XLV POLISH YEARBOOK OF INTERNATIONAL LAW
2025
DOI 10.24425/PYIL.2026.3111
PL ISSN 0554-498X
e-ISSN 2957-1510

*Barbara Z. Pauli**

VICTIMS FIRST: SURVIVOR-CENTRED APPROACH IN POLISH LAW AND PRACTICE**

Abstract: *A survivor-centred approach (SCA) seeks to minimise secondary victimisation and provide safeguards for victims. Elements of an SCA can be identified in numerous international legal instruments, as well as in non-binding policy documents. This article examines whether the Polish legal system is normatively and institutionally equipped to prosecute conflict-related sexual violence (CRSV) in accordance with SCA standards. The analysis focusses on two interrelated dimensions. Firstly, it identifies the legal bases governing the interviewing of victims with victim-centred principles. Secondly, drawing on qualitative research and the findings of the National Preventive Mechanism, it evaluates the extent to which Polish practice incorporates safeguards consistent with SCA requirements. The analysis demonstrates that while Polish law does contain several significant normative mechanisms aligned with an SCA, important gaps persist at both the legal and institutional levels. Shortcomings in practice – such as insufficient training, limited resources and organisational constraints – undermine the effective implementation of existing safeguards. The article concludes that both legislative refinement and stronger institutional capacity are necessary to ensure that the prosecution of CRSV in Poland fully reflects victim-centred standards.*

Keywords: conflict-related sexual violence, interviews, victim-centred approach, criminal law

* Researcher; Institute of Law Studies of the Polish Academy of Sciences (Poland); e-mail: barbara.zofia.pauli@gmail.com; ORCID: 0000-0002-2427-1759.

** This work was financed from the funds of the National Centre of Science (*Narodowe Centrum Nauki*), granted on the basis of contract No. UMO-2025/57/N/HS5/04174 for the project entitled "Listening to the voices of survivors: an analysis of the response systems to conflict-related sexual violence."

INTRODUCTION

In recent years Poland has become a place of refuge for a significant number of individuals fleeing conflict, including victims of international crimes.[1] Their presence on Polish territory not only allows their experiences to be documented, but also creates a unique opportunity – yet simultaneously a legal and institutional challenge – to pursue accountability for these crimes before the Polish justice system.[2] That is the reason why evidence is currently being collected in Poland connected with the international crimes being committed on the territory of Ukraine.[3]

Non-governmental organisations (NGOs) indicate that there are individuals staying on Polish territory who have survived conflict-related sexual violence (CRSV),[4] but that many are reluctant to report the crimes to the authorities. This reluctance stems from a lack of trust that they will be treated with dignity and respect and will receive comprehensive medical assistance, including access to services such as pregnancy termination. Stories about cases of mistreatment, secondary victimisation

[1] The term "victim" is used throughout this text in accordance with its established legal and academic usage. At the same time, it should be noted that some scholars and practitioners have pointed to the potentially stigmatising or burdening effects of the term, arguing that it may emphasise experiences of harm, vulnerability or passivity in ways that can overshadow individual agency and resilience. Awareness of these concerns is important when discussing persons affected by violence, although the conventional terminology is retained here for the sake of consistency and alignment with the relevant literature.

[2] Helsińska Fundacja Praw Człowieka (HFHR), *Uchodźcy z Ukrainy a prawo międzynarodowe* [Refugees from Ukraine and international law], OKO.press, 21 June 2024, available at: https://oko.press/helsinska-fundacja-praw-czlowieka-uchodzcy-z-ukrainy-prawo-miedzynarowowe (accessed 31 March 2026).

[3] *Prokurator Krajowy: są dowody na zabójstwa cywili, kradzieże i tortury w Ukrainie* [National Prosecutor: there is evidence of murders of civilians, thefts and torture in Ukraine], PAP News Agency, 24 February 2023, available at: https://www.pap.pl/aktualnosci/news,1541086; *Bodnar: jesteśmy coraz bliżej powołania Trybunału ds. Zbrodni Agresji przeciwko Ukrainie* [Bodnar: we are getting closer to establishing a Tribunal for the Crime of Aggression against Ukraine], PAP News Agency, 11 October 2024, available at: https://www.pap.pl/aktualnosci/bodnar-jestesmy-coraz-blizej-powolania-trybunalu-ds-zbrodni-agresji-przeciwko-ukrainie; P. Rochowicz, *Polska ściga zbrodniarzy wojennych. Albo stara się stworzyć takie wrażenie* [Poland prosecutes war criminals. Or tries to create such an impression], Rzeczpospolita, 15 January 2025, available at: https://www.rp.pl/prawo-karne/art41666961; HFHR, *Konferencja: jurysdykcja uniwersalna* [Conference: universal jurisdiction], available at: https://hfhr.pl/aktualnosci/konferencja-jurysdykcja-uniwersalna (all accessed 31 March 2026).

