

COUNTRY REPORTS & DATA ANALYSIS - SLOVENIA

1. Country specific judicial proceedings in cases of sexual violence against children

a) Summary of existing legislation

Relevant laws and regulations governing the area of child abuse, domestic violence and action by the responsible institutions in Slovenia are as follows:

- Family Violence Prevention Act which came into force in 2008; It defines the term domestic violence, lays down the roll and functions of state bodies, holders of public authority, public services, bodies of local communities and non-governmental organizations and addressing domestic violence and provides Measures for Protection of Victims of domestic violence. Regarding violence against minors it determines that:
- If a child is a victim of violence procedure starts on the basis of official duty of staff;
- Everyone, especially professionals and workers in health care and personnel in childcare and educational institutions shall, notwithstanding the provisions of professional secrecy, immediately inform the Centre for Social Work, the police or the public prosecutor's office, where it suspects that the child victims of violence. (Article 6, 2nd paragraph).
- Marriage and Family Relations Act came into force in 1977 and it governs marriage, relations between parents and children and between other relatives, adoption, foster care and the protection of minors and other persons who are not capable of looking after themselves, their rights and benefits. From the minor's violence point of view it is important the Article 6



which stipulates that the state provides protection to minors whenever endanger their healthy development and where required the benefit of children.

- The law on the duties and powers of the Police adopted in 2013 regulates the functions and powers of the police. Among others it regulates the course of procedures when children are victims of the criminal act. Namely in the Article 13 the law stipulates that in carrying out police duties, police officers must especially considerately deal with victims of criminal deed who need additional attention, help and care. And among them are classified also children. Furthermore in the Article 18, paragraph 2 the law orders that in proceedings with children and adolescents, police officers must take into account their age, physical and mental development, sensitivity and possibly other properties that can be observed. In the Article 36 the law commands that (1) the child, police officers may invite only via a parent or guardian; (2) when the officers invite the minor they must also notify the parents or guardian and (3) if you could invite or inform a parent or guardian is contrary to the child or a minor, shall guard on the procedure to inform the competent social work centre.
- **The Criminal Code** was adopted in 2008 and it differentiates two types of criminal offences concerning sexual violence against children:
 - Criminal offence of sexual assault of a child
 - Criminal offence of violation of inviolability of sexual integrity with abuse of authority

Recent changes of penal code concerning sexual violence against children were introduced and current age requirement for treating victim as a child in cases of sexual violence is 15 years (before it was 14 years).

Upgrading of penalty: first in 2004 and second in 2008

Period of limitation: starts with time when victim becomes of full age (from min 10 years to up to 30 years, depends on the type of the offence)



Penalties according to the law:

Penalties for **sexual assault on a person under the age of fifteen years** are regulated under the Article 173 which stipulates:

- (1) Whoever has sexual intercourse or performs any lewd act with a person of the opposite or the same sex under the age of fifteen years shall be punished with imprisonment of **three to eight years**.
- (2) Whoever commits an act referred to in the preceding paragraph with a defenceless person under the age of fifteen years or so, to use force or threaten with imminent attack on life or body, or in this way achieve service acts with another person, shall be punished by imprisonment **from five to fifteen years**.
- (3) A teacher, educator, guardian, adoptive parent, priest, doctor or other person who by abuse of his position has sexual intercourse or performs any lewd act with a person under the age of fifteen years and entrusted in learning, education, treatment, care or care, shall be punished with imprisonment of **three to ten years**.
- (4) Any person in the circumstances referred to in the first, second and third paragraphs of this article otherwise violates the sexual integrity of a person under the age of fifteen years shall be punished with imprisonment **up to five years**.
- (5) Action from the first paragraph of this article is not unlawful if it was committed by a person of comparable age and if appropriate to the level of its mental and physical maturity.

Penalties for violation of **inviolability of sexual integrity with abuse of authority/position** regulates Article 174 which stipulates:



- (1) Whoever abuses their position and to prepare an opposite or the same sex, which is subordinate to or dependent on him, to sexual intercourse, or to do or suffer some other sexual act, shall be punished with imprisonment **up to five years**.
- (2) A teacher, educator, guardian, adoptive parent or other person who by abuse of his position has sexual intercourse or performs any lewd act with a person aged over fifteen years, entrusted to teach, educate, protect and care shall be punished with imprisonment **from one to eight years**.

From the year 2008 when the law was for the last time updated, there are no more requirements of obvious disproportion in maturity of victim and perpetrator.

