



FRA
Thematic Study on Child Trafficking
Slovenia

Arne Marjan Mavčič
Matej Avbelj

Contents

Executive summary	3
A. General anti-child-trafficking framework.....	9
A.1. International and national legal instruments	9
A.2. Best interest of the child	11
A.3. National Action Plan against Trafficking in Human Beings	12
A.4. Data collection.....	14
A.5. Budget	14
A.6. National monitoring mechanism	15
A.7. Training strategy.....	15
A.8. Non-criminalisation of child victims of trafficking	17
B. Prevention of child trafficking.....	17
C. Appointment of legal guardian.....	18
D. Coordination and cooperation.....	19
D.1. Cooperation agreements between the State, NGOs and foreign countries	19
D.2. Protection of personal data	22
E. Care and protection.....	23
E.1. Legal framework	23
E.1.1. Right to a reflection period and to residence	23
E.1.2. Contingency on cooperation with the authorities.....	24
E.1.3. Right to healthcare and employment	24
E.1.4. Special provisions relating to children.....	25
E.2. Hotline and similar instruments.....	26
F. Best interests determination and durable solutions, including social inclusion/return.....	27
F.1. Availability of subsidiary protection	27
F.2. Integration programmes, education and the best interest of the child	28
G. Prosecution.....	30
G.1. Child-sensitive legal procedures.....	30
G.2. Access to justice and the right to compensation	31
G.3. Number of final convictions and compensation payments made	32
H. Miscellaneous	32

Executive summary

General anti-child-trafficking framework

[1]. Slovenian legislation fully complies with the international obligations against trafficking in children. Trafficking in human beings was introduced into the *Kazenski zakonik* [Penal Code] as a newly-defined criminal offence in 2004.¹ Other provisions which directly or indirectly relate to trafficking in human beings, and children more specifically, include Article 387 Placing in a condition of slavery,² Article 185 Abuse of prostitution,³ Article 187 Presentation and manufacturing of pornographic materials⁴ and Article 311 Prohibited crossing of state borders.⁵ There is no difference in the criminalisation of trafficking between countries or within a country.

[2]. The principle of the child's best interest is well established. Article 16 of the *Zakon o mednarodni zaščiti* [International Protection Act] explicitly requires the authorities which decide on international protection (asylum, refugee status etc.) for a minor to respect the principle of the child's best interests.⁶ The principle is set out or implemented in a number of statutory provisions.⁷

[3]. Since 2004 Slovenia has had a National Action Plan against trafficking in human beings in general, i.e. without a special focus on children. Its objective is to define key counter-trafficking activities to be implemented within a period of two consecutive years. It comprises the following elements: legislation on the investigation and prosecution of criminal offences related to trafficking in human beings, prevention, i.e. awareness-raising and research activity, assistance to and protection of trafficked victims, training and international cooperation.⁸

[4]. The total budget for combating trafficking in human beings for the years 2008 and 2009 is €190,000.

¹ Slovenia/Penal Code 95/04 (27.08.2004), Art. 387.

² Slovenia/Penal Code 95/04 (27.08.2004), Art. 387.

³ Slovenia/Penal Code 95/04 (27.08.2004), Art. 185.

⁴ Slovenia/Penal Code 95/04 (27.08.2004), Art. 187.

⁵ Slovenia/Penal Code 95/04 (27.08.2004), Art. 311.

⁶ Slovenia/International Protection Act 111/07 (29.11.2007), Art.16.

⁷ Slovenia/Civil Procedure Act 26/99 (14.07.1999), Art. 47; General Administrative Procedure Act 80/99 (1.4.2000), Art. 46/2; Non-litigious Civil Procedure Act 20/86 (01.10.1986), Art. 409, 410; Criminal Procedure Act 63/94 (01.01.1995).

⁸ Source: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/. Last visited 24.07.2008.

[5]. By its decision no. 240-05/2003-1 of 18.12.2003, the government of the Republic of Slovenia appointed an *Medresorska delovna skupina za boj proti trgovini z ljudmi* [Interdepartmental Working Group for the Fight Against Trafficking in Persons] (hereinafter the IWG). Its mandate covers trafficking in human beings in general, including children. The IWG comprises representatives of ministries and government bodies and members of domestic and international organisations (NGOs). A National Coordinator in this field was already appointed in February 2002.

[6]. Training of professional actors involved in the identification, care and protection of trafficked children is a well-established part of the national preventive strategy against trafficking. It mainly involves training of the police in cooperation with NGOs and internal expert training and education for non-governmental organisations.⁹

[7]. Victims of trafficking are not punished for unlawful acts committed as a direct result of being trafficked.¹⁰ However, in the absence of *de jure* criminalisation, *de facto* criminalisation still persists.¹¹ The authorities are tackling the problem in cooperation with NGOs through awareness-raising activities.

Prevention of child trafficking

[8]. IWG and the Slovenian government place prevention at the core of their activities against trafficking in human beings. Every year a number of awareness-raising events are organised for the general as well as the target population.

Appointment of legal guardian

[9]. An unaccompanied alien minor who has entered the Republic of Slovenia illegally or who is illegally residing in the Republic of Slovenia must be immediately returned to the country of origin or handed over to representatives of the country of which he/she is a national. However, a return to his/her country of origin or to a third country which is willing to accept

⁹ Report on the work of the Interdepartmental Working Group for the Fight Against Trafficking in Persons for 2006, p. 3, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/

¹⁰ The US State Department Report on Trafficking in Person 2008, p. 227, <http://www.state.gov/documents/organization/105659.pdf>.

¹¹ International Organization for Migration and *Mirovni inštitut* [The Peace Institute] (2003) *Where in the puzzle: trafficking from, to and through Slovenia* (assessment study) Ljubljana, p. 68.

him/her may not take place until suitable reception is provided. In no case may unaccompanied minors be returned in violation of the European Convention on Human Rights and Fundamental Freedoms, adopted with Protocols 3, 5 and 8 and supplemented with Protocol 2 and its protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. l. RS-MP, 7/94), the European Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Ur. l. RS-MP, 1/94) or the Convention on the Rights of the Child (Ur. l. RS-MP, 9/92).¹² In cases where a return is not possible, the police shall notify the *Center za socialno* [Department of Social Security] which must immediately assign a special custodian to the minor.¹³ However, if a minor turns out to be a victim of trafficking and is capable of serving as a witness in a criminal investigation, he/she has a right to a temporary stay of a maximum of six months.¹⁴

[10]. Pursuant to Article 65 of the *Zakon o kazenskem postopku* [Criminal Procedure Act], in criminal procedures relating to trafficking in human beings a victim who is a minor must have, for the entire duration of a procedure, a legal representative who protects his/her rights in particular in relation to the protection of his/her personal integrity during the hearing before the court and in claiming fair compensation. A minor who does not have his/her own legal representative is appointed one *ex officio* by the court from among the private advocates.¹⁵

Coordination and cooperation

[11]. For the purposes of coordinating the activities of various institutions engaged in combating trafficking in human beings, the government created the IWG in 2003. It comprises representatives of ministries and government bodies, and members of domestic and international organisations (NGOs).¹⁶ A number of Slovenian ministries have cooperated among themselves and more often (usually on the basis of public tenders) with NGOs in a mutual fight against trafficking in human beings and its detrimental consequences.

¹² Slovenia/Aliens Act 107/06 (17.10.2006), Art. 60/2. An alien minor specified in the preceding paragraph of this Article may not return to his/her country of origin or to a third country which is willing to accept him/her until suitable reception is provided; in no case may unaccompanied minors be returned in violation of the European Convention on Human Rights and Fundamental Freedoms, adopted with Protocols 3, 5 and 8 and supplemented with Protocol 2 and its protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. l. RS-MP, 7/94), the European Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Ur. l. RS-MP, 1/94) or the Convention on the Rights of the Child (Ur. l. RS-MP, 9/92).

¹³ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 60.

¹⁴ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a/1.

¹⁵ Slovenia/Criminal Procedure Act 32/07 (10.04.2007), Art. 65/3.

¹⁶ Source: <http://www.vlada.si/util/bin.php?id=2005040415002632>.

[12]. Slovenia has concluded a number of international agreements on, typically, police cooperation in the fight against organised crime of trafficking in human beings in general, i.e. without a specific focus on children.