[4] The term "conflict-related sexual violence" refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilisation, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. This link may be evident from the perpetrator, who is often affiliated with a State or non-State armed group, which includes terrorist entities or networks; the victim, who is frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or targeted on the basis of actual or perceived sexual orientation or gender identity; an atmosphere of impunity, which is generally associated with State collapse; cross-border consequences, such as displacement or trafficking; and/or violations of a ceasefire agreement. The term also encompasses trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict. *See* UN Security Council, *Conflict-Related Sexual Violence: Report of the Secretary-General*, UN Doc S/2019/280, 29 March 2019.

or practical obstacles faced by victims is often shared informally among victims. As a result, many of them do not seek help through official channels, which leads to underreporting, a lack of accountability for perpetrators and the further marginalisation of victims.[5]

However, having the Polish authorities prosecute CRSV is indispensable not only for ensuring the accountability of perpetrators, combating impunity and preventing future violations, but also for unequivocally reaffirming the fundamental principle that sexual violence can never be regarded as an inevitable by-product of armed conflict.[6] In light of the reasons why victims are often reluctant to report such crimes, it is imperative that investigations and prosecutions of CRSV be conducted in accordance with a survivor-centred approach (SCA). Such an approach is crucial because it strengthens victims' confidence in the justice system and encourages their willingness to report offences and engage in legal proceedings. By fully respecting the rights, dignity and needs of victims and providing them with appropriate support, an SCA constitutes a sine qua non for the effective administration of justice and the restoration of trust in public institutions.

It is important to mention that Poland may exercise jurisdiction over CRSV on several grounds, including the active[7] and passive nationality[8] principles and the protection of fundamental interests of the State.[9] In the procedural sense, Art. 113 of the Criminal Code provides the basis for universal jurisdiction and reflects Poland's obligation under international law to prosecute core international crimes.[10] In substantive law, such acts may fall under Art. 197 of the Polish Criminal Code, which criminalises rape, as well as Arts. 118,[11] 118a and 123(2), which criminalise genocide, crimes against humanity and war crimes. Poland follows a monist approach to international law, as reflected in Arts. 9 and 91 of the Constitution of the Republic of Poland. Under this constitutional framework, ratified and promulgated

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[5] K. Sukhomlynova, statement during IV Dolnośląski Kongres Kobiet "Wybory kobiet", panel: *Gwałt jako zbrodnia wojenna i zbrodnia przeciwko ludzkości: jak dokumentować przemoc seksualną i wspierać ocalałe/-łych przebywające/-cych na terenie Polski* [Rape as a war crime and a crime against humanity: how to document sexual violence and support victims residing in Poland], 9.11.2024.

[6] D. Mukwege, *The Power of Women: A Doctor's Fight to End Violence Against Women Around the World*, Hachette UK, London: 2022.

[7] *Kodeks karny* [Criminal Code], Journal of Laws 2025, No. 383, as amended, Art. 109.

[8] *Ibidem*, Art. 110.

[9] *Ibidem*, Art. 112.

[10] P. Grzebyk, H. Kuczyńska, K. Wierczyńska, *Ściganie zbrodni międzynarodowych – uwagi dotyczące konieczności wprowadzenia zmian w polskim prawie karnym* [The prosecution of international crimes within the Polish legal system: A need for reform], 2(230) Studia Prawnicze 7 (2024), p. 23.

[11] I. Zgoliński, *Artykuł 118*, in: V. Konarska-Wrzosek (ed.), *Kodeks karny. Komentarz* [The Penal Code: Commentary], 4th ed., Wolters Kluwer, Warszawa: 2023; J. Kosonoga-Zygmunt, *Artykuł 118*, in: J. Majewski (ed.), *Kodeks karny. Komentarz* [The Penal Code: Commentary], Wolters Kluwer, Warszawa: 2024.

international treaties become part of the domestic legal order, are directly applicable and take precedence over statutes in the event of a conflict. As a result, domestic provisions on international crimes are supplemented by international treaties which define the elements of specific war crimes.

The prosecution of rape committed in peacetime under domestic criminal law differs from the investigation and prosecution of rape classified as an international crime, especially when committed outside the territory of Poland. In such cases, the ability of Polish authorities to conduct a criminal investigation is constrained by the absence of territorial and personal jurisdiction. Although certain international crimes may be subject to universal jurisdiction, its exercise faces significant legal and practical challenges. Consequently, under the current circumstances, the activities of Polish prosecutorial authorities are primarily limited to preserving evidence by collecting victims' testimonies. This material may be used in future domestic proceedings before Polish courts or transmitted for use by the International Criminal Court, the Prosecutor General's Office of Ukraine or other states exercising universal jurisdiction.[12]

This obligation, and the actual opportunity to fulfil it, lead to a fundamental question: can international crimes, particularly CRSV, be prosecuted in Poland in a manner that is consistent with an SCA?[13] The article examines to what extent, if at all, Polish procedural and substantive law and practice incorporate an SCA into interviewing techniques and assesses mechanisms designed to safeguard victims' rights, provide adequate support and ensure their meaningful participation in proceedings.