There are different available information on duration of the procedure on the court (judges estimate it to from six months to 1 year; representatives estimate it to approx. 5 years....)

National and international regulations/rules and conventions

Besides above presented laws there are several regulations/rules and documents which give directions when dealing with sexual violence against children. For example: Rules on police cooperation with other bodies and organizations in the detection and prevention of domestic violence; Rules on the organization and functioning of the centres for social work, multidisciplinary teams and regional services in dealing with domestic violence; Rules on dealing with domestic violence for educational institutions; Rules on the rules and procedures in dealing with domestic violence in the implementation of health activities.



Slovenia also signed important international conventions; namely: Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) signed in 2015; The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote convention) signed in September 2013; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment signed in 1994 and Convention on the Rights of the Child signed in 1992.

b) Legal terms/definitions

Law on Prevention of Domestic Violence defines violence and sexual violence as follows:

Violence is the use of physical, sexual, psychological or economic violence by one family member against another family member or neglect of family members whatever age, gender or any other personal circumstance of the victim or perpetrator of violence (hereinafter referred to as the perpetrator of violence). (Article 3, paragraph 1).

Sexual violence is dealing with sexual content that they oppose a family member is forced into or because of their level of development does not understand their significance. (Article 3, paragraph 3).

Criminal law defines **Sexual abuse of defenseless persons** in the Article 172 as follows:

(1) Whoever has sexual intercourse or performs any lewd act with a person of the opposite or the same sex, so abuse her mental illness, temporary mental disorder, severe mental retardation, nausea, or some other condition which can not resist.



(2) Whoever, in the circumstances referred to in the preceding paragraph, otherwise violates the sexual integrity infirm person.

Sexual assault on a person under the age of fifteen years in the Article 173 as: (1) Sexual intercourse with a person of the opposite or the same sex under the age of fifteen years; (2) as an act with a defenseless person under the age of fifteen years or so, to use force or threaten with imminent attack on life or body, or in this way achieve service acts with another person; (3) sexual act performed by person who abuses his/her position to do so; (4) any person in the circumstances referred to in the first, second and third paragraphs otherwise violates the sexual integrity of a person under the age of fifteen years.

Convention on the Rights of the Child defines a child as every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

c) Description of the different stages of the judicial proceedings

- » Instance to the Police;
- » Police starts with collecting data (conversations on concrete cases with relevant people that may have some information on a case, on a suspect);
- » A duty and a right of the police to heard the suspect (in the invitation to the suspect the reason for hearing is stated; suspected person has the right to have a attorney);
- » Police can if parent agrees conduct a conversation with a child; this conversation has no process value; it is not used as evidence about what a child said for the procedure at the court;



- » When police gets communications and information on a case it adds them to the crime report and sends it all together to the Office of the Prosecution;
- » Prosecutor decides if he/she will
- A) reject the complaint (there are no reasons for suspicion on criminal offence);
- B) order immediate indictment proposal (in such case prosecutor recognises reasonable cause for suspicion without doubts);
- C) will give the case into the investigation to the investigating judge. In this case procedure is followed by the hearing of the witnesses of the case (child, parent, other relevant witnesses, suspected person etc.);
 - » Before the hearing representative is appointed to the child by the court. Representative has the role to represent the child through whole procedure.
 - » After the end of the investigation the whole documentation on a case is sent to the prosecutor, who decides to either file the accusatory instrument or to reject the complaint.
 - » If a prosecutor files the accusatory instrument is procedure given to the court. It is possible procedure is followed by the reading or the main reading where the decision on a court on a guilt or otherwise is being made.

2. Stakeholders' perspectives on the judicial proceedings¹

a) Contextualisation of the Focus Groups

Focus groups were conducted on 5th of May and on 12th of May 2016. Its participants were invited on the basis of next criteria:

¹ When conducting FGs and interviews, please, remember to hand in the information sheets, consent forms, signed attendance forms as necessary.



- The need to get as holistic opinion on the topic as possible: in order to assure different opinions of personnel involved with different procedure points next professionals were invited to participate in the focus groups: prosecutors, judges, social workers, NGO representatives, criminalistics police officers,
- The need to collect opinions of participants with relevant experiences with work in field

Participants were recruited by two steps invitation: first invitation was made on the basis of stakeholders list invitation to individuals, second call was made along with the sending of first newsletter with invitation to all who have relevant experiences in field and would be interested in participation. Only one participant was gathered with second call option. In case of police. Criminal police department decided for internal selection of participants of focus groups.