[13]. Article 71 of the *Zakon o tujcih* [Aliens Act] pays special attention to the protection of the personal data of trafficked individuals, including children. All bodies which process their personal data must act in accordance with the *Zakon o zaščiti osebnih podatkov* [Personal Data Protection Act] of the Republic of Slovenia.¹⁷

Care and protection

[14]. The police shall allow a victim of trafficking who resides illegally in the Republic of Slovenia to stay, upon his/her own request or *ex officio*, for a period of three months in order to decide whether he/she will participate as a witness in criminal proceedings regarding the trafficking. The period of stay may be extended for up to three months (i.e. six months in total) for justified reasons.¹⁸ During the period of permitted stay the victim of trafficking shall enjoy the rights guaranteed by this Act to aliens with permitted temporary stay and the right to free translation and interpreting.

[15]. The right to residence for an alien who is a victim of trafficking in human beings is not contingent on his/her cooperation with the police in the criminal proceedings. However, deciding to cooperate puts him/her in a better position as he/she does not need to fulfil the general conditions for acquiring a residence permit.

[16]. Article 55 of the Aliens Act provides that every alien who has been granted a temporary right to stay in the Republic of Slovenia shall have the right to emergency health insurance pursuant to the act governing healthcare and health insurance and basic treatment. Furthermore, minor alien school children also have the right to basic education.

[17]. The number 11600 has been enabled as a hotline to report missing and sexually-exploited children. However, it is not yet operational, since no legally authorised individual or legal entity has yet applied for it.¹⁹ However, some NGOs, most notably *Društvo Ključ* [Society Ključ], *Društvo SOS telefon* and others, have provided similar free hotlines for children in need.²⁰

¹⁷ Slovenia/Personal Data Protection Act 59/99 (23.07.1999).

¹⁸ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a/1.

¹⁹Source: http://www.apek.si/sl/stevilka_116000_namenjena_storitvi_vrocega_telefona_za_pogresane_otroke.

²⁰ SOS line for women and children (080 11 55), line for children and adolescents (080 12 34), *Društvo Ključ* (080 17 22).

Best interests – determination and durable solutions, including social inclusion/return

[18]. A child who is a victim of trafficking may fulfil the statutory conditions for subsidiary protection. Pursuant to the International Protection Act, there are no specialised integration programmes for trafficked children. However, those who are granted subsidiary protection are entitled to health and social care under the same conditions as Slovenian citizens.²¹ The Act, moreover, guarantees special health treatment for all those individuals who have been, *inter alia*, subject to rape or any other grave forms of psychological, physical or sexual violence, and in particular for minors who have been victims of any kind of abuse, maltreatment or exploitation or any other cruel, inhumane and degrading treatment.²² The cost of such therapies, provided the individual does not have his/her own resources, are covered by the Ministry of Health.

[19]. In their treatment of unaccompanied minors who are entitled to subsidiary protection the authorised staff must respect the child's best interests and as soon as possible start searching for his/her parents or other relatives. Once international protection has been granted, a legal representative for the minor must immediately be appointed and the minor must be accommodated, if possible, with his/her parents, otherwise in another suitable facility (foster family, special centres for minors, other centres for aliens etc.). All personnel working with unaccompanied minors must be appropriately qualified.²³

[20]. Minors are entitled to the same primary and high school education as Slovenian citizens.²⁴ Their integration into Slovenian society is facilitated following tailored integration plans through courses in Slovenian language, history, culture and constitutional order.²⁵

Prosecution

[21]. The Criminal Procedure Act²⁶ and the *Zakon o zaščiti prič* [Witness Protection Act]²⁷ stipulate a number of child-sensitive procedures in the course of criminal proceedings. He/she must have a legal representative throughout the procedure. The authorities must proceed with special care in order to prevent

²¹ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 94/2.

²² Slovenia/International Protection Act 111/07 (29.11.2007), Art. 94/2.

²³ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 96.

²⁴ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 97.

²⁵ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 99.

²⁶ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 65/3.

²⁷ Slovenia/Witness Protection Act 81/06 (31.07.2006).

negative effects on his/her mental state. A minor may also be examined by a pedagogue or by another expert if this proves necessary.²⁸ The defendant's presence may, or in the case of a child younger than 15 must, be excluded. His/her identity may be concealed with the help of different technical means.²⁹

[22]. Access to justice and the right to a free, impartial trial without undue delay are guaranteed to everyone by the *Ustava Republike Slovenije* [Constitution of the Republic of Slovenia].³⁰ The general legal basis for compensation for the damages suffered by the victims of criminal acts is provided by the *Obligacijski zakonik* [Code of Obligations].³¹ The rule is that anyone who inflicts damage upon another person must compensate him/her.³² Moreover, the *Zakon o odškodnini žrtvam kaznivih dejanj* [Act on Compensation to Crime Victims] adopted in 2005³³ has established an overall scheme for compensation for the victims of violent criminal offences for the following damages incurred: physical injury or impairment to health, suffering; loss of maintenance; medical and hospitalisation expenses; funeral expenses; damages for destruction of goods; and expenses for compensation claims.³⁴ The amount of compensation is decided by a special Commission.³⁵ Any compensation for damages pursuant to this Act is reduced by the compensation awarded in the same case, but on a different legal basis.³⁶

[23]. The annual reports of the *Vrhovno državno tožilstvo* [Office of the State Prosecutor General] of the Republic of Slovenia reveal that the number of criminal cases which have involved trafficking in children is very low. From 2005 to 2007 there were thus no more than a handful of cases which involved trafficking in minors and in none of them has a final conviction yet been reached.³⁷ As a result, no compensation has yet been paid either.

Miscellaneous

[24]. Slovenia is primarily a transit and, to a lesser extent, a source and destination country for trafficking in human beings. The number of discovered

²⁸ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 240/4.

²⁹ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 240a.

³⁰ Slovenia/Constitution.

³¹ Slovenia/Code of Obligations 83/01 (1.1.2002) Art. 164-185.

³² Slovenia/Code of Obligations 83/01 (1.1.2002) Art. 131.

³³ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006).

³⁴ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 8.

³⁵ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 20.

³⁶ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 17.

³⁷ Report on the work of the state prosecutor's office for the years 2005, 2006 and 2007, available (only in Slovenian) at <http://www.dt-rs.si/strani/letnoporocilo.html>. The exact number is difficult to specify as the statistics are, in principle, not broken down to show the age of the victims.

and hence publicly known cases of trafficking in children remains relatively very low.

A. General anti-child-trafficking framework

A.1. International and national legal instruments

[25]. Pursuant to Article 8 of the *Ustava Republike Slovenije* [Constitution], laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly.³⁸ This, of course, applies to all the international legal instruments for combating trafficking in children ratified by Slovenia. These comprise the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography;³⁹ the UN Convention against Transnational Organised Crime⁴⁰ and the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons;⁴¹ and the International Labour Organization (ILO) Convention No. 182 on the Worst Forms of Child Labour.⁴² The ratification of the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings, which was signed by Slovenia in 2006, is expected in 2009.⁴³ Similarly, the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was signed by Slovenia in 2007 and awaits ratification.⁴⁴

³⁸ Slovenia/Constitution 33/91, 42/97, 66/00, 24/03, 69/04, 68/06 as amended (26.12.1991), Art. 8.

³⁹ Slovenia/Act Ratifying the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 23/04 (17.08.2004).

⁴⁰ Slovenia/Act Ratifying the United Nations Convention against Transnational Organized Crime 14/04 (23.04.2004).

⁴¹ Slovenia/Act Ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 15/04 (01.05.2004)

⁴² Slovenia/Act Ratifying the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 7/01 (23.04.2001).

⁴³ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, Ljubljana, May 2008, p. 5.

⁴⁴ <http://www.mp.gov.si/nc/si/splosno/cns/novica/article/11999/5541/>.

[26]. Trafficking in human beings was introduced into the *Kazenski zakonik* [Penal Code] as a newly-defined criminal offence in 2004. The new article (387a) implemented the provisions of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. It reads as follows:

‘Art 387a. (Trafficking in Persons): Whoever purchases another person, takes possession of him/her, accommodates him/her, transports him/her, sells him/her, delivers him/her or disposes of him/her in any other way, or acts as a broker in such operations, for the purpose of prostitution or other forms of sexual exploitation, forced labour, enslavement, servitude or trafficking in organs, human tissues or blood, shall be punished by imprisonment of from one to ten years.