1. METHODOLOGY

To address the gap in knowledge concerning the extent to which Polish procedural and substantive law and practice incorporate a survivor-centred approach into interviewing techniques in cases involving victims of sexual violence, this study draws on qualitative data obtained through semi-structured interviews. In November 2025, two in-person interviews were carried out with representatives of Polish NGOs providing support to victims of international crimes. Given the limited number of organisations in Poland that provide specialised assistance to victims of CRSV – especially during testimony and while cooperating with authorities – this can be

[12] HFHR, *supra* note 3.

[13] The VCA requires that victims be treated in a manner that is non-discriminatory and specific and that respects the rights and prioritises the needs of victims, including particularly vulnerable groups. *See more* UN Security Council, Resolution 2467, UN Doc S/RES/2467 (2019), 23 April 2019.

seen as a relatively representative sample. Respondents were identified through a snowball sampling method.

The interviews were designed to capture practice-orientated knowledge concerning the functioning of the justice system's mechanisms for victims of CRSV. A qualitative research design was chosen as the most appropriate methodological approach for this study due to the nature of the research problem. Qualitative methods are particularly suitable for examining complex problems. Semi-structured interviews, as a qualitative technique, allow for flexibility in exploring these complex interactions while maintaining a consistent thematic focus across respondents. The choice of qualitative methodology is therefore justified by its capacity to generate an in-depth analysis of institutional practices and perceived challenges.

The study is subject to several limitations. The small number of interviews reflects the limited number of specialised NGOs operating in this field in Poland, particularly those which provide expert assistance to victims of CRSV and cooperate with prosecutorial authorities. Consequently, the possibility of obtaining a broader empirical dataset is structurally constrained.

The article also considers the findings of the National Preventive Mechanism against Torture (NPM). The task of the NPM is to identify risk factors that may lead to torture or other forms of cruel, inhuman or degrading treatment. These anti-torture safeguards are likewise relevant to SCA standards, as they help ensure the dignity, safety and respectful treatment of individuals participating in legal proceedings. For example, during visits to police stations, the NPM examines whether interviews with participants in criminal proceedings are conducted under conditions that guarantee privacy. Ensuring such conditions is important not only for safeguarding against torture – protecting individuals from the misuse of information by third parties and providing witnesses with psychological comfort through confidentiality – but is also particularly crucial in cases involving victims of sexual violence, since the absence of privacy may discourage them from disclosing traumatic experiences and may increase the risk of secondary victimisation. Detailed information regarding the methodology applied by the Mechanism is set out in the introductory section of its report.

This article demonstrates that Polish procedural and substantive law is not yet fully equipped to conduct proceedings in accordance with an SCA, and that practice still requires significant improvement. The thesis is that although basic legal provisions exist to address SCA standards, both law and practice fall short of fully implementing the standards necessary to protect victims' rights, safety and dignity.

The article first explains what an SCA entails, highlighting its principles, objectives and the practical measures which ensure that victims are treated respectfully and safely. Next, drawing on interviews with practitioners and an analysis of the

NPM report, it is shown that Polish law provides only a partial framework for an SCA and that, in practice, key safeguards are inconsistently applied. These observations will underscore the gaps that must be addressed to align Poland's criminal proceedings with victim-centred standards.

2. SURVIVOR-CENTRED APPROACH AND INTERVIEWING TECHNIQUES

Given the topic of this article and central role of the survivor-centred approach in shaping contemporary standards for interviewing, it is necessary to clarify its conceptual foundations at the outset. The concept emerged from the transitional justice literature as a movement aiming to minimise trauma and focussing on victim needs rather than prosecution.[14] Based on that, international organisations have begun to endorse approaches that place victims at the centre of justice processes. For example, in the 2010 Guidance Note of the Secretary-General on the United Nations Approach to Transitional Justice, one of the guiding principles highlights the importance of "ensuring the centrality of victims in the design and implementation of transitional justice processes and mechanisms."[15]

Moreover, although the term "victim-centred approach" is not explicitly used, its application can be identified in binding legal instruments of international criminal law: it is formulated in general terms in Art. 68 of the Rome Statute,[16] and in a much more detailed and operationalised manner in EU Directive 2012/29/EU.[17] It is further reinforced by soft-law and policy instruments, including the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,[18] as well as the International Criminal Court Office of the Prosecutor Policy Papers on Sexual and Gender-Based Crimes,[19] which emphasise dignity, safety and the avoidance of re-traumatisation.

However, there is no single legal instrument that comprehensively codifies all standards related to this approach. Accordingly, the list of SCA elements applied

[14] V.V. Weis, *Who can organize and exercise effective resistance? A southern criminology perspective on the victimology of state crime*, 27(3) Theoretical Criminology 381 (2023).

[15] *Ibidem.*

[16] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002), 2187 UNTS 90, Art. 68.

