptomatology in survivors of sexual and gender-based violence [5, 6]. Taken together, these approaches allow procedural protection to be analysed not as a benevolent addition to criminal justice, but as part of the State's obligation to organise proceedings in a manner compatible with human dignity, psychological safety and effective participation. This convergence should not be viewed as merely theoretical. It reflects the gradual formation of an international and European consensus that procedural indifference, including repeated questioning of a child, adversarial cross-examination of a rape survivor, or the reproduction of victim-blaming narratives in judicial reasoning, is not simply a failure of professional sensitivity. It may amount to a violation of legally protected rights.

The article therefore proceeds from the position that the protection of vulnerable victims and witnesses depends not only on the existence of formal rights, but also on the psychological and institutional conditions under which these rights are exercised in practice.

2. Analysis of scientific publications.

The scientific literature on trauma-informed justice has developed at the intersection of trauma studies, victimology, vulnerability theory and international human rights law. Foundational studies on trauma-informed care, including the SAMHSA framework, demonstrate that institutions may either support recovery and participation or reproduce harm through insensitive procedures [1]. Empirical research by Campbell, Orth, Smith and Freyd, and more recent studies on secondary victimisation and institutional betrayal show that legal, medical and social responses can aggravate the psychological consequences of the original offence and undermine victims' trust in justice institutions [5–9]. At the same time, vulnerability theory, particularly the works of Fineman, Mackenzie, Rogers, Dodds and Luna, provides a normative explanation of why legal systems must respond not only to individual characteristics of victims and witnesses, but also to situational and institutional factors that create or intensify vulnerability [10–12]. In the field of European and international legal scholarship, Peroni, Timmer, Heri, Liefwaard, Mariotti and other authors have examined how vulnerability, child-friendly justice, victim-sensitive procedures and witness protection are gradually transformed into positive procedural obligations [13–17; 22]. However, despite the growing body of literature, trauma-informed justice is often analysed either as a psychological and professional practice or as a set of separate legal safeguards. Less attention has been paid to its cumulative normative meaning as an integrated legal framework connecting trauma science, vulnerability theory, secondary victimisation prevention and binding international and European standards. This gap determines the focus of the present article.

3. The aim of the work.

The present article pursues three objectives. First, it maps the conceptual foundations of the trauma-informed approach as they have migrated from clinical frameworks into the paradigm of legal obligation, with particular attention to the constructs of secondary victimisation and vulnerability. The article proceeds from the assumption that this movement is not a simple transfer of psychological terminology into legal discourse. Rather, it reflects a deeper change in the understanding of procedural justice, where the manner in which evidence is obtained, testimony is heard and victims are treated becomes part of the legal assessment of fairness and protection.

Second, it analyses the principal international and European legal instruments that operationalise this approach as positive procedural obligations such as the Murad Code, Directive 2012/29/EU, Directive (EU)

2016/800, Articles 68–69 of the Rome Statute, the Istanbul and Lanzarote Conventions, and the ECtHR's evolving jurisprudence on secondary victimisation.

Third, it formulates evidence-based recommendations for legislative, institutional, and educational development. While the author's previous study addressed access to justice for vulnerable victims and witnesses with particular attention to the challenges of implementing EU standards in the Ukrainian legal context [20], the present article has a different focus. It examines the broader international and European normative architecture that makes trauma-informed justice legally relevant and explains why such standards should guide the interpretation of procedural obligations in national justice systems. In this sense, the present article provides a theoretical and normative foundation for further analysis of professional readiness, institutional protocols and practical implementation.

Methodologically, the article relies on doctrinal legal analysis, case-law analysis of the ECtHR, comparative analysis of international and European legal instruments, and interdisciplinary synthesis of legal scholarship, victimology and trauma studies. This methodological combination allows the article to examine how psychological concepts such as trauma, secondary victimisation and vulnerability are translated into concrete procedural obligations within international and European human rights law.

