OPEN ACCESS

ISSN: 2835-6764

META M. 2026; 5(11) 881-887
American J Sci Edu Re, 5(11): 1-7
DOI: 10.71010/2835-6764/ajser-e354

Research Article

American Journal of Science Education Research

The Approach of International Standards to Victims' Access to Criminal Proceedings

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Citation: META M (2026) The Approach of International Standards to Victims' Access to Criminal Proceedings. *American J Sci Edu Re*: AJSER-354.5(11): 1-7.

Received Date: 02 November, 2026; **Accepted Date:** 09 November, 2026; **Published Date:** 13 November, 2026

Abstract

Examining the approach adopted in international instruments to victims' access to criminal proceedings, including the underlying rationale of these provisions is of particular theoretical and practical importance for the criminal process in general and the victim in particular, as it contributes to the implementation of international standards in domestic legislation and to the ongoing development of national and international legal frameworks, and we achieve a greater and better understanding not only of the role of the victim in the criminal process, but also of the level of her current protection.

In order to highlight this approach, to study it in terms of victims' access to criminal proceedings, in the content of this article we will address the standards set by the United Nations on this issue, those set by the European Union, as well as the jurisprudence of the ECJ and the ECHR. Meanwhile, in order to provide a more complete analysis of victims' access to criminal proceedings and the implementation of the international approach in national legislation, the article also examines two foreign legal systems, namely those of Kosovo and Italy.

Field: *Criminal Procedural Law*

Keywords*: Victims of crime; victims' access to criminal proceedings; fair trial; international standards; procedural rights of victims.*

1. United Nations Standards on Victims' Access to Criminal Proceedings

At the level of international legislation, United Nations instruments (hereinafter UN) provide for the right of the victim to access to justice, as well as protection of procedural rights during the judicial process. We note in advance that the concept of victim is provided for in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power [1], which is also the foundational instrument that introduced this definition. According to it, "victims" are considered persons who, individually or collectively, have suffered damage as a result of acts or omissions, provided for as criminal offences in the member states. This definition aimed to include the victim in the criminal process, as well as to provide access to and equal treatment in the trial. On the other hand, the declaration obliges the judicial authorities to guarantee the rights of the victim of a criminal offence, such as the right to information about all stages of the criminal process and compensation for damage.

Having seen the concept of the victim in the international framework clearly given in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, we will now see that the Rome Statute and the case law of the International Criminal Court (hereinafter ICC) have provided international standards for the protection of the rights of the victim of a criminal offense. These have determined the active participation of the victim in the investigation phase, as well as during the judicial process. We emphasize that the Albanian state has ratified the Rome Statute and has made it part of domestic legislation [2]. The constitutionality of this statute has also been reviewed by the Constitutional Court, which has concluded that the latter does not contradict the Constitution. The Constitutional Court has also emphasized that the ratification of the ICC Statute constitutes an important contribution of our country in creating opportunities and spaces in the fight against terrorism in any form it may take [3].

The provision of Article 68 of the Statute [4], under the heading "*Protection of victims and witnesses and their participation in the proceedings"*, expressly provides for the right of the victim

1. 1Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the United Nations General Assembly in 1985. Accessed in English on 14.10.2021, at the link https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse .
2. 2 Ratified by Law No. 8984, dated 23.12.2002 "On the ratification of the Statute of the International Criminal Court ".
3. 3 Decision no. 186, dated 23.09.2002 of the Constitutional Court.
4. 4Article 68 of the Rome Statute: "1. The Court shall take all appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have due regard to all relevant factors, including age, gender as defined in article 2, paragraph 3, and health, as well as the nature of the crime, and in particular, but not limited to, where the crime involves sexual or gender-based violence or violence against children. The Prosecutor shall take such measures in particular during the investigation and prosecution of

to participate in the proceedings of the ICC. Likewise, the provision of Article 75 thereof, under the heading "*Reparations to victims*", reflects the fact that the interest of the victim to participate is considered equivalent to the interest of identifying possible perpetrators during an investigation, especially in view of the impact that investigations for reparations have on him [5].