(2) If an offence from the preceding paragraph was committed against a minor or with force, threat, deception, kidnapping or abuse of a subordinate or position, or with the intention of forcing pregnancy or artificial insemination, the perpetrator shall be punished by imprisonment of at least three years.

(3) The same punishment from the previous paragraph shall be imposed on an individual who commits an offence from the first or second paragraphs of this Article as a member of a criminal association for the commission of such offences, or if a large property benefit was gained through this offence.’⁴⁵

Other provisions which directly or indirectly relate to trafficking in human beings, and children more specifically, include Article 387 Placing in a condition of slavery,⁴⁶ Article 185 Abuse of prostitution,⁴⁷ Article 187

⁴⁵ Slovenia/Penal Code 95/04 (27.08.2004), Art. 387a.

⁴⁶ Slovenia/Penal Code 95/04 (27.08.2004), Art. 387. Unofficial translation by the Slovenian Ministry of Justice reads as follows

‘(1) Whoever, in violation of the rules of international law, places another person into slavery or a similar condition, or keeps another person in such a condition, buys, sells or delivers another person to a third party, or brokers the buying, selling or delivery of such person, or induces another person to sell his freedom or the freedom of the person he supports or cares for, shall be punished by imprisonment of from one to ten years.

(2) Whoever transports persons held in the condition of slavery or in similar condition from one state to another, shall be punished by imprisonment of from six months to five years.

(3) Whoever commits the offence referred to in the first or the second paragraphs of this Article against a minor, shall be punished by imprisonment of at least three years.’

⁴⁷ Slovenia/Penal Code 95/04 (27.08.2004), Art. 185. It reads as follows:
‘(1) Whoever participates for exploitative purposes in the prostitution of another person or instructs, obtains or encourages another person to engage in prostitution with force, threat or deception, shall be punished by imprisonment of from three months to five years.

(2) If an offence from the preceding paragraph is committed against a juvenile, against more than one person or as part of a criminal association, the perpetrator shall be punished by imprisonment of from one to ten years.’

Presentation and manufacturing of pornographic materials⁴⁸ and Article 311 Prohibited crossing of state borders.⁴⁹ There is no difference in the criminalisation of trafficking between countries or within a country.

Beside the Penal Code other statutory provisions should also be mentioned: in particular, the *Zakon o zaščiti prič* [Witness Protection Act] which guarantees the protection of witnesses who are victims of trafficking in human beings;⁵⁰ the *Zakon o spremembi zakona o kazenskem postopku* [Act Amending the Criminal Procedure Act] which provides that young victims of trafficking crimes (Article 387 of the Penal Code) must be designated an authorised representative to protect their human rights;⁵¹ and finally, the *Zakon o spremembi zakona o državnem tožilstvu* [Act Amending the State Prosecution Act] which designates the area of trafficking in human beings as falling within the competence of *posebna skupina za pregon organiziranega kriminala* [the special State Prosecutors Group for the Prosecution of Organised Crime], operating within the *Vrhovno državno tožilstvo Republike Slovenije* [General State Prosecution of the Republic of Slovenia].⁵²

A.2. Best interest of the child

[27]. Slovenia has ratified the UN Convention on the Rights of the Child. Furthermore, there is ample constitutional protection of children's rights. Two articles of the Slovenian Constitution pay special attention to the protection of

⁴⁸ Slovenia/Penal Code 95/04 (27.08.2004), Art. 187. It reads as follows: *'Whoever by sale, presentation, public exhibition or in any other manner provides a person under the age of fourteen with access to writing, pictures, audio-visual or other objects of pornographic content or presents a pornographic performance to such a person, shall be punished by a fine or by imprisonment of up to one year. Whoever abuses a minor for the manufacturing of pornographic pictures, audio-visual or other objects of pornographic content, or whoever uses a minor to act in a pornographic performance, shall be punished by imprisonment of up to three years.'*

⁴⁹ Slovenia/Penal Code 95/04 (27.08.2004), Art. 311, which reads as follows: *'(1) Whoever, without the prescribed permit, crosses or attempts to cross the border of the Republic of Slovenia armed with weapons or by force, shall be punished to a term of up to three years of imprisonment.*

(2) Whoever engages in the prohibited transit of other persons across the border of the Republic of Slovenia, or whoever transits another person or several other persons across the border out of greed, shall be punished to a term of up to five years of imprisonment.

(3) Whoever commits an offence under the preceding paragraph as the member of an association for the commission of such offences or if a large material benefit has been acquired through such an offence, shall be punished to a term of from one to eight years of imprisonment.'

⁵⁰ Slovenia/Witness Protection Act 81/06 (31.07.2006).

⁵¹ Slovenia/Criminal Procedure Act 32/07 (10.04.2007).

⁵² Slovenia/State Prosecution Act 94/07 (16.10.2007).

children. Article 53/3 (Marriage and the Family) stipulates that the state shall protect the family, motherhood, fatherhood, children and young people and shall create the necessary conditions for such protection. This is further specified in Article 56 (Rights of Children) which reads as follows:

'Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and maturity. Children shall be guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. Such protection shall be regulated by law. Children and minors who are not cared for by their parents, who have no parents or who are without proper family care shall enjoy the special protection of the state. Their position shall be regulated by law.'

[28]. This is done by the *Zakon o zakonski zvezi in družinskih razmerjih* [Marriage and Family Relations Act], which stipulates that parents, other individuals, state organs and other public authorities are bound in all their acts and procedures which involve children to protect their interests. The parents act in the interest of their child if they fulfil his/her material, emotional and psychosocial needs, through conduct which is accepted and approved by the environment, which demonstrates their care and sense of responsibility for their child, taking into account his/her personality and wishes.⁵³ The act further provides that the state ensures protection to minors whenever their healthy development might be endangered and whenever this is required by other interests of a child.⁵⁴

[29]. The principle of the best interest of the child is set out or implemented in a number of other statutory provisions.⁵⁵ In terms of combating trafficking in children, Article 16 of the *Zakon o mednarodni zaščiti* [International Protection Act] is of a special importance. It explicitly requires the authorities which decide on international protection (asylum, refugee status etc.) for a minor to respect the principle of the child's best interests.⁵⁶

A.3. National Action Plan against Trafficking in Human Beings

[30]. Slovenia has a National Action Plan against trafficking in human beings in general, i.e. without a special focus on children. Covering a period of two years, its objective is to define key counter-trafficking activities to be

⁵³ Slovenia/Marriage and Family Relations Act, Art. 5a.

⁵⁴ Slovenia/Marriage and Family Relations Act, Art. 6.

⁵⁵ Slovenia/Civil Procedure Act 26/99 (14.07.1999), Art. 47; General Administrative Procedure Act 80/99 (01.04.2000), Art. 46/2; Non-litigious Civil Procedure Act 20/86 (01.10.1986), Art. 409, 410; Criminal Procedure Act 63/94 (01.01.1995).

⁵⁶ Slovenia/International Protection Act 111/07 (29.11.2007), Art.16.

implemented in Slovenia. The first Action Plan, adopted in 2004,⁵⁷ also served as a basis for upgrading the activities of governmental bodies and NGOs, which had been presented in the 2002 and 2003 reports of the Interdepartmental Working Group for the Fight against Trafficking in Persons (hereinafter IWG). According to the Slovenian government website, the roots of the Action Plan objectives date back to December 2001 when a Programme on the Fight Against Trafficking in Human Beings was developed, already containing all the important international activities. The current Action Plan has now narrowed its focus to concrete projects for the next two years.⁵⁸ These projects were harmonised interdepartmentally on the basis of IWG guidelines and considered as priorities. The Action Plan comprises the following elements: legislation on the investigation and prosecution of criminal offences related to trafficking in human beings, prevention, i.e. awareness-raising and research activity, assistance to and protection of trafficked victims, training and international cooperation.⁵⁹

[31]. In terms of child trafficking, the most recent Action Plan on Trafficking in Human Beings for the period of 2008-2009 places a special emphasis on adequate assistance for child victims of trafficking in human beings, together with their social integration and their complete physical as well as mental rehabilitation.⁶⁰ Dealing with child victims of trafficking in human beings shall be guided by the principle of the child's best interests. Assistance and adequate support for child victims in the entire administrative procedure shall be strengthened. Moreover, further actions are envisaged for the purposes of awareness-raising. Pursuant to the Action Plan, the latter is one of the key preventive activities to be carried out in order to avoid severe consequences being suffered by victims. Finally, as children and minors belong to a particularly vulnerable group, it is emphasised in the Action Plan that they should be adequately informed and made aware of all the phenomena related to trafficking in human beings. This entails a systematic approach which aims to introduce the topic of trafficking in human beings into primary and secondary school education programmes.