The novelty of the article lies in conceptualising the trauma-informed approach as a normative bridge between trauma science, vulnerability theory and binding international legal standards for the protection of vulnerable persons in justice proceedings. Rather than treating TIA as a purely psychological or professional practice, the article frames it as an interpretive and operational framework that gives practical content to existing obligations to prevent secondary victimisation and ensure victim-sensitive justice.

4. Review and discussion.

The trauma-informed approach was systematised in the framework elaborated by the Substance Abuse and Mental Health Services Administration (SAMHSA, 2014), which defines trauma as arising from events, series of events, or circumstances experienced as physically or emotionally harmful or life-threatening, carrying lasting adverse effects on the individual's functioning across mental, physical, social, emotional, and spiritual dimensions [1]. The framework organises institutional response around four key assumptions: Realise, Recognise, Respond, and Resist re-traumatisation and six guiding principles: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment, voice and choice; and attention to cultural, historical, and gender issues. Although this framework was not originally designed as a legal doctrine, its relevance for justice systems is evident. It draws attention to the fact that institutional contact may either support recovery and participation or deepen the effects of the original harm.

Branson, Baetz, Horwitz, and Hoagwood (2017), in a systematic review of trauma-informed juvenile justice systems, identified ten implementation domains and underscored the necessity of cross-system alignment between mental-health and justice institutions [2]. Baker et al. (2016) developed the Attitudes Related to Trauma-Informed Care (ARTIC) scale as a validated instrument for measuring change in practitioner attitudes following training and this development has direct relevance to compliance monitoring of training obligations [3].

What distinguishes the TIA from other quality-of-service paradigms is its foundational premise that the institutional system itself can function as a source of harm. For justice institutions, this premise has direct legal significance. It means that harm may arise not only from the original offence, but also from the way in which the victim or witness is questioned, doubted, exposed to the alleged perpetrator, required to repeat traumatic details or confronted with stereotyped assumptions. The principle of resisting re-traumatisation demands that institutions audit their own procedures (interview techniques, courtroom layouts, scheduling practices, terminology, and evidentiary rules) for their potential to reactivate the survivor's traumatic experience. This conceptual move, from an exclusive focus on individual pathology towards a focus on institutional design and professional conduct, constitutes the bridge connecting trauma science to legal obligation.

1. Secondary Victimization as a Legal-Psychological Category.

Secondary victimisation describes the additional harm a victim suffers through insensitive, victim-blaming, or institutionally indifferent responses from legal, medical, and social actors. Symonds (1980) introduced the metaphor of the 'second injury', capturing the permanent psychological wound inflicted when victims interpret institutional detachment or scepticism as personal rejection [4]. Campbell (2008) and Campbell et al. (2001) demonstrated in mixed-methods research that contact with legal, medical, and mental-health institutions exacerbated post-traumatic stress symptoms in survivors of sexual violence in a measurable and consistent pattern [5, 6]. Orth (2002) operationalised the construct specifically in criminal proceedings, identifying procedural and interactional injustice as its principal drivers [7]. Smith and Freyd (2014) developed the concept of *institutional betrayal*, demonstrating that institutions trusted to provide protection but failing to do so generate harm with effects analogous to interpersonal betrayal trauma [8].

The construct has been recently reinvigorated by Pemberton and Mulder (2025), who reframe secondary victimisation through the lens of *epistemic injustice*, arguing that procedural disregard constitutes a denial of the victim's standing as a knower, this framing maps with particular precision onto the procedural obligations articulated by the ECtHR [9]. Three psychological mechanisms drive secondary victimisation:

- *re-experiencing*, whereby forensic interviewing or adversarial cross-examination triggers intrusion and arousal symptoms;
- *loss of control*, whereby institutional procedures deprive the survivor of agency, replicating the helplessness of the original traumatic event;
- *betrayal*, whereby institutional failure collapses the survivor's schemata about safety, trust, and protective authority.

Each of these mechanisms corresponds to a cognisable violation in the framework of ECtHR positive-obligation doctrine, connecting the psychological analysis directly to enforceable legal standards. This is particularly important for the argument of this article, because it shows that secondary victimisation is not only a psychological consequence of poor institutional practice. It can become a legal category when State authorities fail to organise proceedings in a way that protects dignity, private life, psychological integrity and effective participation.