In order to ease the participation to invited experts first focus group was organised in Ljubljana (capital city of Slovenia), while the second focus group was conducted in Koper (city in the coastal area).

First focus group involved 8² participants of next profiles: one supreme state prosecutor with long experience within work with children perpetrators and children victims, one social worker, two criminalist police, three representatives of NGOs – one psychologist, two legal representatives from NGO. It lasted 2 hours and 10 minutes. Best characteristic of this focus group was it involved two experts of different professional background which are working in

_

² Two of invited 10 participants that confirmed participation did not come to the meeting- one apologised due to unplanned situation in the NGO while second missing participant did not contact us after the event so the reason of unattainance is not known.



field for 30 to 40 years. Their experience was important in order to share insight into characteristics of contemporary procedures in comparison to procedures in the past.

Second focus group involved 7³ participants among which there were two criminal police officers, two representatives of NGOs, prosecutor, juvenile judge and social worker. Focus group lasted 2 hours, participants stressed their positive opinion on the focus group discussion.

In both focus groups participants were at first acquainted by the purpose of the focus groups and topics planned to discuss. An information list was given to them with the consent form on participation. Consent forms were signed by all participants.

b) Stakeholders' knowledge/implementation of country specific good practices

Good practices in cases of judicial procedures when a child is a victim of sexual violence are in Slovenia quite rare and a subject of individual endeavours of motivated professionals working in field. As participants of focus groups stress »judicial procedures are not child friendly« but they can be adjusted to children's vulnerability and their special position with some minor adjustments. Next some good practices are presented which would be suitable to be spread in wider context:

1 Use of child friendly rooms for hearings of the child crime victim⁴

³ Three confirmed participants did not came to the focus group. Two apologised – one a day before the event and one after the event.

⁴ The rooms are also called safe rooms for hearings.



In Slovenia there are 13 child friendly rooms which are destined to the hearings or conversations with children for the needs of different official procedures. Mostly they very established around 2010. Child friendly rooms are located in social work centre, crisis centre for children or NGOs.



Child friendly room for hearing in Maribor (Source Beli obroč)

Child friendly rooms are fully equipped for video recorded hearings but are unfortunately not used on regular basis jet. In such hearing one expert (mainly clinical psychologists, criminal police officers or social workers) lead the conversation which is monitored by other professionals (for instance legal representative of criminal defendant, prosecutor, examining judge, legal representative of a child or other official staff) from other room or court. Other professionals have option to advise main interviewer to ask child additional questions.

Video record is used as evidence later in the judicial procedure which lessens additional interviewing and re-experiencing traumatic events.

Use of child friendly room for hearings of children crime victims are temporarily more an exception as a rule. Some individual cases were reported by focus group participants with their opinion on the need for regular use. Use of friendly room is most common in the Posavje region



where such hearings are regularly used as excellent interinstitutional cooperation has been developed. Hearings are a part of pre-trial investigation made on the basis of videoconference connection with the court.

2 Legal representative arranges meeting with the child, victim of sexual violence prior to the procedure at the court.

This practice is mentioned as positive and of great importance but unfortunately it is rare as legal representatives are determined by the court from the list of available representatives which are not specialised for representation of children. In individual cases legal representative call centre for social work and asks social worker to arrange the meeting with the child (such practice was mentioned in Maribor).

- **3 Detailed explanation of the procedure** is of extreme importance for the victim and her/his (non-abusive) parent. What is the role of involved personnel, how long may the procedure be, what are the next steps. Such information supports victim and supportive parent/s through often long waiting till the end of procedure
- 4 A child which is asked to testify at the court and is invited to be directly involved in the procedure at the court is sent brochures with the explanation of the procedure at the court, staff involved and roles of included personnel. Brochures were made as a result of the expert panel A child at the court in 2008. Brochures explain the role of a child at the court and the role of the court in a child friendly way. Booklets Jan/Jana goes to court are intended to children from 5 to 8, while the booklet when you need to go to the court as the witness is intended to children from 9 to 13 years.





Cover pages of gender specific brochures to be read when a goes to the court, for children from 5 to 8 years old: Jana/Jan goes to the court





Cover page of the brochure for children from 9 to 13: When you need to go to the court as a witness

- 5 In some cases social workers arrange visit of court with the victim to have get acquainted with the institution and to lessen the fear of the child on the procedure.
 - c) Country specific problems/difficulties in relation to the judicial proceedings
 - 1. Lack of unity in the cooperation between key actors in the beginning of the procedure when risk of sexual abuse was perceived (Centres for social work, education and health



staff, criminalist police) and also later (interviews, sequence of interviews, participation of experts, etc.)