As for the conditions that the court must assess for the victim's participation in the proceedings, they are provided for in Article 68(3) [6]of this Statute and are: 1) sufficient personal interest; 2) the victim's participation must not conflict with the rights of the accused; 3) the victim's participation must not infringe the right to a fair and speedy trial. This provision of Article 68(3) of the Statute has also been interpreted by the ICC in its jurisprudence. Specifically, in case no. 01/04-01/06 ("Prosecutor v. Thomas Lubanga Dyilo") [7], this court reasoned that criminal proceedings were not limited to the investigation phase, as the provision grants victims of the criminal offence a general right to participate not only during the investigation phase but also during the trial. Also, in the reasoning of the decision, the Court recognized the independent role of victims to present their interests in relation to the damages caused by the criminal offence in the criminal process.

In summary of the above analysis, we conclude that referring to the international standards established by the UN, member states are obliged to guarantee the active participation of the victim in the criminal process. In this conclusion, we must bear in mind that these standards are the minimum level of protection, while each state is free to increase the level of guarantee of these rights.

2. Council of Europe Standards on Victims' Access to Criminal Proceedings

Within the framework of the standards of the Council of Europe (hereinafter the CoE), the European Convention on Human Rights (hereinafter the ECHR) has guaranteed access for victims of criminal offences as part of the due process of law. In Article 34 of the Convention, under the heading "*Individual applications* ", it is provided that: *"The Court may receive applications from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or in the protocols thereto. The High Contracting Parties undertake not to impede in any way the effective exercise of this right."* . The ECHR, in addition to providing basic guarantees for the due process of law, as is evident from the content of this provision, has also guaranteed access for persons claiming to be victims, because the fundamental rights guaranteed by the Convention itself have been violated.

Again, within the framework of the EC acts, in the provision of Article 56 of the Convention "*On preventing and combating violence against women and domestic violence"*, under the title

such crimes. Such measures shall not prejudice or be inconsistent with the rights of the accused and with a fair and impartial trial. 2. As an exception to the principle of public hearings provided for in article 67, the Trial Chamber may, for the purpose of protecting victims and witnesses or the accused, conduct any part of the proceedings by means of video or audio recording. to allow the presentation of evidence by electronic means or other special means. In particular, such measures shall apply in the case of a victim of sexual violence or a child who is a victim or witness, unless *otherwise ordered by the Court, taking into account all the circumstances, in particular the views of the victim or witness. 3. Where the personal interests of victims are affected, the Court shall allow them to present their views and issues and have them taken into account at the stages of the proceedings determined by the Court as appropriate and in a manner that does not prejudice or conflict with the rights of the accused and with a fair and impartial trial. Such views and issues may be presented by the legal representatives of victims when the Court considers them appropriate, in accordance with the Rules of Procedure and Evidence. 4. The Victims and Witnesses Unit may advise the Prosecutor and the Court on appropriate protective measures, security arrangements, counselling and assistance as provided for in Article 43, paragraph 6. 5. Where the disclosure of evidence or information in accordance with this Statute would cause serious harm to the safety of a witness or his or her family, the Prosecutor may, for the purposes of any proceedings before the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner that is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. 6. The State may request that necessary measures be taken with regard to the protection of its officials or agents and the safeguarding of confidential or sensitive information."*

5. [5]Article 75 of the Rome Statute: *"1. The Court shall establish principles relating to reparations to or in respect of victims, including restitution, compensation and rehabilitation. On this basis, the Court may, in its decision, request, either upon request or on its own initiative, in particular circumstances, a determination of the extent and extent of any damage, loss or injury to or in respect of victims and shall state the principles on which it shall act. 2. The Court may make an order directly against the convicted person specifying the reparations due to or in respect of victims, including restitution, compensation and rehabilitation. Where necessary, the Court may order that compensation for damages be made through the Trust Fund provided for in article 79. 3. Before making an order under this article, the Court may invite and shall consider representations from or on behalf of the convicted person, victims, other persons interested party or interested States. 4. In exercising its powers under this article, the Court may, after a person has been convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under article 93, paragraph 1. 5. A State Party shall give effect to its decision under this article as if the provisions of article 109 were applicable to this article. 50 6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law."*
6. [6]Article 68(3) of the Rome Statute: *"…3. Where the personal interests of victims are affected, the Court shall allow them to present their views and issues and to have them taken into account at such stages of the proceedings as the Court may determine to be appropriate and in such a manner as not to prejudice or be inconsistent with the rights of the accused and with a fair and impartial trial. Such views and issues may be presented by the legal representatives of victims when the Court considers them appropriate, in accordance with the Rules of Procedure and Evidence…".*
7. [7] Accessed on 16.10.2026 (in English, translated by the author), at the link: https://lagen.nu/iç/IÇ-01_04-01_06-2582 .