[17] 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, [2012] OJ L 315.

[18] United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN General Assembly Resolution 40/34, 29 November 1985.

[19] International Criminal Court (ICC) Office of the Prosecutor, *Policy Paper on Sexual and Gender-Based Crimes*, June 2014; ICC Office of the Prosecutor, *Policy on Gender-Based Crimes*, December 2023.

in this article constitutes an analytical framework developed by the author for the purposes of this study. This framework is constructed through a synthesis of relevant guidance materials. Attention is given to the principles set out in documents produced by the Office for Democratic Institutions and Human Rights, as they offer a structured and detailed framework for implementing a survivor-centred approach in practice. The analysis also draws on the Practice Note "A Survivor-centred Approach to Documentation for Criminal Accountability", published by the International Accountability Platform for Belarus, as this document specifically addresses the documentation of international crimes. Moreover, both documents focus on the same method of conducting interviews in line with a victim-centred approach, namely the PEACE method. While these documents do not present a unified model, they converge on comparable methodological principles for conducting interviews in line with a survivor-centred approach, including those associated with the PEACE method, which informs the operationalisation of the framework used in this article.

In general, an SCA emphasises the rights of the victim, ensuring that all policies, actions and decision-making processes are guided by the principle of treating each victim with dignity and respect. It is grounded in the recognition that all victims are entitled to equal access to care and support, while also acknowledging their individual differences and unique experiences. This perspective accepts that responses to violence may vary significantly, depending on personal characteristics, resources, coping mechanisms and specific needs. It further affirms the victim's right – considering their age and circumstances – to receive relevant information, decide who should be informed about their experience and influence subsequent steps. Central to this approach is also the obligation to believe victims and to treat them with sensitivity, compassion and empathy.[20]

One of the stages in which this approach is most evident is the questioning of the victim.[21] When conducting interviews or formal examinations of a victim, the interviewer should be adequately trained in SCA and trauma-informed techniques.[22] Advanced, non-coercive methods should be applied to prevent retraumatisation and revictimisation, while responding to the victims' needs and priorities.[23]

[20] ICC Office of the Prosecutor, *Policy on Gender-Based Crimes*, December 2023, available at: https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf (accessed 31 March 2026).

[21] OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Trauma-Informed Interviewing: skills and techniques for monitors*, online course, available at: https://freedomlab.io/courses/trauma-informed-interviewing-skills-and-techniques-for-monitors/ (accessed 31 March 2026).

[22] *Ibidem*.

[23] International Accountability Platform for Belarus, *Practice Note. A survivor-centred approach to documentation for criminal accountability*, May 2025, pp. 6–7, available at: https://iapbelarus.org/app/uploads/2025/06/SCA-Paper_EN.pdf (accessed 31 March 2026).

One of the interview techniques grounded in an SCA is the PEACE model of investigative interviewing, which presupposes that interviews shall be conducted in an ethical, reliable manner while maximally reducing the risk of secondary victimisation. The PEACE model consists of five stages: Preparation and Planning, Engage and Explain, Account, Closure and Evaluation.[24]

At the *preparation and planning* stage, the interviewer should determine and analyse the personal characteristics of the victim (e.g. age, gender, religion, cultural background, language proficiency, disabilities and mental health status) insofar as these factors may influence the course of the interview. The interviewer must also consider the individual's psychological and physical condition, ensure the presence of a psychologist or trusted person where appropriate and guarantee that the interview is conducted in a suitable, secure and confidential environment.[25]

During the *engage and explain* phase, it is essential to establish a rapport based on trust. The interviewer should clearly explain their role, set out the ground rules of the interview and clarify how the information will be used in the proceedings.[26]

In the *account* phase, the victim should be afforded the opportunity to present a free narrative of events, without interruption and without suggestive prompting. Questions should be open-ended and non-directive. The interviewer must take into consideration the specific characteristics of traumatic memory, including its potential fragmentation, lack of chronological order and memory gaps. Clarification of details should be sought where necessary, and challenges to the account should be introduced only where strictly required.[27]

The *closure* phase should summarise the account and notify the interviewee regarding the subsequent course of the proceedings and available forms of support. The final stage of the PEACE model – *evaluation* – serves to assess whether victim-centred standards have been upheld and whether the interview was conducted in a manner that avoided secondary victimisation.[28]

Furthermore, the PEACE model identifies several additional standards for conducting interviews, the implementation of which may significantly reduce the risk of secondary victimisation. These include conducting the interview in conditions that ensure safety and confidentiality, in premises inaccessible to third parties not

[24] OSCE ODIHR, *Trauma-Informed Interviewing: Do's and Don'ts. Skills and Techniques for Monitors, online course and connected documents*, available at: https://freedomlab.io/courses/trauma-informed-interviewing-skills-and-techniques-for-monitors/ (accessed 31 March 2026).

[25] *Ibidem*, p. 7.