- 2. Centres for social work were among most criticised actors of the procedures in which children victims of sexual abuse are involved in. We need to mention experts stressed there is are huge difference between individuals working in filed from CSW. Generalisations are thus not suitable.
- 3. Huge fluctuation of practitioners working in field (reasons are: advanced work area which most people decide not to take over, lower socially recognised status of employers working in field especially for persecutors, judges when compared to economic crime and other areas);
- 4. Personnel deficit lack of practitioners in the field (crime police, persecution), often there is no younger skilled staff that can replace those leaving the position of getting retired
- 5. To many key actors are insufficiently specialised for efficient work in the area: judges, legal representatives, court experts)

d) Needs & Recommendations (from the stakeholders' point of view)

Stakeholders that participated in the focus groups stressed next needs and recommendations for reaching the aim of more child-friendly judicial procedures:

- ✓ Development of national protocol on management of the procedures for the protection of children at risk the need of strong inter-ministerial cooperation and precise determination of the procedure phases, appointment of services, timelines definitions etc.
- ✓ To ensure consistent work of services;



- ✓ To confirm the goal of the involved agent would be to have one interview with victim child (recorder and conducted on the bases of agreed experts involvement);
- ✓ To fasten the procedures;
- ✓ To prepare the child for the procedure, to prepare family members for the suitable response towards testifying of the child;
- ✓ To ensure professional competences of official personnel, involved in the procedure (better understanding of cognitive, emotional, moral and personal development of a child);
- ✓ To create a list of specialised legal representatives and court experts which would have high quality knowledge on child sexual abuse;
- ✓ To create a necessary linkage between criminal procedures and civil procedures (cases when the court runs simultaneous procedures regarding divorce, child custody determination, determination form maintaining personal relations and direct contacts with non-custodial parent and a procedure regarding sexual abuse are not rare but procedures on the court are not related);
- ✓ To develop suitable support programmes for children victims of sexual abuse and programmes of therapeutic support for victims to be offered already in the phase of court procedures;
- ✓ Institute of legal benefit should not be used in the procedures when a child is a victim of a crime
- ✓ Organisation of experiential training focused on concrete cases of sexual abuse of a child, which would link all line institutions and encourage team work, multidisciplinary treatments and regional work (participants would come from centres for social work, police, court, persecution). Trainings should be organised each year, should be mandatory and oriented towards strengthening of inter-sectoral cooperation;



- ✓ To impose continuing supervision for personnel working in the field of child sexual abuse.
- ✓ Responsible institutions should always consider best interest of the child as the main principle guiding all parts of the procedure dealing with sexual abuse. They should consider best interest of a child victim of sexual abuse are:
- To be interviewed on what happened to him/her as soon as possible;
- Not to reiterate the interviewing on what happened
- That an interview should be run by expert with vas knowledge on sexual abuse and psychophysical development of a child which will guarantee proper understanding of what the child told;
- The interview to be made in the presence of authorities in a way the message of a child will have a procedural guarantees.

3. The Child's perspective⁵

a) <u>Country specific literature review on the child's experience of the judicial</u> proceedings

Otrok pred sodiščem /A child in front of a court (2008); Ljubljana: Vrhovno sodišče Republike Slovenije is a book of proceedings of the expert panel organised by the Supreme court of the Republic of Slovenia on the situation of children in front of the court in Slovenia. The

-

⁵ Whether you were able to interview children directly or not, please keep in mind that we are interested in their perspective – interviewed adults should be able to provide information on what children felt, said, did, during the judicial proceedings.



result of this conference were the above presented brochures about children's participation in the court. The nine contributions cover the issues of: child's representative in legal procedures; the issue of ensuring children's right in judicial procedures; the legislation in the field; the role of centres of social work in judicial procedures involving children in front of the court; the prosecutor's view on judicial procedures involving children; the role of family courts; the psychological aspect of work with children as well as the issue of foster care.

One of the contributions prepared by the representative of the Association against sexual abuse covers specifically the problems that children victims of sexual abuse and their representatives face in the course of judicial procedures. The article covers several problematic aspects of the procedure:

1. Reporting the abuse

Parents and in some cases even some experts (health workers, representatives of centres for social work) still believe that formal procedures that usually follow reporting of the abuse would only be harmful for the child. Consequently, even some institutions, such as Centres for social work or other do not report the suspicion of criminal offence.