"Protection measures" [8], the guarantees that the victim of a criminal offense has, regarding the right to information on judicial proceedings, the presentation of evidence, as well as the provision of legal aid by the state, are expressly defined. Meanwhile, the civil lawsuit for compensation for damage is also one of the legal remedies that the states parties are obliged to provide to victims of violence, in order to compensate them for the consequences of the criminal offense.

Likewise, the Convention "*On the Protection of Children from Sexual Exploitation and Sexual Abuse"* [9]has provided for the access of the victim as a party to criminal proceedings and obliges the States Parties to take legal measures to guarantee the rights of the victim to present evidence and to be heard. Specifically, in its article 31, under the title *"General measures of protection",* it is provided that: *"Each Party shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of criminal investigations and proceedings, in particular by: informing them of the rights and services available to them and, if they do not wish to receive this information, informing them of the handling of their complaint, the charges, the general progress of the criminal investigations or proceedings, as well as their role in them, as well as of the outcome of their cases...*

...Each Party shall ensure that victims have access to relevant judicial or administrative proceedings from the first contact they have with the responsible authorities. 3 Each Party shall ensure that victims have access to legal aid in cases where it is possible for them to participate in criminal proceedings with the status of parties to the proceedings, which service shall be provided free of charge. 4 Each Party shall provide judicial authorities with the possibility of appointing a special representative for the victim in cases where he/she, under domestic law, has the status of a party to the proceedings and where the holders of parental responsibility are excluded from representing the child in such proceedings due to a conflict of interest between them and the victim. 5 Each Party shall provide, by legislative or other measures, in accordance with the conditions provided for by domestic law, for groups, foundations, associations or governmental and non-governmental organizations to have the opportunity to assist and/or support victims during criminal proceedings relating to the offences established in accordance with this Convention after they have given their consent. 6 Each Party shall ensure that information provided to victims in accordance with the provisions of this article is provided in a manner appropriate to their age and maturity and in a language which they understand".

Through this convention provision, we note that the obligation of the States Parties is to intervene in their domestic legislation to take legal measures to guarantee the rights of the victim to present evidence and to be heard. The Convention guarantees protection from re-victimization of minors who have been victims of sexual exploitation and abuse, allowing the reporting of these criminal acts to be made after the minors have reached the age of majority.

3. European Union Standards on Victims' Access to Criminal Proceedings

Returning to the definition of the term victim, in addition to that given above at the international level according to UN acts, if we refer to the acts of the European Union, specifically Directive 2012/29/EU of the European Parliament and of the Commission " *Establishing minimum standards on the rights, support and protection of victims of crime and replacing Commission Framework Decision 2001/220/JHA* ", which has also served as the basis for the amendments to the Albanian Criminal Procedure Code in the 2017 reform, by victim of a criminal offense we will mean: 1) an individual who has suffered harm, including physical, mental, emotional or economic harm, which has been directly caused by the criminal offense [10]; 2) a family member of the person whose death was caused by a criminal offense and who has suffered harm as a result of the person's death [11]. As can be seen from the content of this Directive, the definition of "victim" refers to natural persons, excluding *the legal person* as a person who may enjoy the status of victim of the criminal offense in the process.