[26] *Ibidem.*

[27] *Ibidem.*

[28] *Ibidem.*

involved in the case;[29] enabling the victim to choose the gender of those participating in the interview, especially the interviewer;[30] limiting the interview to a single session, with audio-visual recording to ensure accuracy and prevent repeated questioning;[31] ensuring communication in a language understood by the injured party; and securing the participation of specialists possessing knowledge of cultural factors that may influence the manner in which events are recounted, perceptions of the justice system or the willingness to cooperate with law enforcement authorities.[32]

From the perspective of international criminal law, particularly within the practice of the ICC, an SCA functions as a key procedural principle guiding the handling of CRSV. In essence, it requires that all stages of proceedings – investigation, prosecution and reparations – take into account the rights, needs and experiences of victims. In practice, this means adapting investigative methods to avoid retraumatisation, employing trained personnel and integrating a gender-sensitive perspective. The approach also influences evidentiary assessment and legal interpretation, allowing for a more context-aware understanding of sexual and gender-based crimes. Overall, the survivor-centred approach ensures that accountability for CRSV is pursued in a manner that respects victims' dignity, enhances the effectiveness of prosecutions and contributes to the development of international standards and best practices.[33]

3. PROCEDURAL FRAMEWORK

When discussing an SCA, it is crucial to integrate an analysis of procedural norms to demonstrate how legal rules translate into practices that safeguard the rights and well-being of victims during criminal proceedings. In the Polish context, these procedural safeguards are anchored in the Code of Criminal Procedure (CCP).

The basic procedural framework for reporting and prosecuting sexual violence is regulated in the CCP. In the first step of the procedure, the victim reports the offence to the police. The police are under a legal obligation to accept the report and to limit their initial actions to recording the essential facts necessary to initiate criminal prosecution.[34] The public prosecutor subsequently assumes supervision over

[29] International Accountability Platform for Belarus, *supra* note 23.

[30] *Ibidem*.

[31] United Nations, *Principles on Effective Interviewing for Investigations and Information Gathering* (the Méndez Principles), May 2021, Principle 5, para. 176.

[32] OSCE ODHIR, *supra* note 21, p. 7.

[33] ICC Office of the Prosecutor, *Policy on Gender-Based Crimes*, December 2023, available at: https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf (accessed 31 March 2026).

[34] *Kodeks postępowania karnego* [Code of Criminal Procedure], Journal of Laws 2025, item 46, as amended. Art. 185c.

the proceedings,[35] and within 14 days a judicial hearing is organised for examining the victim before a court. The prosecutor, a court-appointed psychologist, defence counsel and the legal representative of the victim have the right to participate in the hearing. The examination must be recorded so it can then be presented before the trial court. Repeated questioning of the victim is permissible only in two exceptional circumstances expressly provided for by statute.[36]

The principal normative basis for this procedure is Art. 185c CCP, which entered into force on 27 January 2014 pursuant to the Act of 13 June 2013 amending the Criminal Code and the CCP. This provision establishes a special interrogation procedure for victims in cases concerning offences defined in Arts. 197–199 of the Criminal Code.[37]

The provision was subsequently amended by a 2019 reform.[38] According to the explanatory memorandum to the amending bill, the purpose of the amendment was to equalise the procedural guarantees afforded to injured parties examined as witnesses under Art. 185c CCP with the protection provided in Art. 185a CCP, which concerns injured parties who had not attained the age of 15 at the time of the offence.[39] The personal scope of Art. 185c encompasses two categories of injured parties: minors who have reached the age of 15 and adults.[40] The legal scholarship has uniformly assessed this amendment as aiming to prevent secondary victimisation, understood as the renewed experience of trauma in connection with participating in proceedings.[41]

The protective character of this procedure is reflected in the following provisions: upon the request of the injured party, the participation of an expert of the sex indicated by that person must be ensured; the catalogue of persons authorised to be present during the examination is exhaustive; and the participation of the accused in such proceedings is excluded, while at the main hearing the audio-visual recording of the examination is played back and the written record thereof is read out.[42]

Beyond the CCP, other relevant documents also regulate the conduct of criminal proceedings and investigative practices. At the stage of police proceedings, standards

[35] *Ibidem,* Art. 326.

[36] *Ibidem,* Art. 185c.

[37] M. Kurowski, *Artykuł 185c*, in: D. Świecki (ed.), *Kodeks postępowania karnego. Tom I. Komentarz aktualizowany* [Code of Criminal Procedure. Volume I. Updated commentary], LEX/el., 2025.

[38] Druk sejmowy nr 3251, Sejm VIII kadencji, p. 26.

[39] *Ibidem,* p. 9.

[40] K. Sychta, *Artykuł 185a, 185b, 185c, 185e, 185f*, in: J. Zagrodnik (ed.), *Kodeks postępowania karnego. Komentarz* [Code of Criminal Procedure. Commentary], Wolters Kluwer, Warszawa: 2024.

[41] *Ibidem*; Kurowski, *supra* note 37, p. 9.