[32]. There is no special impact assessment procedure of National Action Plans against Trafficking in human beings. However, each Action Plan is prepared by the IWG and finally adopted by the Government. This makes the execution of the Action plan dependent on political responsibility of the executive branch towards its electorate as well as on legal and again political

⁵⁷ Action Plan of the Interdepartmental Working Group for the Fight against Trafficking in Persons 2004, http://www.vlada.si/activities/projects/fight_trafficking_in_persons/#action_plan.

⁵⁸ 2008-2009 Action Plan of the Interdepartmental Working Group for the Fight against Trafficking in Persons, <http://www.vlada.si/util/bin.php?id=2007100112483075>.

⁵⁹ Source: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁶⁰ 2008-2009 Action Plan of the Interdepartmental Working Group for the Fight against Trafficking in Persons, <http://www.vlada.si/util/bin.php?id=2007100112483075>.

responsibility towards the international community (EU, UN, ECHR) to comply with the commitments stemming from the concluded international agreements. The developments and the legislation described below, but also the reports by the independent international monitoring mechanisms, testify to the fact that especially since 2001 Slovenia has made a considerable progress in this field. The best evidence of this is the US State Department's tier ranking of Slovenia in the field of trafficking in human beings, which has been since 2006 elevated from rank 2 to rank 1.⁶¹

A.4. Data collection

[33]. Pursuant to the report on the work of the IWG, the occurrence of trafficking in human beings in the Republic of Slovenia is monitored separately on the basis of measurable data from the police and from the Public Prosecutor's office. Data are collected, in general without distinguishing the age of the victims, in connection with the following criminal offences: Trafficking in human beings – article 387a of the Penal Code, Placing in a condition of slavery – Article 387 of the Penal Code, and Abuse of prostitution – Article 185 of the Penal Code. For comparison within a wider context, the criminal offence of Presentation and manufacturing of pornographic material under Article 187 of the Penal Code is also monitored, as well as the Prohibited crossing of state borders under Article 311 of the Penal Code. Indirect indicators from NGOs on work with victims of trafficking are also taken into consideration.⁶²

A.5. Budget

[34]. The total budget for combating trafficking in human beings for the years 2008 and 2009 is €190,000. In 2008 and 2009, €35,000 is allocated each year to the *Ministrstvo za delo, družino in socialne zadeve* [Ministry of Labour, Family and Social Affairs] for the purposes of cooperation with NGOs which work with families and children. The *Ministrstvo za notranje zadeve* [Ministry of the Interior] is granted €39,000 in each of these two years to be spent on the care of immigrants. Finally, the *Ministrstvo za zunanje zadeve* [Ministry of Foreign Affairs] is to receive €21,000 in both years for humanitarian relief.⁶³

⁶¹ US State Department, Country Report on Trafficking in Persons – Slovenia, <http://www.state.gov/documents/organization/105659.pdf>

⁶² Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, pp. 3-4, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/

⁶³ 2008-2009 Action Plan of the Interdepartmental Working Group for the Fight against Trafficking in Persons, p. 14, available at: <http://www.vlada.si/index.php?lng=eng&vie=cnt&gr1=act&gr2=prj>

A.6. National monitoring mechanism

[35]. By its decision no. 240-05/2003-1 of 18.12.2003, the government of the Republic of Slovenia appointed the Interdepartmental Working Group for the Fight Against Trafficking in Human Beings (hereinafter the IWG).⁶⁴ Its mandate covers trafficking in human beings in general, including in children. Before this date, the IWG operated within the framework of the Ministry of Foreign Affairs and the Stability Pact for South Eastern Europe.⁶⁵ The IWG is comprised of representatives of ministries and government bodies and members of domestic and international organisations (NGOs). A National Coordinator in this field, who heads and coordinates the work of the IWG, was already appointed in February 2002.

[36]. The IWG is an advisory organ and does not have executive functions. Its main task is to prepare and supervise the national action plans adopted by the government. Periodically and on a yearly basis it issues reports on cases of trafficking in human beings in Slovenia. It meets on a bi-monthly basis and, in the case of more specific working fields, more often, as necessary. Its purpose is to coordinate the activities of institutions whose representatives are members of the IWG. Furthermore, the meetings serve as an opportunity for direct exchanges of information about current developments in the field of combating trafficking in human beings, which contributes overall to a greater multidisciplinary insight into the issues.⁶⁶

A.7. Training strategy

[37]. Training of professional actors involved in the identification, care and protection of trafficked children is a well-established part of the national preventive strategy against trafficking. It mainly involves training of the police in cooperation with NGOs and internal expert training and education of non-governmental organisations.⁶⁷

⁶⁴ Source: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁶⁵ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2002:

<http://www.vlada.si/utit/bin.php?id=2005051913073162>.

⁶⁶ Source: <http://www.vlada.si/utit/bin.php?id=2005040415002632>.

⁶⁷ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, p. 3, available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

[38]. For example, in 2006 the police implemented evaluation train-the-trainer courses for trainers to educate police officers in the area of combating trafficking in human beings. These trainers then further implemented a number of training sessions for police officers at the local police directorates. The IWG reports that over 800 police officers attended the training. Moreover, the criminal police also implemented specialist training of criminal police officers on the theme of smuggling of human beings and trafficking in human beings.⁶⁸ In 2007 more than 165 police officers participated in eight training courses to combat trafficking in human beings. Members of the judiciary and the prosecution service attended seminars on the same topic.⁶⁹

[39]. Training of expert assistants and experts was also carried out within NGOs. Hence within *Slovenska Karitas* [Caritas Slovenia]⁷⁰ in the past few years weekly meetings were held by the expert team of three full-time assistants and five volunteers who undertook training for work, evaluated cases and set up a cooperation network at home and abroad. *Društvo Ključ* [Society Ključ]⁷¹ implemented expert training for individual programmes that were co-financed, fully or partially, by the competent ministries of the government of the Republic of Slovenia. Training and forms of cooperation were also implemented at conferences on the theme of trafficking in human beings for various subscribers. Expert assistants and volunteers underwent training by using literature, attending workshops and, at the same time, two trips were made to visit the implementation of the programme abroad. The team coordinator provided the literature. Education and additional training was carried out through social workshops, in cooperation with and under the guidance of experts. They considered areas of counselling work with victims, conversation management, feedback, active participation of the victim in the problem-solving process and in the debriefing process, and understanding and sympathising with the victim. The content was also intended to cover the personal development

⁶⁸ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, p. 9, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁶⁹ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 7-8, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁷⁰ *Slovenska karitas* [Caritas Slovenia] is a charitable organisation of the Roman Catholic Church in Slovenia and carries out the charitable and social welfare mission of the Church. It was founded by the Slovenian bishops conference of 01.05.1990. From October 2004 it had the status of a humanitarian organisation under the Slovenian Law of Humanitarian Organisations, source:

http://www.karitas.si/predstavitev/index_eng.php.

⁷¹ *Društvo Ključ* [Society Ključ] – centre for the fight against trafficking in human beings – is a non-governmental, non-profit and humanitarian-oriented organisation. It operates on a national, regional (SE Europe) and transnational (Italy and Spain) level. As one of the strongest Slovenian actors in preventive and curative activities in the field of fighting trafficking in human beings, the organisation's basic mission is to offer a care and (re)integration programme for victims of trafficking. http://www.drustvo-kljuc.si/our-work_projects.php.

and support in personal debriefing involved in difficult work with victims of trafficking in human beings. Techniques and methods of good expert cooperation were implemented. Many NGO activists also benefited from the training abroad.⁷²

A.8. Non-criminalisation of child victims of trafficking

[40]. Prostitution is decriminalised in Slovenia. In this regard child victims of trafficking who are forced into selling their bodies are not incriminated. Hence, the victims are not punished for unlawful acts committed as a direct result of being trafficked.⁷³ However, research sponsored by the government of the Republic of Slovenia and conducted by the NGOs *Mirovni inštitut* [The Peace Institute] and the International Organization for Migration demonstrated that victims of trafficking are still too often *de facto*, both in the eyes of the public as well as of the authorities, perceived as perpetrators, due to their association with organised crime. Thus, in the absence of *de jure* criminalisation, *de facto* prejudiced criminalisation still persists.⁷⁴ The authorities are tackling the problem in cooperation with NGOs through awareness-raising activities.