Vulnerability Theory and the Survivor-Centred Approach. Fineman's (2017) vulnerability theory provides the most systematic philosophical foundation for the legal obligations examined in this article [10]. Fineman replaces the autonomous liberal subject with the *vulnerable subject*, for whom embodied fragility and dependency are universal and inevitable features of human existence. Differences among individuals lie not in the presence or absence of vulnerability but in the *resilience resources* produced or withheld by institutional design, that's why generating an affirmative state obligation to construct responsive institutions rather than merely abstaining from direct harm.

Mackenzie, Rogers, and Dodds (2014) refined this framework by distinguishing between *inherent* vulnerability (arising from general conditions of embodied human existence), *situational* vulnerability (arising from specific personal, social, economic, or political circumstances), and *pathogenic* vulnerability, generated by interventions, including legal proceedings, intended to ameliorate harm but that instead produce new ones [11]. Luna's (2019) concept of *layered vulnerability* further captures the dynamic, intersectional, and relational character of vulnerability, resisting its reduction to fixed demographic categories [12]. The survivor-centred approach, articulated in the Murad Code and progressively incorporated into EU secondary legislation, operationalises this theoretical framework at the level of institutional design. It requires that proceedings be organised not only around the informational and evidentiary needs of the justice system, but also around the safety, dignity, agency and communicative capacity of the survivor. This does not weaken the requirements of due process. On the contrary, it strengthens the reliability and legitimacy of proceedings by creating conditions in which vulnerable persons can participate without avoidable procedural harm.

ECHR jurisprudence has progressively incorporated these theoretical insights into its doctrinal architecture. Peroni and Timmer (2013) traced the emergence of ‘vulnerable groups’ as a structural concept triggering enhanced positive obligations under Articles 2, 3, and 8 of the Convention [13]. Heri (2021) synthesised this development into a ‘responsive human rights’ framework, in which vulnerability, ill-treatment, and procedural protection form a coherent doctrinal cluster requiring States to act with special diligence in the design and administration of legal proceedings involving survivors of sexual and gender-based violence [14].

The legal significance of the trauma-informed approach does not arise from the SAMHSA framework or trauma science alone. Rather, it emerges through several pathways of normative translation. In legal terms, trauma-informed justice becomes relevant when psychological knowledge about trauma, memory, fear, shame, avoidance and loss of control is reflected in procedural duties, evidentiary safeguards, interviewing standards, training obligations and judicial reasoning. Treaty incorporation occurs where principles of victim-centred and trauma-sensitive justice are expressly reflected in binding instruments, such as the Istanbul Convention and the Lanzarote Convention. Also, EU secondary law translates these principles into concrete procedural obligations, including individual vulnerability assessment, adapted premises, professional training and measures to prevent secondary victimisation under Directive 2012/29/EU and Directive (EU) 2016/800. Important to admit that judicial interpretation by the ECtHR gives legal force to these standards by treating procedural insensitivity, stereotyped reasoning and confrontational examination as potential violations of Articles 3 and 8 of the Convention. Finally, soft-law instruments such as the Murad Code operate as interpretive and operational standards that specify how binding obligations, including those under Article 68 of the Rome Statute, should be implemented in practice. It is through this cumulative process, rather than through a single codified rule, that trauma-informed justice acquires normative relevance in international and European human rights law.

The conceptual analysis leads to three practical implications. First, national procedural systems should move beyond categorical understandings of vulnerability and adopt a dynamic model that recognises inherent, situational and pathogenic vulnerability. Second, secondary victimisation should be recognised as a legally relevant procedural harm requiring preventive safeguards at each stage of proceedings. Third, professional training should incorporate trauma-informed knowledge, including the mechanisms of re-experiencing, institutional betrayal and survivor-centred communication.