Meanwhile, Article 10 of the above Directive (2012/29/EU) provides that: *"1. Member States shall ensure that victims can*

8. [8] Article 56 of the Convention on preventing and combating violence against women and domestic violence: "1 Parties shall take the necessary legislative or other measures to protect the rights and interests of victims, including their specific needs as witnesses, at all stages of investigations and judicial proceedings, in particular: a by providing for their protection, as well as that of their families and witnesses, from retaliation, intimidation and repeat victimization; b by ensuring that victims are informed, at least in cases where the victim and family may be in danger, when the perpetrator flees or is temporarily or permanently released; c by informing them, under the conditions provided for by domestic law, of their rights and the services available to them and of the examination of their complaint, the charges, the general progress of the investigation or proceedings, and their role therein, as well as the outcome of their case; d by enabling victims, in a manner compatible with the procedural rules of their law, to internally, to be heard, to provide evidence and to present their views, needs and concerns, directly or through an intermediary, and to have them taken into account; e by providing victims with appropriate support services so that their rights and interests are properly presented and taken into account; 18 f by ensuring that measures can be adopted to protect the privacy and image of the victim; g by ensuring that contact between victims and perpetrators within the court and law enforcement agency offices is avoided where possible; h by providing victims with independent and competent interpreters, where victims are parties to the proceedings or when they provide evidence; i by enabling victims to testify, in accordance with the rules provided for by their domestic law, in the courtroom without being present or at least without the presence of the alleged perpetrator, in particular through the use of appropriate communication technologies, where available. 2 A child victim and witness of violence against women and domestic violence i "special protection measures are provided, where appropriate, taking into account the best interests of the child. "
9. [9]Ratified by the Republic of Albania with Law No. 10071, dated 09.02.2009 "On the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse".
10. [10]Article 2, letter (a), point (i) of Directive 2012/29/EU of the European Parliament and of the Commission of 25.10.2012 "Establishing minimum standards on the rights, support and protection of victims of crime and replacing Commission Framework Decision 2001/220/JHA".
11. [11]Article 2, letter (a), point (ii) of Directive 2012/29/EU of the European Parliament and of the Commission of 25.10.2012 "Establishing minimum standards on the rights, support and protection of victims of crime and replacing Commission Framework Decision 2001/220/JHA"

be heard during criminal proceedings and provide evidence. Where a child victim is to be heard, the age and maturity of the child shall be taken into account. 2. The procedural rules under which victims can be heard during criminal proceedings and provide evidence shall be determined by national law." As can be seen from the content of this provision, the Directive expressly guarantees the right of the victim to be heard and to provide evidence in criminal proceedings. This Directive also provides in its recital 20 that Member States have discretion in fully or not transposing it, as well as in determining the procedural position of the victim in the proceedings. Therefore, member states can freely decide whether to consider the victim a party to the criminal process or not, as states have the right to provide for the procedural position of the victim in accordance with their criminal policies.

4. Case Law of the CJEU and the ECtHR on Victims' Access to Criminal Proceedings

Having seen how the term victim is defined by Directive 2012/29/EU of the European Parliament and the Commission, it is important to also see how this definition is applied in specific cases by the Member States. For this reason, the Court of Justice of the European Union (CJEU) (hereinafter ECJ) has broadly interpreted the rights of the victim in relation to the content of this directive. Specifically, in the case of Gambino and Hyka v. Italy [12], the ECJ has analyzed the rights of the victim within the framework of Directive 2012/29/EU, emphasizing that the victim's right to participate in judicial proceedings will be based on the domestic criminal procedural legislation of each Member State. So, in this way, the Court has recognised the discretion afforded to Member States to determine the procedural position of the victim in the criminal proceedings themselves. Likewise, this court has also reasoned in terms of respecting the principle of proportionality in terms of balancing the rights of the defendant to a fair trial on the one hand and the dignity of the victim of the criminal offense on the other.

Meanwhile, under the lens of the jurisprudence of the European Court of Human Rights (hereinafter ECHR), we note that its approach in relation to the procedural position of the victim in the criminal process is almost identical to our country. In the case of Perez v. France [13], the ECHR has emphasized that the Convention does not grant any right to the victim for a "private accusation" or for an " actio popularis (public accusation)". According to the Court, the right to prosecute or punish third parties must be inseparable from the exercise of the victim's right to file a lawsuit or initiate a civil proceeding, even if only to secure symbolic compensation or to protect a civil right, such as the right to a "good reputation". The logic of the ECtHR's reasoning in this case coincides with that used by our legislator in the CPC, where it has attempted to maintain a balance between the rights of the victim and the rights of the defendant while respecting the constitutional principle sanctioned in Article 148 of the Constitution [14], that only the prosecutor may exercise criminal prosecution and no one else. This situation refers only to the moment when the victim will exercise a public accusation without being in the position of the victim-accuser according to the CPC or the civil plaintiff.