B. Prevention of child trafficking

The IWG and the Slovenian government place prevention at the core of activities against trafficking in human beings. Every year a number of awareness-raising events are organised for the general as well as the target population. In 2007 the Ministry of Education introduced the theme of human trafficking into the standard Slovenian primary school curriculum. The theme is now part of the 7th and 8th grade primary school curriculum within the

⁷² Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006 available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons/ and Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007 available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁷³ The US State Department Report on Trafficking in Persons 2008, p. 227, <http://www.state.gov/documents/organization/105659.pdf>.

⁷⁴ International Organization for Migration and The Peace Institute (2003) *Where in the puzzle: trafficking from, to and through Slovenia* (assessment study), Ljubljana, pp. 19, 22 and 68. Available at:

http://www.iom.hu/PDFs/Trafficking_from_to_through%20Slovenia.pdf.

framework of the course on Citizen's Education and Ethics.⁷⁵ In the same year a special advertising campaign against trafficking in human beings in general was launched by the government, including on the internet where the number of visitors to the anti-trafficking website has been constantly on the rise. The Slovenian media published more than 40 articles on the issue of trafficking in human beings. There were also TV and radio shows on the topic. Many of them involved participation by IWG members and the National Coordinator. Throughout the year many symposia, seminars and talks were organised, usually in cooperation with interested associations and NGOs working in the field. The latter played an especially strong role in educating the so-called target population, i.e. children, their parents and other potential victims.

[41]. In terms of contributions by NGOs, the work of Society Ključ and Caritas Slovenia should be pointed out in particular. Society Ključ conducted three preventive programmes aimed at the target population. Within the 'Vijolica' programme, around 400 adolescents and their parents and school staff received advice on avoiding the pitfalls of trafficking in human beings. In another programme, 'CAP', similarly around 250 children, their parents and teachers were educated about how to counter the abuse of children. Finally, under the 'PATS' project, informal interviews with potential victims were conducted, including at the centre for aliens. Caritas Slovenia, on the other hand, published articles on the subject and organised seminars on helping the victims of trafficking.⁷⁶

C. Appointment of legal guardian

[42]. An alien minor, i.e. a person younger than 18, who has entered the Republic of Slovenia illegally, unaccompanied by his/her parents or other legal representatives, or who illegally resides in the Republic of Slovenia, must be immediately returned to the country of origin or handed over to representatives of the country of which he/she is a national. If this is not possible,⁷⁷ the police

⁷⁵ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 8, available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁷⁶ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 6 and 7, available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons/.

⁷⁷ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 60/2. An alien minor specified in the preceding paragraph of this Article may not return to his/her country of origin or to a third country which is willing to accept him/her until suitable reception is provided; in no case may unaccompanied minors be returned in violation of the European Convention on Human Rights and Fundamental Freedoms, adopted with Protocols 3, 5 and 8 and supplemented with Protocol 2 and its protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. l. RS-MP, 7/94), the European Convention Against Torture and Other Cruel, Inhuman and

shall notify the *Center za socialno delo* [Department of Social Security] which must immediately assign a special custodian to the minor.

[43]. Pursuant to Article 65 of the Criminal Procedure Act, in criminal procedures relating to trafficking in human beings a victim who is a minor must have, for the entire duration of a procedure, a legal representative who protects his/her rights in particular in relation to the protection of his/her personal integrity during the hearing before the court and in claiming fair compensation. A minor who does not have his/her own legal representative is appointed one *ex officio* by the court from among the private advocates.⁷⁸

[44]. There is no statutorily prescribed special training for legal guardians employed to represent trafficked children, neither is there a policy on age assessment.

D. Coordination and cooperation

[45]. For the purposes of coordinating the activities of various institutions engaged in combating trafficking in human beings, the government created the IWG. It comprises representatives of ministries and government bodies, and members of domestic and international organisations (NGOs).⁷⁹

D.1. Cooperation agreements between the State, NGOs and foreign countries

[46]. A number of Slovenian Ministries have cooperated between themselves and even more often (usually on the basis of public tenders) with NGOs in a mutual fight against trafficking in human beings and its detrimental consequences. Here are some of the most representative agreements as reported by the IWG.

[47]. In 2003 the Ministry of Labour, Family and Social Affairs continued to co-finance the activities of the NGO, Society Ključ, on combating trafficking in human beings. In 2004 the same organisation was funded by the Ministry of

Degrading Treatment or Punishment (Ur. l. RS-MP, 1/94) or the Convention on the Rights of the Child (Ur. l. RS-MP, 9/92).

⁷⁸ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 65/3.

⁷⁹ Source: <http://www.vlada.si/util/bin.php?id=2005040415002632>.

the Interior (approx. €55,000) and the Ministry of Labour, Family and Social Affairs (approx. €5,000) in order to provide safe accommodation for victims of trafficking and 24-hour telephone counselling.

[48]. The Ministry of Foreign Affairs allocated 5 million SIT (i.e. approx. €20,000) for a project within the IWG Action Plan: 'Introducing mechanisms to identify, assist and protect victims of trafficking in human beings and sex and gender-based violence in asylum procedures in Slovenia (PATS)'. The Society Ključ, the *Slovenska filantropija* [Slovene Philanthropy (foundation)], the Asylum Centre of the Slovenian Ministry of the Interior and the Office of the United Nations High Commissioner for Refugees (UNHCR) also participated in the project.⁸⁰

[49]. In 2005 the Ministry of the Interior, the *Ministrstvo za pravosodje* [Ministry of Justice], the Ministry of Labour, Family and Social Affairs and the Society Ključ signed a multilateral agreement on the financing of the Society to provide care for the victims of trafficking in human beings, such as psychosocial help for victims, legal aid, interpreting and other services, including accommodation and education.⁸¹

[50]. In June 2006 Caritas Slovenia was selected, pursuant to the tender requirements, for the implementation of the programme, 'Care for victims of trafficking in human beings', by the Ministry of the Interior and the Ministry of Justice.⁸² In the same year the Ministry of the Interior and the Ministry of Labour, Family and Social Affairs, in accordance with the 2006 Action Plan, published two contextually separate but harmonised tenders to the value of €68,000.⁸³ The funds were awarded to Caritas Slovenia and the Society Ključ to finance crisis and safe accommodation services respectively.⁸⁴

[51]. Slovenia has concluded a number of international agreements on, typically, police cooperation in the fight against organised crime of trafficking in human beings in general, i.e. without a specific focus on children. The majority of these agreements have been concluded with countries from South

⁸⁰ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2004, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁸¹ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2005, p. 16, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/2006.

⁸² Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁸³ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, p. 4, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁸⁴ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, pp. 3 and 4, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

East Europe: Croatia,⁸⁵ Serbia,⁸⁶ Bosnia and Herzegovina,⁸⁷ Montenegro,⁸⁸ Macedonia,⁸⁹ Albania⁹⁰ and Turkey.⁹¹

[52]. The 'PATS' project on the introduction of a mechanism to connect help and protection for victims of trafficking in human beings and/or sexual violence in asylum procedures in Slovenia, operated by the Asylum Centre in Ljubljana, financed by the Ministry of Foreign Affairs and supported by the Ministry of the Interior, has been extended to the wider region of South East Europe, to include Croatia and Bosnia and Herzegovina.⁹² In the two countries the project is carried out by the Bosnian and Herzegovinian women's initiative and by the Red Cross of the Republic of Croatia. Representatives of both organisations benefited from training in Slovenia provided by the Society Ključ in both 2006 and 2007. Caritas Slovenia also organised educational seminars for its counterparts from Bosnia and Serbia.⁹³ Moreover, within the framework of the ACTA programme, the Society Ključ organised three training courses for

⁸⁵ Act Ratifying the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Croatia on cooperation in combating terrorism, illicit traffic in and abuse of drugs as well as against organised crime 18/94 (21.10.1994); Act Ratifying the Agreement between the Republic of Slovenia and the Republic of Croatia on cross-border police cooperation 6/03 (14.03.2003).