[42] C. Kulesza, *Artykuł 185c*, in: K. Dudka (ed.), *Kodeks postępowania karnego. Komentarz*, 3rd ed., Wolters Kluwer, Warszawa: 2023.

for dealing with persons who have experienced sexual violence are set out in the document "Procedure for Police Conduct with a Person Who has Experienced Sexual Violence". The procedure provides the obligation to ensure confidentiality by inviting the injured person to a location that is inaccessible to third parties and prohibits the formulation of any comments regarding the incident or the appearance or behaviour of the injured person. The officer receiving the report shall draw up a record of the notification of the offence and inform the injured party – in a clear, accessible manner, both orally and in writing – of their rights, the subsequent stages of the proceedings (including the need to secure evidence or undergo medical examinations and any available preventive and therapeutic measures) and their right to indicate a person to be present during the proceedings, provided this does not impede them. Where possible, the examination should be conducted by a trained officer of the same sex, unless the victim expresses a different preference. The procedure also provides for access to a database of entities offering specialised legal, psychological and family assistance and, where necessary, for the provision of replacement clothing.

A detailed normative specification of the standards governing examinations conducted pursuant to Arts. 185a–185c is contained in the Regulation of the Minister of Justice.[43] This executive act clarifies both the organisational and procedural aspects of the measure, specifying the duties of the court, the prosecutor and the expert psychologist and defining the principles of cooperation between these entities in the preparation and conduct of the examination.

Regarding the expert psychologist, the Regulation lists activities aimed at ensuring adequate support for the person being examined and minimising the risk of secondary victimisation. The expert shall conduct a preliminary interview, including an assessment of the witness's physical and psychological condition and the identification of their individual procedural needs. Where necessary, the expert must propose techniques conducive to reducing emotional tension and help determine the techniques and types of questions to be used, considering the psychophysical characteristics of the witness. Following the proceedings, the expert shall undertake measures designed to alleviate the emotional tension associated with participating in an examination.

[43] *Rozporządzenie Ministra Sprawiedliwości z dnia 22 września 2024 r. w sprawie przesłuchań prowadzonych na podstawie art. 185a–185c i art. 185e Kodeksu postępowania karnego oraz warunków, jakim powinny odpowiadać pomieszczenia przeznaczone do tych przesłuchań* [Regulation of the Minister of Justice of 22 September 2024 on examinations conducted under Articles 185a–185c and Article 185e of the Code of Criminal Procedure and on the conditions to be met by premises designated for such examinations], Journal of Laws 2024, item 1477.

The court bears the obligation to properly plan the course of the examination, by ensuring sufficient time for the expert psychologist to conduct the preliminary interview, allowing for possible breaks and considering the need to engage an interpreter where required. The summons to appear for examination explains that the witness may familiarise themself in advance with the interview room at the court and how to contact the person responsible for granting access to it.

The obligation to identify relevant social and cultural circumstances rests upon the prosecutor at the preparatory stage of the proceedings, and upon the court at the jurisdictional stage. The procedural authority is further required to determine whether the presence of persons referred to in Art. 51(2) or (3) CCP (a legal representative or a person who permanently cares for the victim), or of another adult indicated by the witness, would restrict the witness's freedom of expression. To reduce formalism and the stress-inducing character of the examination, the Regulation prohibits participants from wearing official attire and precludes the court from dictating the testimony into the court record during the examination.

Prior to the examination, the court is obliged to explain to the witness – with regard to their age, developmental stage, emotional condition and communicative abilities – the roles of the participants in the proceedings. At the same time, the court informs the witness that the examination is being recorded and specifies the entities authorised to access the recording. These provisions constitute an important element in the implementation of an SCA in procedural standards.

The Regulation also lays down minimal infrastructural requirements for friendly interview rooms, including a separate entrance, access to a nearby toilet, subdued colour schemes, adjustable lighting and equipment designed to reduce stress (e.g. stress-relief items). Waiting areas should be equipped so as to enable the active use of waiting time (books, magazines or art supplies, and in the case of foreign nationals, publications should be in a language understood by the witness, where possible). Access to water and hygiene products must also be ensured. At the same time, educational materials concerning violence and sexual abuse are not to be displayed in the waiting area, to avoid imposing additional emotional burdens on the victim.[44]

The analysis of the CCP, the Procedure for Police Conduct with a Person Who has Experienced Sexual Violence and the Regulation of the Minister of Justice of 22 September 2024 reveals that several structural elements of an SCA are already embedded within the domestic procedural framework, although they are not explicitly conceptualised as such. These elements are primarily aimed at reducing secondary victimisation and limiting the need for repeated testimony. The framework also incorporates safeguards related to procedural participation and support,

[44] *Ibidem*.

including the involvement of a psychologist, clear information to victims and consideration of the victim's preferences regarding the gender of their interviewer. In addition, the Regulation introduces environmental and organisational safeguards for ensuring privacy and comfort and reducing stress during interviews, including requirements concerning interview room conditions and restrictions on formal courtroom practices.