In addition to the above prohibition of the victim from representing a public accusation, it should be noted that it cannot be confused with the presentation of a report of a specific criminal fact by the latter. In this case, it is the State which guarantees the implementation of the due process of law in its entirety. This position was also given in the case of Anagnostopoulos v. Greece [15], where the Court emphasized that, where the domestic legal system offers a legal remedy to the public, such as reporting a case or filing a civil lawsuit, the State has a duty to provide the fundamental guarantees provided for by Article 6 of the ECHR [16].

In the case of Sottani v. Italy [17], the ECtHR argued in favour of the active participation of the victim of a criminal offence in criminal proceedings even when the latter has not claimed financial compensation. In this judgment, the ECtHR argued that, in order to protect the rights of victims and their position in criminal proceedings, Article 6(1) of the ECHR applies even in the absence of a claim for financial compensation in criminal proceedings. According to the Court, the private party may actively participate in the investigation phase, including the search and discovery of evidence, and may submit statements at all stages of the proceedings.

In another case [18], the ECtHR has reasoned that the position of the victim in criminal proceedings is no different from that of the civil party, when it comes to the applicability of due process under Article 6 of the ECHR. In this regard, it is noted that the results of preliminary investigations are decisive for "civil rights".

12. [12]ECJ Decision Gambino and Hyka v. Italy", C-38/18, dated 29 July 2019.
13. [13]ECHR Decision "Perez v. France", No. 47287/99, dated 12 February 2004.
14. [14]Article 148 of the Constitution: *"1. The Prosecutor's Office carries out criminal prosecution and represents the accused in court on behalf of the state. The Prosecutor's Office also performs other duties determined by law..."*
15. [15]ECHR Decision "Anagnostopoulos v. Greece" No. 54589/00, dated 3 April 2003.
16. [16]European Convention on Human Rights, Article 6: Right to a fair trial *"1. In the determination of his civil rights and obligations and of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. The decision shall be given in public, but the press and the public may be excluded from the courtroom for the whole or part of the trial in the interests of morality, public order or national security in a democratic society, when the interests of minors or the protection of the private life of the parties to the trial so require, or to the extent strictly necessary in the opinion of the court where, in the particular circumstances, publicity would prejudice the interests of justice. 2. Everyone charged with a criminal offence shall be presumed innocent until proven guilty. legally. 3. Everyone charged with a criminal offence has the following minimum rights: a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the charge against him; b. to be given adequate time and facilities for the preparation of his defence; c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require; d. to examine or have examined witnesses against him and to have the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; e. to have the free assistance of an interpreter if he does not understand or speak the language used in court."*
17. [17]ECtHR Decision " Sottani v. Italy", No. 26775/02, dated 24 February 2005.
18. [18]ECHR Decision " Arnoldi v. Italy", No. 35637/04, dated 7 December 2017.

Referring to the above case law of the ECJ and the ECtHR, member states should take into account the principle of proportionality when discussing the violation of the victim's right to participate in criminal proceedings in relation to the defendant's right to a fair trial. the trend towards strengthening victims' procedural rights while safeguarding the rights of the accused has led, firstly, to the strengthening of the victim as a private party to compensation for damage, and the trend towards strengthening victims' procedural rights while safeguarding the rights of the accused secondly, to the right to active participation in criminal proceedings, to seek the punishment of the perpetrator of the criminal offence.