⁸⁶ Agreement between the Government of the Republic of Slovenia and the Federal Government of the Federal Republic of Yugoslavia on cooperation in the fight against organised crime, illicit drugs, psychotropic substances and precursors to trafficking, terrorism and other serious crimes 17/01 (14.07.2001).

⁸⁷ Decree ratifying the Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on police cooperation 6/07 (08.05.2007).

⁸⁸ Act Ratifying the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Montenegro on cooperation in the fight against organised crime, people trafficking and illegal migration, trafficking in illicit drugs and precursors, terrorism and other crimes 6/07 (08.05.2007).

⁸⁹ Act Ratifying the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Macedonia on cooperation in combating terrorism, illicit traffic in drugs and organised crime 18/94 (21.10.1994).

⁹⁰ Act Ratifying the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Albania on cooperation in combating terrorism, illicit traffic in drugs and organised crime 18/94 (21.10.1994).

⁹¹ Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Turkey on cooperation in the fight against organised crime, illicit drugs trafficking, international terrorism and other serious crimes 7/05 (02.06.2005).

⁹² The primary role in the PATS project – especially in the direct work with potential victims – is carried out by non-governmental organisations which hold preventive and individual informative conversations every day with asylum applicants at the Asylum Centre. Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, p. 10, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁹³ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 9, available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

partner NGOs from Macedonia.⁹⁴ In cooperation with the European Commission, governmental bodies and NGOs from the other Member States the Slovenian Ministries as well as the NGOs referred to in this report actively participated in the EQUAL project, which was financed by the European Social Fund.⁹⁵

D.2. Protection of personal data

[53]. Article 71 of the *Zakon o tujcih* [Aliens Act] pays special attention to the protection of the personal data of trafficked individuals, including children. All bodies which process their personal data must act in accordance with the *Zakon o zaščiti osebnih podatkov* [Personal Data Protection Act] of the Republic of Slovenia.⁹⁶ This stipulates how sensitive personal data shall be processed.⁹⁷ In particular, during processing the data must be specially marked and protected, such that access to them by unauthorised persons is prevented. Any improper use or abuse of personal data can be brought to the attention of the national supervisory body for personal data protection: the *Informacijska pooblaščenka* [Information Commissioner]. This is an autonomous and independent state body competent for supervision of the Act governing personal data protection.⁹⁸ Any individual who finds that his or her rights provided by this Act have been violated may request judicial protection for as long as such violation lasts.⁹⁹

⁹⁴ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2006, p. 10, available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁹⁵ Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 16, available at:

http://www.vlada.si/activities/projects/fight_trafficking_in_persons.

⁹⁶ Slovenia/Personal Data Protection Act 59/99 (23.07.1999).

⁹⁷ Slovenia/Personal Data Protection Act 59/99 (23.07.1999), Art. 13.

⁹⁸ Slovenia/Information Commissioner Act 113/05 (31.12.2005), Art. 2.

⁹⁹ Slovenia/Personal Data Protection Act 59/99 (23.07.1999), Art. 34.

E. Care and protection

E.1. Legal framework

E.1.1. Right to a reflection period and to residence

[54]. The core provision which regulates the rights of victims of trafficking in human beings to a reflection period and residence is Article 38a of the Aliens Act (Victims of trafficking in human beings).¹⁰⁰ The police shall allow a victim of trafficking in human beings who resides illegally in the Republic of Slovenia to stay, upon his/her own request or *ex officio*, for a period of three months in order to decide whether he/she will participate as a witness in criminal proceedings regarding trafficking in human beings. The period of temporary stay may be extended for up to three months (i.e. six months in total) for justified reasons.¹⁰¹ Any stay may be denied if the residence of the victim of trafficking in the Republic of Slovenia would pose a threat to public order, security or the international relations of the Republic of Slovenia or if it is suspected that his/her residence in the country will be connected with the commission of terrorist or other violent actions, illegal intelligence activities, possession of illicit drugs or the commission of other criminal acts, or if he/she comes from a region where infectious diseases are spread with a possible epidemic listed in the international health rules of the World Health Organisation or from regions where infectious diseases are spread which could threaten the health of people and which require prescribed measures to be adopted pursuant to the act governing infectious diseases.¹⁰² During the period of permitted stay the victim of trafficking in human beings shall enjoy the rights guaranteed by this Act to aliens with permitted temporary stay¹⁰³ and the right to free translation and interpreting. The police and non-governmental organisations must inform the victim about the possibilities of and conditions for acquiring a residence permit.¹⁰⁴ The victim of trafficking must file an application for the issuing of a temporary residence permit with the competent body in the Republic of Slovenia prior to the expiry of the period of permitted stay in the Republic of Slovenia or prior to the expiry of permitted residence if he/she resides in the Republic of Slovenia legally on another basis. A victim of trafficking in human beings who does not have his/her own means of

¹⁰⁰ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a.

¹⁰¹ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a/1.

¹⁰² Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a/2.

¹⁰³ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 55. An alien who has been granted a temporary stay in the Republic of Slovenia shall have the right to emergency health insurance, pursuant to the act governing healthcare and health insurance and basic treatment, while minor alien school children shall also have the right to basic education.

¹⁰⁴ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 38a/3.

subsistence shall be exempt from administrative charges in the procedure of the issuing of a temporary residence permit.¹⁰⁵ A residence permit shall be issued in the form of a decision and an alien's identity card shall be issued *ex officio* to victims of trafficking in human beings whose identities are not contested and who do not have and cannot obtain a passport from their country of origin.¹⁰⁶

E.1.2. Contingency on cooperation with the authorities

[55]. The right to residence for an alien who is a victim of trafficking in human beings is not contingent on his/her cooperation with the police in the criminal proceedings. However, deciding to cooperate puts him/her in a privileged position. A temporary residence permit may be issued to victims of trafficking in human beings *regardless* of other conditions defined by the Aliens Act concerning the issuing of a residence permit, if the victim is prepared to cooperate as a witness in criminal proceedings and his/her testimony is important, which is confirmed by the body competent for the criminal prosecution. In such cases, the temporary residence permit shall be issued to the victim of trafficking for the foreseen duration of the criminal proceedings, but for not less than six months or more than one year. The temporary residence permit may be extended upon the victim's request, each time for the period of up to one year, until the criminal proceedings are concluded, irrespective of their outcome, and provided that the conditions defined in Article 38a/7 of the Aliens Act are fulfilled.¹⁰⁷

E.1.3. Right to healthcare and employment

[56]. A victim of trafficking who has been issued with a temporary residence permit and has no means of subsistence shall be entitled to emergency healthcare pursuant to the act regulating healthcare as well as health insurance and basic care, the same as aliens who are allowed temporary stay in the Republic of Slovenia. A victim of trafficking in human beings may obtain employment or perform work in the Republic of Slovenia during the period of validity of the temporary residence permit under the conditions defined by the act regulating employment and work by aliens.¹⁰⁸ A further temporary residence permit may be issued to a victim of trafficking in human beings for another purpose for residence in the Republic of Slovenia, if he/she fulfils the conditions for the issue of such a permit. The application for the issuing of a further permit must be filed prior to the expiry of the previous permit.¹⁰⁹

¹⁰⁵ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 38a/6.

¹⁰⁶ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 38a/7.

¹⁰⁷ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 38a/7.

¹⁰⁸ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 38a/8.

¹⁰⁹ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 38a/9.