4. IDENTIFIED PRACTICE

Given the normative framework, which suggests the presence of certain elements of a survivor-centred approach in the Polish procedural regulations, it is necessary to examine the extent to which these provisions are effectively implemented in practice. A purely doctrinal analysis of legal rules is insufficient to assess their actual impact without considering how they are applied by competent authorities and experienced by the affected individuals in real-life proceedings. Table 1 is based on interviews conducted with representatives of NGOs and the findings of a report of the Polish NPM. It is intended to provide an overview of the current practice.

Table 1. Analysis of police and prosecutorial practice, based on qualitative research and the report of the National Prevention Mechanism

SCA elements	Analysis of practice	
	Police	**Prosecutor**
Knowledge of interviewing techniques	According to a report prepared by the Polish NPM, police officers in Poland generally do not know modern interviewing techniques such as PEACE or KREATIV. Interviews are conducted intuitively, following a pattern of free-form statements interspersed with the officer's questions.[45]	The unit of prosecutors investing international crimes related to Russia's aggression against Ukraine underwent training in trauma-informed interviewing by the Polish Centre for Torture Survivors.[46] Information obtained from other NGOs participating in the hearings indicates that this knowledge is being applied in practice.

[45] Krajowy Mechanizm Prewencji Tortur, *Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji jednostek Policji, przeprowadzonych w okresie od 5 sierpnia do 11 grudnia 2025 r.* [National Mechanism for the Prevention of Torture, Report of the National Mechanism for the Prevention of Torture on visits to Police units conducted from August 5 to December 11, 2025], available at: https://bip.brpo.gov.pl/sites/default/files/2026-06/Raport%20-%20jednostki%20Policji%202025.pdf (accessed 31 March 2026)

[46] Prokuratura Krajowa*, Szkolenie prokuratorów mazowieckiego pionu PZ PK z zakresu metodologii prowadzenia rozmów z ocalałymi z tortur oraz gwałtów wojennych* [National Prosecutor's Office, Training for prosecutors of the Masovian PZ PK division on the methodology of conducting interviews with survivors of torture and wartime rape], 30 October 2024, available at: https://www.gov.

SCA elements	Analysis of practice	
	Police	**Prosecutor**
Conditions for conducting interviews	Most police stations in Poland do not have dedicated rooms for conducting interviews. Such activities are typically carried out in offices used by police officers for their daily work, which are often shared with other officers. In practice, it is not uncommon to conduct multiple interviews relating to different cases in the same room.[47]	Prosecutors from the unit dealing with international crimes likewise do not have access to a designated safe room. Moreover, the entrance to their office is guarded by soldiers carrying firearms, a setting that may itself be retraumatising for victims of serious violence.[48] Prosecutors are aware of this challenge and endeavour to take it into account when organising interview conditions. Accordingly, the prosecutor's office has ensured access to an external room that meets the requirements of a safe and confidential environment.
Presence of psychologist or assistant	No data are available; the NPM does not address this issue in its report.[49]	Support persons may be present if an NGO intermediates in the case. The prosecutor's office does not provide social workers or psychologists – it does not have such resources.
Gender	As indicated in the NPM report, there are organisational and staffing shortages in the police force nationwide.[50] For this reason, it is likely that the implementation of this requirement may face difficulties.	During investigations, the norm of the victim choosing the gender does not extend to prosecutors themselves. Even if it did, the absence of female prosecutors within the prosecutorial team dealing with international crimes effectively deprives victims of any real possibility of making such a choice.
Linguistic and cultural differences	In proceedings involving foreign nationals, the police sometimes resort to informal solutions at the initial stages, such as relying on individuals who are not certified interpreters or on private translation tools.[51]	At the prosecutorial stage, translation services are provided.[52] Within the specialised team investigating crimes committed in Ukraine, a female interpreter of Ukrainian origin has been engaged, facilitating a better understanding of the victims' cultural context.

pl/web/prokuratura-krajowa/szkolenie-prokuratorow-mazowieckiego-pionu-pz-pk-z-zakresu-metodologii-prowadzenia-rozmow-z-ocalalymi-z-tortur-oraz-gwaltow-wojennych (accessed 31 March 2026).

47 Krajowy Mechanizm Prewencji Tortur, *supra* note 45, p. 13.

48 Mukwege, *supra* note 6, p. 3.

49 *Ibidem*.

50 *Ibidem*.

51 *Ibidem*.

52 Regulation of the Minister of Justice of 22 September 2024, *supra* note 43, p. 11.

SCA elements	Analysis of practice	
	Police	**Prosecutor**
Recording of interrogations	Generally, audio-visual recordings of hearings are not made. Exceptions to this practice are rare.[53]	The hearings are lengthy. They are recorded in real time, and afterwards the victim must read through everything.