5. Victims' Access to Criminal Proceedings under Kosovo Law

Referring to the Criminal Procedure Code of Kosovo [19], we will note that the victim of a criminal offense is considered a procedural subject, but has more limited rights than the parties in the criminal process. In addition to the provisions in relation to the victim of a criminal offense, the Kosovo CPC also provides for the figure of the injured party from the criminal offense. In Article 218/1 of the Kosovo CPC, it is expressly provided that: *"During the investigative phase or within 60 days of the filing of the indictment, the injured party may submit a simple statement of the damage caused by the criminal offense."* . Also, in Article 19(1.15) of this code, it is provided that: *"Parties in the procedure: the state prosecutor, the defendant and the injured party"* , while in Article 62(1.3) it is provided: *"the injured party has the capacity of a party in the criminal procedure."* . As can be seen from the content of these provisions, the victim is recognised as a procedural participant, while the injured party, when filing a statement of damage caused by the criminal offense, is considered a party to the criminal process.

Looking at the procedural guarantees offered to the victim, the Kosovo CPC provides for several guarantees related to the protection of personal rights, such as the right to be treated with respect [20]; the right to request the receipt and preservation of data or evidence from witnesses [21]; the right to participate in questioning in the preliminary procedure [22]; the right to request the receipt of a statement in the preliminary procedure from the witness [23]; the right to object to the expert selected by the prosecutor in the preliminary procedure [24]; the right to request the pre-trial judge to receive the testimony or to examine it [25]; as well as the right to be notified and to be present at the hearing [26].

Meanwhile, Article 31 of the Constitution of the Republic of Kosovo [27] provides that: *"1. Everyone is guaranteed equal protection of rights in proceedings before courts, other state bodies and holders of public powers. 2. Everyone has the right to a fair and impartial public hearing in the determination of his/her rights and obligations or of any criminal charge against him/her within a reasonable time by an independent and impartial tribunal established by law."* . In interpreting this provision, the Constitutional Court of Kosovo has emphasized that the interpretation of the expression "rights and obligations" included in Article 31 of the Constitution in accordance with Article 6 of the ECHR does not imply the right to prosecute third parties. However, this implies the possibility of exercising a right of the victim in civil proceedings, to secure symbolic compensation or to protect a civil right, including those that may be related to reputation.[28]

6. Victims' Access to Criminal Proceedings under Italian Law

In the Italian legal system, the victim of a criminal offense has the position of a procedural subject, who has the right to active participation in the investigation phase, as well as in the trial. The victim is a party to the criminal process, only in cases where he or she seeks compensation for damage in the trial. Failure to summon the victim to the trial results in the invalidity of the general nullity, as well as a violation of due process according to the jurisprudence of the ECHR.

In the Italian Code of Criminal Procedure, in the first part, title V, articles 74-89 [29], it is provided which are the civil parties in a criminal proceeding who are entitled to claim compensation for the damage caused by the criminal offense. Also, in articles 90-95 of this code, it is expressly provided that the victim of the criminal offense is a subject who must be informed of the right to file a lawsuit, the accusation, as well as of the prosecutor's decision to dismiss the case [30], the hearing in the consulting room [31], the time and place of the hearing in the preliminary hearing and in the trial.

19. [19] Criminal Procedure Code of Kosovo, accessed on 20.10.2026 at the link:
20. https://gzk.rks-gov.net/ActDetail.aspx?ActID=61759
21. [20]Article 62(1) of the Kosovo CPC.
22. [21]Article 122(6) of the Kosovo CPC.
23. [22]Article 131(2) of the Kosovo CPC.
24. [23]Article 133(4) of the Kosovo CPC.
25. [24]Article 137(2) of the Kosovo CPC.
26. [25]Article 149(1) of the Kosovo CPC.
27. [26]Article 149(6) of the Kosovo CPC.
28. [27]Constitution of the Republic of Kosovo, accessed on 20.10.2026 at the link : https:// ëëë .kuvendikosoves.org/Uploads/Data/ Files/6/KushtetutaeRepublikesseKosoves_nJ4SXNnEAT.pdf
29. [28] Decision on inadmissibility of the Constitutional Court of Kosovo no. ref: RK 1669/20, dated December 21, 2020, accessed on 20.10.2026 at the link https://gjk-ks.org/ëp-content/uploads /2020/12/ ki_77_20_av_shq.pdf.
30. [29]Italian Criminal Procedure Code, accessed on 20.10.2026 at the link: https://www.altalex.com/documents/codici-altalex/ 2014/10/30/codice-di-procedura-penale
31. [30]Article 91 bis of the Italian CPC, which provides: *"Article 91 bis from the first contact with the proceeding authority, the injured person is provided with information on the following in a language that he or she understands: a) the ways to submit reports or complaints, the role that he or she takes during the investigation and trial, the right to know the date, place of the trial, the accusation and when a civil party has been created, the right to be notified of the decision, including its summary... c) the right to be notified of the request for dismissal of the case by the prosecutor..."*.
32. [31]Article 127 of the Italian Code of Criminal Procedure, which provides: "When it is necessary to proceed in the consultation room, the judge or the presiding judge shall set the date of the hearing, and shall notify the parties, other interested persons and the defense counsel...".