2. International and European Legal Standards as Instruments of Trauma-Informed Justice. *The Murad Code* - The Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence, was released in April 2022 following a multi-year consultative process involving experts and survivors across numerous countries [15]. Named after Yazidi survivor and Nobel Peace laureate Nadia Murad, the Code establishes eight core principles constituting an ethical and operational framework for any actor gathering or using information about systematic and conflict-related sexual violence (CRSV): (1) safety and well-being first; (2) do no harm; (3) rights-based approach; (4) survivor-centred practice including informed consent; (5) good methods and appropriate qualifications; (6) quality and confidential information; (7) professional conduct, training, and cultural competence; and (8) coordination to reduce the burden on survivors.

Koenig and Egan (2025) have documented that the Code now functions as the reference standard for digital and field investigations of CRSV, including those conducted by and in partnership with the International Criminal Court [16]. Mariotti (2024) has advanced the doctrinal argument that compliance with Murad Code-equivalent standards may be understood as an operational means of giving effect to the obligations arising under Article 68 of the Rome Statute, which requires the Court to protect ‘the safety, physical and psychological well-being, dignity and privacy of victims and witnesses’ [17]. On this analysis, the Murad Code illustrates how soft-law instruments function as interpretive vehicles for binding treaty obligations and become a mechanism of direct relevance to national accountability processes for CRSV, including in contexts of armed conflict.

Directive 2012/29/EU known as the The Victims’ Rights Directive) establishing minimum standards on the rights, support and protection of victims of crime is the EU’s foundational instrument on victims’ rights and the most comprehensive legally binding expression of the trauma-informed approach in European

criminal procedure [18]. Article 22 requires Member States to ensure a ‘timely and individual assessment’ of victims to identify specific protection needs, with explicit consideration of personal characteristics, the type and nature of the crime, and circumstances; child victims are presumed to have specific protection needs. Article 23 sets out special measures during investigation and court proceedings, including adapted premises, trained professionals, continuity of personnel, prevention of visual contact with the alleged perpetrator, and prohibition of unnecessary questioning concerning the victim’s private life. Article 25 mandates general and specialist training of officials likely to come into contact with victims.

In this respect, Directive 2012/29/EU moves beyond the merely formal recognition of victims’ rights and introduces a more individualised model of procedural protection. Protective measures are to be determined on the basis of the victim’s specific protection needs and the risk of secondary victimisation identified through an individual assessment, rather than exclusively by reference to the type of crime [18, 19]. As Bondarenko (2025) demonstrates in a systematic analysis of the Directive’s implementation in Ukraine, even where legislative commitment to the Directive’s requirements is unambiguous, the absence of a systematic vulnerability assessment mechanism at first contact with competent authorities and the lack of mandatory secondary victimisation prevention protocols create persistent implementation deficits that directly affect vulnerable victims and witnesses [20]. This finding underscores the structural gap between legislative transposition and operational compliance that characterises implementation challenges across multiple jurisdictions.

Directive (EU) 2016/800 (Procedural Safeguards for Children) is the first binding EU instrument harmonising procedural safeguards for children in criminal proceedings which requires a multidisciplinary individual assessment of the child’s specific needs, conducted by qualified personnel prior to indictment (Article 7) [21]. Article 20 requires training of law-enforcement personnel, judges, prosecutors, lawyers, and detention staff on children’s rights, age-appropriate questioning techniques, and child developmental psychology. Liefwaard (2019) has argued that this Directive, together with Directive 2012/29/EU and the Council of Europe Guidelines on Child-Friendly Justice, constitutes a coherent EU *acquis* on the psycho-developmental adaptation of justice processes as a body of obligations whose discharge is impossible without trauma-informed professionals capable of recognising and responding to the specific needs of child victims and witnesses [22].