E.1.4. Special provisions relating to children

[57]. Article 60 of the Aliens Act¹¹⁰ provides for measures which relate specifically to minors. An alien minor who has entered the Republic of Slovenia illegally unaccompanied by his/her parents or other legal representatives or who illegally resides in the Republic of Slovenia must be returned immediately to the country of origin or handed over to representatives of the country of which he/she is a national. However, a return to his/her country of origin or to a third country which is willing to accept him/her may not take place until suitable reception is provided. In no case may unaccompanied minors be returned in violation of the European Convention on Human Rights and Fundamental Freedoms, adopted with Protocols 3, 5 and 8 and supplemented with Protocol 2 and its protocols 1, 4, 6, 7, 9, 10 and 11 (Ur. l. RS-MP, 7/94), the European Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Ur. l. RS-MP, 1/94), or the Convention on the Rights of the Child (Ur. l. RS-MP, 9/92).¹¹¹ If a return is not possible, the police shall notify the Department of Social Security which must immediately assign a special custodian to the minor.¹¹²

[58]. The police shall temporarily accommodate the alien minor in the Centre for Aliens, in a special division for minors. Upon a proposal by the special custodian or with his/her prior consent, the police may also find another, more suitable form of accommodation for the minor if it is established during the procedure that accommodation under the supervision of a social security body would be more beneficial for the minor. Alien minors shall, as a rule, be provided with accommodation at the Centre together with their parents or legal representatives, unless it is assessed by social workers that other solutions may be better for them.¹¹³ In the case of minors under 16 years of age, stricter police supervision may be ordered only exceptionally, whereby they must be accompanied by both or at least one of their parents. Residence under stricter police supervision (i.e. confinement of free movement to the premises of the Centre in accordance with the Centre's house rules) for an unaccompanied alien minor cannot be ordered (due to his/her status as a minor).¹¹⁴

[59]. Article 55 of the Aliens Act provides that every alien who has been granted a temporary stay in the Republic of Slovenia shall have the right to emergency health insurance, pursuant to the act governing healthcare and health insurance and basic treatment. Furthermore, minor alien school children shall also have the right to basic education.

¹¹⁰ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 60.

¹¹¹ Slovenia/Aliens Act 107/06 (17.10.2006), Art. 60/2.

¹¹² Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 60/1.

¹¹³ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 60/3.

¹¹⁴ Slovenia/Aliens Act 107/06 (17. 10. 2006), Art. 60/4.

[60]. Pursuant to Article 65 of the Criminal Procedure Act, in criminal procedures relating to trafficking in human beings a victim who is a minor must have, for the entire duration of a procedure, a legal representative who protects his/her rights in particular in relation to the protection of his/her personal integrity during the hearing before the court and in claiming fair compensation. A minor who does not have his/her own legal representative is appointed one *ex officio* by the court from among the private advocates.¹¹⁵

[61]. The data on evidence that special needs for children coming from different ethnic backgrounds, needs of children with disabilities have been taken into actual consideration in concrete cases are not available (see more recital 73 below). However, such a treatment is generally mandated by the Slovenian Constitution¹¹⁶ as well as ordinary legislation, in particular by the International Protection Act.¹¹⁷

E.2. Hotline and similar instruments

[62]. The *Agencija za pošto in elektronske komunikacije* [Post and Electronic Communications Agency] of the Republic of Slovenia complied with the Commission Decision of 15.02.2007 and enabled the number 11600 as a hotline to report missing and sexually-exploited children. However, the number is not yet operational, since no legally authorised individual or legal entity has yet applied for it.¹¹⁸ However, some NGOs, most notably Society Ključ, Društvo SOS telefon and others, have provided similar free hotlines for children in need.¹¹⁹

¹¹⁵ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 65/3.

¹¹⁶ Slovenia/Constitution 33/91, 42/97, 66/00, 24/03, 69/04, 68/06 as amended (26.12.1991), Art. 14 (equality before the law) and more concretely Art. 52 (rights of disabled persons), Art. 61 (right to use one's language and script).

¹¹⁷ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 96.

¹¹⁸Source: http://www.apek.si/sl/stevilka_116000_namenjena_storitvi_vrocega_telefona_za_pogresane_otroke.

¹¹⁹ SOS line for women and children (080 11 55), line for children and adolescents (080 12 34), Society Ključ (080 17 22).

F. Best interests determination and durable solutions, including social inclusion/return

F.1. Availability of subsidiary protection

[63]. The international protection of aliens which encompasses the right to refugee status and to subsidiary protection is regulated by the new International Protection Act.¹²⁰ A child who is a victim of trafficking may fulfil the statutory conditions for subsidiary protection. If he/she applies for it, then his/her status ceases to be regulated by the Aliens Act described above and instead comes under the said International Protection Act.

[64]. However, the conditions for subsidiary protection (as *lex specialis* to the Aliens Act) are rather demanding. Subsidiary protection can be recognised to a third-country national or to a stateless person who does not satisfy the conditions for refugee status,¹²¹ if there is a justified reason that he/she would, in the case of being returned to his/her state of citizenship (or residence in the case of a stateless person), face a reasonable risk of suffering serious harm. The latter, as defined in Article 28 of this Act, comprises: (1.) death penalty or execution; (2.) torture, inhumane or degrading treatment or punishment of the applicant in the state of origin; (3.) real and concrete individual threat to the life or person of the applicant due to arbitrary violence in cases of international or domestic armed conflicts.¹²²

¹²⁰ Slovenia/International Protection Act 111/07 (29.11.2007), Art.1.

¹²¹ Refugee status can be recognised to any third-country national who, due to a reasonable fear of persecution based on race, religion, nationality, membership of a particular social group or because of a particular political opinion, leaves the state of which he/she is a citizen and cannot or because of the defined fear does not wish to enjoy the protection of this state, or to a stateless person who leaves the state where he/she resided, but due to such events and due to a reasonable fear cannot return or refuses to return to this state. Slovenia/International Protection Act 111/07 (29.11.2007), Art.2.

¹²² Slovenia/International Protection Act 111/07 (29.11.2007), Art. 3.

F.2. Integration programmes, education and the best interest of the child

[65]. Pursuant to the International Protection Act, there are no specialised integration programmes for trafficked children. However, those who are granted subsidiary protection are entitled to health and social care under the same conditions as Slovenian citizens.¹²³ The Act, moreover, guarantees special health treatment for all those individuals who have been, *inter alia*, subject to rape or any other grave forms of psychological, physical or sexual violence, and in particular for minors who have been victims of any kind of abuse, maltreatment or exploitation or any other cruel, inhumane and degrading treatment.¹²⁴ The cost of such therapies, provided the individual does not have his/her own resources, are covered by the Ministry of Health.

[66]. Pursuant to the International Protection Act,¹²⁵ in their treatment of unaccompanied minors who are entitled to subsidiary protection the authorised staff must respect the child's best interests and as soon as possible start searching for his/her parents or other relatives. A legal representative for the minor must immediately be appointed and the minor must be accommodated, if possible, with his/her parents, otherwise in another suitable facility (foster family, special centres for minors, other centres for aliens etc.). All personnel working with unaccompanied minors must be appropriately qualified.¹²⁶

[67]. Article 97 of the International Protection Act provides that minors are entitled to the same primary and high school education as Slovenian citizens.¹²⁷ Their integration into Slovenian society is facilitated following tailored integration plans (for all minor aliens in general, without a specific focus on victims of trafficking) through courses in Slovenian language, history, culture and constitutional order.¹²⁸

[68]. The data on evidence that special needs for children coming from different ethnic backgrounds, needs of children with disabilities have been taken into actual consideration in concrete cases are not available (see more recital 73 below). However, such a treatment is generally mandated by the Slovenian

¹²³ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 94/2.

¹²⁴ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 94/2.

¹²⁵ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 96.

¹²⁶ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 96.

¹²⁷ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 97.

¹²⁸ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 99.

Constitution¹²⁹ as well as ordinary legislation, in particular by the International Protection Act.¹³⁰

¹²⁹ Slovenia/Constitution 33/91, 42/97, 66/00, 24/03, 69/04, 68/06 as amended (26.12.1991), Art. 14 (equality before the law) and more concretely Art. 52 (rights of disabled persons), Art. 61 (right to use one's language and script).

¹³⁰ Slovenia/International Protection Act 111/07 (29.11.2007), Art. 96.