The provision that we consider to bring to your attention individually is that provided for by Article 178 of the Italian Code of Criminal Procedure, which defines the cases of general invalidity. Specifically, its content lists 3 cases of general invalidity, which consist in the compatibility of the provisions regarding: *"a) the capacity of the judge and the number of judges necessary to form the panels established by the laws regulating the judiciary, under penalty of invalidity; b) the initiative of the public prosecutor in the conduct of criminal proceedings and his or her participation in the proceedings; and c) the intervention, assistance and representation of the accused and other private parties, as well as the summoning to court of the person injured by the crime and the complainant ."* As can be seen from the content of this provision, the Italian Code of Criminal Procedure is the same in its provisions as that of the Republic of Albania as regards the consequence of invalidity in the case of failure to summon the victim of the criminal offence [32].

Meanwhile, regarding the rights of the victim of a criminal offense, which are by nature more limited, the Italian Constitutional Court has confirmed such a fact. In its decision no. 339/2008, [33]this court reasoned that the victim has the role of a potential subject of the procedure or trial and not of a specific party in a criminal trial.

7. Conclusions

From the above, we conclude that the international standards established by the UN, the EC and the EU guarantee the victim's rights to access to the criminal justice process. As for the international acts of the UN, they provide for the victim's right to access to trial, as well as protection of procedural rights during the judicial process. Also, the ECHR guarantees access for victims of criminal offenses within the framework of due process. The Istanbul Convention provides for an active participation of the victim in judicial proceedings, while the Convention " *On the Protection of Children against Sexual Exploitation and Sexual Abuse* " provides for the victim's access as a party to the criminal process and obliges the states parties to take legal measures to guarantee the victim's rights to present evidence and to be heard. Failure to respect or restrict these convention rights violates the due process of law provided for by Article 6 of the ECHR.

In the European Union, Directive 2012/29/EU of the European Parliament and of the Commission "*Establishing minimum standards on the rights, support and protection of victims of crime and replacing Commission Framework Decision 2001/220/JHA"* guarantees the right of the victim to be informed of the request for dismissal of the case and of the decision not to initiate criminal proceedings. This directive also provided for the right of the victim to be heard and to provide evidence in the framework of a criminal proceeding, as well as the discretion of the Member States to fully or not transpose it and to determine the procedural position of the victim in the process.

According to the case law of the ECJ and the ECtHR, member states must take into account the principle of proportionality when discussing the violation of the victim's right to participate in criminal proceedings in relation to the defendant's right to a fair trial. The tendency to equalize their procedural rights has led, first, to the strengthening of the victim as a private party for compensation for damage, and secondly, to the right to active participation in criminal proceedings, to seek the punishment of the perpetrator of the criminal offence.

Referring to the criminal procedural provisions provided for in the Kosovo CPC, the victim of a criminal offense is considered a procedural subject with more limited rights than the parties to the process. She is guaranteed an active role in the preliminary procedure phase, for which the right to be notified and to be present at the hearing is provided. The Code has also provided, among other things, for the injured party from the criminal offense, who is recognized as a party to the process.

Meanwhile, in the Italian legal framework, the victim of a criminal offense has the position of a procedural subject, who has the right to active participation in the investigation phase, as well as in the trial. The victim is a party to the criminal process, only in cases where he or she requests compensation for damage in the trial. Failure to summon the victim to the trial results in the invalidity of the general nullity, the same consequence as that recognized in the Albanian Code of Criminal Procedure.

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