The Rome Statute Articles 68–69 and the Convergence with the Murad Code. Article 68(1) of the Rome Statute obliges the Court to take ‘appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses,’ with particular attention to the nature of the crime in cases of sexual or gender-based violence [23]. The associated Rules of Procedure and Evidence (specifically Rules 70 and 71) prohibit inferring consent from silence and exclude evidence of prior sexual conduct, constituting evidentiary translations of trauma science into international criminal procedure [24]. Mariotti (2024) has argued that Article 68 generates a legal obligation on the Prosecutor to ensure trauma-informed witness preparation, positioning the Murad Code not as voluntary guidance but as the operational content of a binding treaty obligation [17]. This has significant doctrinal implications, as States parties to the Rome Statute are not merely encouraged to consider trauma-informed standards in CRSV documentation. Rather, such standards increasingly provide an authoritative framework for giving practical effect to obligations concerning the safety, dignity, privacy and psychological well-being of victims and witnesses.

The Istanbul (CETS No. 210, 2011) to which the EU acceded on 28 June 2023 articulates the most comprehensive trauma-informed framework in European treaty law [25]. Article 18(3) requires that all protective measures be ‘based on a gendered understanding of violence,’ take a ‘human-rights and victim-centred approach,’ and ‘aim at avoiding secondary victimisation.’ Article 15 obliges States to provide and strengthen training for professionals on prevention and detection of violence and on how to prevent secondary victimisation in the handling of cases. McQuigg’s (2021) analysis of *Volodina v. Russia* demonstrates how the Convention’s obligations have been progressively incorporated into ECtHR positive-obligation doctrine across a range of domestic violence scenarios [26].

The Lanzarote Convention (CETS No. 201, 2007) provides the cornerstone framework for child victims of sexual exploitation and abuse [27]. Article 30 mandates that investigations and proceedings ‘shall not aggravate the trauma experienced by the child.’ Article 35 articulates the operational principles of trauma-informed

interviewing: interviews shall be conducted without unjustified delay, in specially adapted and equipped premises, by trained professionals, by the same persons where possible, and limited in number. Herbert and Bromfield (2016) provide the principal empirical evidence for the effectiveness of the Barnahus (Children's House) model (which is the institutional realisation of Article 35) in reducing the number of child investigative contacts, the time to disposition, and measurable levels of child distress during proceedings [28].

ECtHR Case Law about Secondary Victimization as a Rights Violation. The ECtHR has translated the foregoing treaty obligations into binding judicial standards through a coherent and progressive body of case law. In *M.C. v. Bulgaria* (2003), the Court established the consent-based standard for rape, requiring States to penalise non-consensual sexual conduct regardless of physical resistance (a doctrinal translation of trauma science's account of the freeze response and the inadequacy of resistance as a marker of non-consent). In *Y. v. Slovenia* (2015), the Court found violations of Articles 3 and 8 arising from the repeated direct cross-examination of the applicant by her alleged abuser, establishing a procedural obligation to prevent confrontational examination that replicates the dynamics of sexual violence [30]. In *J.L. v. Italy* (2021) the Court held, for the first time, that the language of a national judicial decision reproducing sexist stereotypes and moralising judgements directed at a sexual-assault survivor constituted secondary victimisation amounting to a violation of Article 8 [29]. The article focuses on these judgments because they most directly illustrate the transformation of procedural insensitivity into a legally cognisable human rights violation.

The doctrinal synthesis that emerges from this jurisprudential evolution is unmistakable, because the ECtHR treats procedural insensitivity not as an administrative shortcoming but as a substantive violation of fundamental rights, generating positive obligations whose discharge depends on professionals and institutions capable of recognising and responding to trauma. Each of the judgments reviewed imposes concrete, measurable obligations (on interview procedures, courtroom organisation, evidentiary rules, and the language of judicial reasoning) whose compliance can only be verified in the context of trauma-informed professional competencies.

3. Practical Implications for Trauma-Informed Justice.

The analysis of international and European legal standards demonstrates that trauma-informed justice requires the translation of general protective obligations into concrete procedural safeguards. These safeguards should not be viewed as exceptional measures or discretionary improvements of procedural quality. They are the practical form through which legal systems show whether the rights of vulnerable victims and witnesses are genuinely protected or remain only declaratory. Rather, they constitute practical mechanisms through which States and competent authorities give effect to their obligations to protect vulnerable victims and witnesses from secondary victimisation, ensure their dignity and safety, and enable their effective participation in justice proceedings.