G. Prosecution

G.1. Child-sensitive legal procedures

[69]. Pursuant to Article 65 of the Criminal Procedure Act, in criminal procedures relating to trafficking in human beings a victim who is a minor must have, for the entire duration of a procedure, a legal representative who protects his/her rights in particular in relation to the protection of his/her personal integrity during the hearing before the court and in claiming fair compensation. A minor who does not have his/her own legal representative is appointed one *ex officio* by the court from among the private advocates.¹³¹ During the hearing of a witness who is a minor and victim of a criminal act the authorities must proceed with special care in order to prevent negative effects on his/her mental state. A minor may also be examined by a pedagogue or by another expert if this proves necessary.¹³² The defendant's presence may be excluded if this could negatively impact on a witness who is a minor and this must always be the case if a witness is less than 15 years old.¹³³ Whenever the revealed identity of a witness could put his/her life or body, or that of his/her relatives, in danger, the court can order a number of protective measures in order to prevent this. These include, *inter alia*, disguising the identity of a witness or conducting a hearing with the help of different technical means, such as a protective wall, a voice distorting device etc.¹³⁴

[70]. Further protection of minors as witnesses throughout the entire duration of a criminal procedure is provided by the Witness Protection Act.¹³⁵ The measures within the protection programme comprise: the relocation of persons, alteration of documents, prevention of provision of personal data and supervision of inquiries into records, concealment of identity as required for judicial procedures, change of identity, use of video conferencing and telephone conferencing, international exchange, measures in prisons or institutions for the enforcement of corrective measures, economic and social support.¹³⁶ The admission of people at risk on to the protection programme is voluntary. It takes place on the basis of a proposal from the competent prosecutor following written consent from the individual at risk and authorisation by the *Komisija za zaščito ogroženih oseb* [Commission for the Protection of Endangered Persons].¹³⁷ The latter is composed of a Supreme Court judge, supreme state

¹³¹ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 65/3.

¹³² Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 240/4.

¹³³ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 178/4.

¹³⁴ Slovenia/Criminal Procedure Act 32/07 (10.4.2007), Art. 240a.

¹³⁵ Slovenia/Witness Protection Act 81/06 (31.07.2006)

¹³⁶ Slovenia/Witness Protection Act 81/06 (31.07.2006), Art. 19.

¹³⁷ Slovenia/Witness Protection Act 81/06 (31.07.2006), Art. 10-13.

prosecutor, representative of the Ministry of Justice and representative of the Ministry of the Interior.¹³⁸ The *Enota za zaščito ogroženih oseb* [Endangered Persons Protection Unit], which is established within the police, proposes, organises and carries out measures and tasks determined in this Act.¹³⁹ For the duration of a programme, appropriate psychological, psychosocial and legal assistance should be provided to protected persons. This assistance takes place in cooperation with non-governmental organisations. If protected witnesses include minors the centres for social work are involved as well.¹⁴⁰

G.2. Access to justice and the right to compensation

[71]. Access to justice and the right to a free, impartial trial without undue delay are guaranteed to everyone by the Constitution of the Republic of Slovenia.¹⁴¹ The general legal basis for compensation of the damages suffered by the victims of criminal acts is provided by the *Obligacijski zakonik* [Code of Obligations].¹⁴² The rule is that anyone who inflicts damage upon another person must compensate him/her.¹⁴³ However, in 2005 the *Zakon o odškodnini žrtvam kaznivih dejanj* [Act on Compensation to Crime Victims] was adopted.¹⁴⁴ This Act functions as a *lex specialis*, i.e. it complements but does not supplant the legal basis of the Code of Obligations, and regulates the right to compensation for victims of violent intentional crime and their dependants, identifies the claiming proceedings and defines the competent authorities which take decisions on the respective rights. It establishes an overall scheme for compensation for the victims of violent criminal offences for the following damages incurred: physical injury or impairment to health, suffering; loss of maintenance; medical and hospitalisation expenses; funeral expenses; damages for destruction of goods; and expenses for compensation claims.¹⁴⁵ The request for compensation must be filed with the Ministry of Justice within six months after commission of the crime.¹⁴⁶ The amount of compensation is decided by a special Commission.¹⁴⁷ Any compensation for damages pursuant to this Act is reduced by the compensation awarded in the same case, but on a different legal basis.¹⁴⁸

¹³⁸ Slovenia/Witness Protection Act 81/06 (31.07.2006), Art. 7.

¹³⁹ Slovenia/Witness Protection Act 81/06 (31.07.2006), Art. 5.

¹⁴⁰ Slovenia/Witness Protection Act 81/06 (31.07.2006), Art. 5.

¹⁴¹ Slovenia/Constitution.

¹⁴² Slovenia/Code of Obligations 83/01 (1.1.2002) Art. 164-185.

¹⁴³ Slovenia/Code of Obligations 83/01 (1.1.2002) Art. 131.

¹⁴⁴ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006).

¹⁴⁵ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 8.

¹⁴⁶ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 29.

¹⁴⁷ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 20.

¹⁴⁸ Slovenia/ Act on Compensation to Crime Victims 101/05 (01.01.2006) Art. 17.

G.3. Number of final convictions and compensation payments made

[72]. The annual reports of the *Vrhovno državno tožilstvo* [Office of the State Prosecutor General] of the Republic of Slovenia reveal that the number of criminal cases which have involved trafficking in children is very low. From 2005 to 2007 there were thus no more than a handful of cases which involved trafficking in minors and in none of them has a final conviction yet been reached.¹⁴⁹ As a result, no compensation has yet been paid either.

In the most recent case, which also attracted substantial media attention, a criminal charge was brought against a Roma individual who was said to have lured a minor Roma girl to Slovenia under the pretence of a promised marriage and subsequently kept her in a condition resembling slavery. The girl was allegedly exposed to physical abuse, forced into all kinds of work and threatened that if she attempted escape her entire family would suffer negative consequences.¹⁵⁰ At time of writing, the case is in the phase of judicial criminal investigation.

H. Miscellaneous

[73]. It is important to emphasise that, in terms of trafficking in human beings, Slovenia is primarily a transit and, to a lesser extent, a source and destination country for men and women trafficked for the purposes of commercial sexual exploitation from Ukraine, Slovakia, Romania, Moldova, Bulgaria, Colombia, the Dominican Republic, Turkey, Albania and

¹⁴⁹ Report on the work of the state prosecutor's office for the years 2005, 2006 and 2007, available (only in Slovenian) at <http://www.dt-rs.si/strani/letnoporocilo.html>. The exact number is difficult to specify as the statistics are, except in some cases, not broken down to show the age of the victims. See also International Organization for Migration and The Peace Institute (2003) *Where in the puzzle: trafficking from, to and through Slovenia* (assessment study), Ljubljana, p. 40, where it is observed that at that time no direct account of trafficking in children was recorded in Slovenia, either by the Slovenian authorities and NGOs or by international organisations and NGOs.

¹⁵⁰ Report on the work of the state prosecutor's office for 2007, available (only in Slovenian) at <http://www.dt-rs.si/strani/letnoporocilo.html>.

Montenegro. Girls were trafficked to Slovenia from Bosnia and Herzegovina and Serbia for the purposes of sexual exploitation.¹⁵¹

[74]. According to reports from the Slovenian police, new forms of exploitation of trafficked individuals have recently been detected. A number of individuals, especially from the most vulnerable groups of the disabled and children, have been brought to Slovenia and forced into begging.¹⁵² However, in general the number of discovered and hence publicly known cases of trafficking in children remains relatively very low.

Annex 1 – Tables and statistics

[75]. Written and phone contacts, formal and informal, have been established with the Interdepartmental Working Group for the Fight against Trafficking in Persons,¹⁵³ the specialist NGO Society Ključ and other organs. However, except for the statistics provided below, the other data are not gathered in the way requested by this report and are hence unavailable.

¹⁵¹ http://www.vlada.si/activities/projects/fight_trafficking_in_persons/ and US State Department <http://www.state.gov/g/tip/rls/tiprpt/2007/82807.htm>.

¹⁵² Report on the work of the Interdepartmental Working Group for the Fight against Trafficking in Persons for 2007, p. 11 available at: http://www.vlada.si/activities/projects/fight_trafficking_in_persons/

¹⁵³ Email correspondence on 17.06.2008, phone call to the NGO Ključ on 08.07.2008.

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Number of trafficked children receiving education/training, in particular secondary education and vocational training	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Number of final convictions based on child trafficking cases, per year	0	0	0	0	0	0	0	0
Total of amount of compensation paid to	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.

trafficked children, per year								
Average of amounts of compensation paid to trafficked children, per year	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Range of amount of compensation paid to trafficked children, per year	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Number of minors received by NGOs as presumed victims of trafficking or processed by the prosecution office	N.A.	N.A.	N.A.	1	5	1	3	1