Analysis of practical implementation of the SCA policy

Despite a clear legislative trend towards the implementation of SCA standards, the current regulations do not encompass all elements mentioned in the relevant guidelines as necessary for their full realisation. Neither the CCP nor the relevant regulations and guidelines establish an obligation to train authorities in interviewing techniques or to formulate questions before conducting an examination. Nor is there a normative requirement to ensure the participation of specialists with knowledge of the cultural differences that may affect the course of the proceedings and the effective exercise of the right of access to a court. Although paragraph 3 of the Regulation of the Minister of Justice of 22 September 2024[54] imposes an obligation to identify relevant social and cultural circumstances, it does not specify the procedural consequences arising from the establishment of such circumstances. Therefore, it is necessary to introduce concrete measures such as clear procedural guidelines which would ensure that these circumstances are meaningfully taken into account in practice.

Furthermore, there is no statutory guarantee of the right to choose the sex of the authority conducting the proceedings, particularly the judge or prosecutor. The only such standard concerns the police, and it takes the form of guidelines with limited binding force. Similarly, there are no clearly defined statutory requirements concerning the material conditions under which proceedings are to be conducted in police units and prosecutors' offices, including standards relating to premises, confidentiality or preventing secondary victimisation.

In practice, several shortcomings can also be observed. Firstly, there is an absence of institutionalised training programmes for police officers and prosecutors aimed at equipping them with the necessary skills to handle cases involving vulnerable victims. Secondly, conditions for conducting interviews in a manner that ensures confidentiality and a sense of safety are not consistently provided; instead, such conditions frequently rely on the goodwill of individual officers or prosecutors and the infrastructural capacity of the institution. Thirdly, prosecutors often lack access to professional psychologists trained in psychotraumatology to assist

[53] Krajowy Mechanizm Prewencji Tortur, *supra* note 45, p. 13.

[54] Regulation of the Minister of Justice of 22 September 2024, *supra* note 43, p. 11.

in conducting sensitive interviews. Finally, there is a noticeable shortage of female prosecutors within units tasked with investigating international crimes, which may impact the comfort and willingness of certain victims to participate in proceedings.

CONCLUSIONS

Conducting proceedings in accordance with an SCA is of fundamental importance, as it not only pursues the objective of prosecuting and securing the conviction of perpetrators, but also places due emphasis on safeguarding the well-being and dignity of victims. Such an approach recognises victims as rightsholders rather than merely sources of evidence.

The current legal framework in Poland contains a number of mechanisms that are, at least in principle, compatible with an SCA. In particular, the law provides for a single interview to be conducted with a victim, as soon as possible after the offence is reported and with the questioning being limited to the minimum necessary scope. Procedural safeguards further allow third persons – including a psychologist – to be present during the interview, and they exclude the suspect or accused from directly participating. Importantly, an expert psychologist is required to conduct a preliminary assessment of the witness, including an evaluation of their physical and psychological condition and the identification of individual procedural needs. These elements reflect an awareness of the risks of secondary victimisation and align, at least partially, with international standards concerning the treatment of vulnerable victims.

At the same time, certain gaps within the legal framework remain evident. In particular, the obligation to identify cultural factors that may affect the course of the interview should not rest solely on judges and prosecutors. Instead, it should be entrusted to qualified experts, such as court-appointed interpreters, who could prepare the interviewers in advance, provide ongoing support during the interview and, where necessary, contribute to a post-interview assessment. Furthermore, the absence of any legal guarantees allowing victims to choose the gender of the prosecutor or judge constitutes a significant limitation, particularly in cases involving sexual and gender-based violence. These shortcomings suggest the need for targeted legislative amendments.

However, as the research demonstrates, the most significant obstacles to the effective implementation of an SCA arise in practice rather than legislation. These include the absence of specialised training in modern interviewing techniques, the lack of systematic recordings of police interviews and the insufficient availability of dedicated interview rooms. Additional challenges stem from staffing shortages, which often make it impossible to ensure that the interviewer is of the same gender

as the victim, as well as difficulties in securing the participation of qualified psychologists at the prosecutorial stage.

Addressing these deficiencies requires a comprehensive strengthening of institutional capacity. In practical terms, it is necessary to introduce systematic and mandatory training for police officers and prosecutors involved in interviewing victims, with a particular emphasis on trauma-informed approaches and contemporary interviewing methods. At the same time, police officers and prosecutors should be relieved of the burden of independently ensuring appropriate interview conditions, such as adequately equipped interview rooms and the elimination of unnecessary third parties, as these ought to be guaranteed at the institutional level. Ensuring sufficient staffing levels is equally crucial, in order to guarantee that victims have ready access to interviewers of all genders, as well as to specialised professionals such as psychologists.

Finally, attention should be paid to strengthening the institutional framework needed to effectively apply both existing and future standards. It is necessary to build professional skills, develop clear procedures and provide sufficient resources, without which a survivor-centred approach cannot be applied consistently in practice. This is especially important in international criminal law, where crimes often involve large numbers of victims and severe trauma, making the protection of victims and their meaningful participation essential to proceedings.