Against this background, national legal systems should establish a unified standard for the individual assessment of vulnerability. Such a standard should build on Article 22 of Directive 2012/29/EU and Article 7 of Directive (EU) 2016/800, and should be applied at the earliest point of contact with competent authorities. The assessment should be conducted by trained professionals and should take into account not only the personal characteristics of the victim or witness and the nature of the offence, but also situational and procedural factors that may increase the risk of secondary victimisation. This is especially relevant for legal systems dealing with conflict-related crimes, sexual violence, crimes against children and other categories of cases where the vulnerability of a person may be intensified by both the original harm and the justice process itself.

Investigative interviews with vulnerable victims and witnesses should be organised in a manner that minimises the risk of re-traumatisation. Audiovisual recording should become the procedural default, while written transcription should be treated as a derogation requiring reasoned justification. This approach would reduce the need for repeated questioning, preserve the evidentiary value of the testimony, and strengthen procedural fairness for all parties. Such a model is not only more sensitive to the psychological condition of the victim or witness. It also serves the interests of justice by improving the quality, consistency and reliability of evidence.

National prosecutorial and investigative authorities dealing with conflict-related sexual violence and other gross human rights violations should incorporate the principles of the Murad Code into their internal protocols. This recommendation is of particular importance for jurisdictions documenting large-scale international crimes, including crimes committed in the context of armed conflict, where the same survivor may be contacted by several investigative, prosecutorial, humanitarian and documentation actors. Although the Murad Code is formally a soft-law instrument, its principles provide an authoritative operational framework for implementing obligations concerning the safety, dignity, privacy and psychological well-being of victims and witnesses. Compliance with such protocols should be subject to appropriate internal and, where possible, independent external review.

In addition, procedural law should prohibit direct cross-examination of vulnerable victims and witnesses by alleged perpetrators, particularly in cases involving sexual violence, domestic violence, child victims, intellectual disability or severe post-traumatic symptomatology. The standard developed in *Y. v. Slovenia* demonstrates that confrontational examination may itself reproduce the dynamics of abuse and contribute to secondary victimisation. The problem is not limited to the emotional discomfort of the victim. In certain cases, the format of questioning may undermine the person's ability to give coherent testimony, reactivate traumatic responses and distort the balance between the rights of the defence and the State's duty to protect vulnerable participants in proceedings.

Trauma-informed justice also requires attention to the language and reasoning of judicial decisions. Judicial reasoning standards should prohibit stereotyped, victim-blaming or moralising language, especially in cases involving sexual and gender-based violence. The ECtHR's judgment in *J.L. v. Italy* confirms that such language may itself amount to secondary victimisation and undermine the State's obligation to protect the dignity and private life of victims. Judicial councils and training institutions should therefore treat trauma-sensitive reasoning as an element of judicial professionalism and accountability. This requires not only knowledge of anti-discrimination standards, but also an understanding of how trauma may affect memory, behaviour, emotional expression and the ability of a survivor to provide testimony. Without such knowledge, judicial reasoning may unintentionally reproduce stereotypes that international human rights law increasingly recognises as incompatible with the protection of dignity and private life.

Child-friendly justice requires institutional infrastructure capable of protecting children from avoidable procedural harm. The Barnahus model should be regarded as a benchmark for the institutional organisation of cases involving child victims and witnesses of sexual violence and abuse. Its implementation should be supported by statutory funding, clear inter-agency protocols and, where appropriate, population-based coverage benchmarks to ensure that access to child-sensitive justice does not depend on geography or donor-funded projects.

Taken together, these practical implications show that trauma-informed justice cannot be reduced to individual professional sensitivity. It requires legislative codification, institutional protocols, adapted interviewing procedures, professional training, appropriate infrastructure and accountability mechanisms. In this sense, the trauma-informed approach functions as an operational bridge between international legal standards and the everyday practice of justice institutions. Its value in showing how abstract obligations to protect dignity, privacy, safety and effective participation can be translated into daily professional decisions made by investigators, prosecutors, judges, lawyers, psychologists, social workers and other actors who come into contact with vulnerable persons.

5. Conclusions.

This article has established that the trauma-informed approach in the justice system constitutes a normative paradigm sustained by a coherent and mutually reinforcing body of international and European legal obligations. **The central argument is that trauma-informed justice should no longer be understood only as a matter of good professional practice. It increasingly operates as a standard through which the quality of procedural protection, the effectiveness of participation and the prevention of secondary victimisation can be assessed.**

The first conclusion concerns the conceptual foundation of the trauma-informed approach. Its premise that the system itself can be a source of harm, and its operationalisation through the principles of safety, empowerment and resistance to re-traumatisation, provide the intellectual framework for the legal obligations examined in Section 2. This is why trauma-informed justice should not be reduced to empathy or communication skills. It requires institutions to examine whether their own procedures, spaces, language and professional practices may generate avoidable harm. The psychological constructs of secondary victimisation, institutional betrayal, and pathogenic vulnerability are not merely theoretical categories but the evidentiary basis upon which international courts and treaty bodies have constructed binding procedural requirements.

The second conclusion concerns the normative structure of trauma-informed justice. The international and European legal standards examined in this article do not operate in isolation. Directive 2012/29/EU's individual vulnerability assessment obligation, Directive 2016/800's child-specific safeguards, the Istanbul Convention's requirement to avoid secondary victimisation, the Lanzarote Convention's child-friendly interviewing standards, the Murad Code's survivor-centred principles and the ECtHR's jurisprudence from *M.C. v. Bulgaria* through *Y. v. Slovenia* to *J.L. v. Italy* together articulate a framework that operationalises trauma-informed practice as procedural law. The cumulative effect of these instruments is that national authorities are expected not only to recognise vulnerability, but also to adapt procedures in response to it. Each instrument reinforces the obligations established by the others, generating cumulative normative weight that national legislators and international accountability processes cannot legitimately disregard.

The third conclusion concerns the practical meaning of the survivor-centred approach. It should not be treated as a discretionary enhancement of procedural quality. Rather, it increasingly represents a legally relevant standard for assessing whether proceedings protect the dignity, safety and effective participation of vulnerable victims and witnesses. Its operational content is sufficiently concrete to inform legislation, institutional protocols, professional training, interviewing standards and judicial reasoning.

The convergence between trauma science, vulnerability theory and international legal standards leads to a practical conclusion that trauma-informed practice is not only a matter of professional sensitivity. It is increasingly becoming a condition of legal compliance. For this reason, its institutionalisation in national procedural law, professional training and everyday justice practice should be viewed as a necessary element of effective, victim-sensitive and sustainable accountability.

References:

1. SAMHSA. *Concept of Trauma and Guidance for a Trauma-Informed Approach*. Rockville: SAMHSA, 2014. 27 p.
2. Branson C. E., Baetz C. L., Horwitz S. M., Hoagwood K. E. Trauma-informed juvenile justice systems: A systematic review of definitions and core components. *Psychological Trauma*. 2017. Vol. 9. No. 6. P. 635–646.
3. Baker C. N., Brown S. M., Wilcox P. D., Overstreet S., Arora P. Development and psychometric evaluation of the Attitudes Related to Trauma-Informed Care (ARTIC) Scale. *School Mental Health*. 2016. Vol. 8. No. 1. P. 61–76.
4. Symonds M. The 'second injury' to victims of violent acts. *American Journal of Psychoanalysis*. 2010. Vol. 70. No. 1. P. 34–41.
5. Campbell R. The psychological impact of rape victims' experiences with the legal, medical, and mental health systems. *American Psychologist*. 2008. Vol. 63. No. 8. P. 702–717.
6. Campbell R., Wasco S. M., Ahrens C. E., Sefl T., Barnes H. E. Preventing the 'second rape': Rape survivors' experiences with community service providers. *Journal of Interpersonal Violence*. 2001. Vol. 16. No. 12. P. 1239–1259.

7. Orth U. Secondary victimization of crime victims by criminal proceedings. *Social Justice Research*. 2002. Vol. 15. No. 4. P. 313–325.
8. Smith C. P., Freyd J. J. Institutional betrayal. *American Psychologist*. 2014. Vol. 69. No. 6. P. 575–587.
9. Pemberton A., Mulder E. Bringing injustice back in: Secondary victimization as epistemic injustice. *Criminology & Criminal Justice*. 2025. Vol. 25. No.1. P. 1–20.
10. Fineman M. A. Vulnerability and inevitable inequality. *Oslo Law Review*. 2017. Vol. 4. No. 3. P. 133–149.
11. Mackenzie C., Rogers W., Dodds S. (Eds.). *Vulnerability: New Essays in Ethics and Feminist Philosophy*. Oxford: Oxford University Press, 2014. 331 p.
12. Luna F. Identifying and evaluating layers of vulnerability - a way forward. *Developing World Bioethics*. 2019. Vol. 19. No. 2. P. 86–95.
13. Peroni L., Timmer A. Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law. *International Journal of Constitutional Law*. 2013. Vol. 11. No. 4. P. 1056–1085.
14. Heri C. *Responsive Human Rights: Vulnerability, Ill-Treatment and the ECtHR*. Oxford: Hart Publishing, 2021. 248 p.
15. Murad Code Project. *Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence*. London: IICI / Nadia's Initiative / UK PSVI, 2022. URL: <https://www.muradcode.com/murad-code>
16. Koenig K. A., Egan U. Digital investigations of systematic and conflict-related sexual violence: Practice and possibilities. *Chicago Journal of International Law*. 2025. Vol. 26. No. 1. P. 179–196.
17. Mariotti C. Witness preparation at the International Criminal Court: Towards a legal obligation to protect witnesses under Article 68 of the Rome Statute. *Journal of International Criminal Justice*. 2024. Vol. 22. No. 3–4. P. 585–612.
18. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. OJ L 315, 14.11.2012.
19. Kulesza C. Directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. *Improving Protection of Victims' Rights: Access to Legal Aid* / ed. by P. Wiliński, P. Karlik. Poznań: Adam Mickiewicz University, 2014. P. 139–156.
20. Bondarenko Y. Implementation of EU Standards on Access to Justice for Vulnerable Victims and Witnesses: Challenges and Prospects for Ukraine. *Analytical and Comparative Jurisprudence*. 2025. Vol. 3. No. 5. P. 328–334. DOI: <https://doi.org/10.24144/2788-6018.2025.05.3.48>.
21. Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. OJ L 132, 21.5.2016.
22. Liefwaard T. Access to justice for children: Towards a specific research and implementation agenda. *International Journal of Children's Rights*. 2019. Vol. 27. No. 2. P. 195–227.
23. Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 3.
24. Schabas W.A. (2016). *The International Criminal Court: A Commentary on the Rome Statute* (2nd ed.). Oxford University Press, 2016. 1541 p.

-
25. Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), CETS No. 210. Council of Europe, 2011.
 26. McQuigg R. J. A. The European Court of Human Rights and domestic violence: Volodina v. Russia. *International Human Rights Law Review*. 2021. Vol. 10. No. 1. P. 155–171. DOI: <https://doi.org/10.1163/18719732-12341452>
 27. Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), CETS No. 201. Council of Europe, 2007.
 28. Herbert J. L., Bromfield L. Evidence for the efficacy of the Child Advocacy Center model. *Trauma, Violence & Abuse*. 2016. Vol. 17. No. 3. P. 341–357.
 29. J.L. v. Italy, App. No. 5671/16, ECtHR, 27 May 2021.
 30. Y. v. Slovenia, App. No. 41107/10, ECtHR, 28 May 2015.
 31. M.C. v. Bulgaria, App. No. 39272/98, ECtHR, 4 December 2003.

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