2. Formalisation of the process - the right of the child

Protection of the child should be organised in the way it is timely, effective, acceptable, consistent and accessible for every child who needs it. There is a lack of protocols for effective team work; in practice, the teamwork is organised without exact definitions of rules and rights of involved members, allowing for subjective decisions regarding team conveying, organisation, decision – making, the involvement and participation of children, parents or trustees. Protocols should define the work; provide standards for protecting children and their rights, clear and appropriate measures in relation to vulnerable children and their protection.

3. The pre-trial, police procedure



All activities related to children, led by either public or private social security institutions, courts, administrative or legal authorities should take into account the best interest of the child, however police procedures are too long and often start too late. The interrogation at the police should be carried out by professionals with relevant knowledge in developmental psychology and therefore the knowledge how to talk to, lead and hear the child during the examination. Even though the first recorded interview with a child used in the court room was implemented already in 1995, in 2008 it was still not widely used. Therefore there exists a need for relevant institutions (police, prosecutors, court personnel, and other experts) to prepare instructions and rules on recording interviews; for the training in this field and organising possibilities to systematically organise interviews with children.

4. Prosecutions

Sexual assault on a person younger than 15 years old is still often interpreted differently; therefore it should be defined more undoubtedly.

5. Proceedings before the Court

Pre-trial, criminal and court procedures should be clear and transparent for children. There exists a need for a child to be informed about the procedures, about the role of people experts involved in the process, about their opinions as well as about final decisions of the court. The child should be a subject and not the object of these procedures.

6. Child's opinion

The right of a child is also to express his/her opinion. The inclusion of the child and expression of his/her opinion is very important and should not be taken just as a necessary evil. Parents should be informed about the importance of child's opinion. Also, a lot of skills and knowledge is needed in obtaining in understanding child's opinion.

7. Contacts under control



In the cases of suspicion of sexual abuse the court decides that contact of the child with the suspect should be under control; however there have been problems with implementation of these contacts, since there are no clear rules about how they should be carried out.

8. Child`s safety

In order to provide long-term child safety here should exist programs for those who were suspected or sentenced of sexual abuse, since currently nobody is carrying out the work with them.

9. Attitude to children and families

All involved in a process expect to be treated with respect, to receive fair and honest information, to receive attention and support. Experts still sometimes act from the position of power; consequently involved in the process often do not dare to ask questions, express their views or stand for themselves.

b) Contextualisation of the interview process and data collection procedures

Since it was not possible to implement the interviews with (former) victims of sexual violence through the associations dealing with (sexual) violence, we opted for the second best approach to illustrate the perspective of children who have been through the judicial proceedings as victims; that is through questionnaires. The Association for Nonviolent Communication which deals with victims of (sexual) filled in 10 questionnaires with the information about children (their cases) who went through judicial process as victims of sexual violence.

General information about interviewers:

Nr.	Gender	Age	Age at the time of the abuse and length of the abuse	Type of the abuse	Offender	Living environment	Living with
1	F	13	8/ 1year	touching, masturbation	Father	Village	Parents and sister





				in front of the child, caressing intimate parts of the child			
2	F	9	7/at least 6 months	touching, masturbation in front of the child	Father	Small city	Parents, after the disclosure - mother
3	F	11,5	9/at least 6 months	touching, masturbation in front of the child	Father	Small city	Parents, after the disclosure - mother
4	F	17	8/few years	touching, sexualised talking, physical, psychological violence, witnessing violence	Father	Big city	Parents
5	F	20	4/ 6 years	masturbation in front of the child, forcing to watch pornography, raping	Brother	City	Parents and brother
6	М	12	4/ repeating abuse	Exhibition of the genitals, watching and assisting in masturbation, watching pornography	Father	Big city	Mother
7	F	28	Father: 8/8 years; unknown offender; one day	Father: touching, sexualised talking, assumptions of other types of abuse; Unknown offender: touching, undressing, photographing	Father and unknown offender	Village	Mother, father and younger brother; later in educational establishments
8	F	17	10/ 5 years	Touching, raping	Grandfather	Village	Parents and brother
9	F	10	4/few months	Touching and oral abusing of the child	Cousin	Village	Parents
10	F	26	12/4 years	Touching, masturbation in front of the child, undressing in front of him	Partner of the mother	Small city	Mother and her partner

c) Good practices (as viewed by children)



- ✓ Being interviewed by female officer (9 out of 10 victims were female) reported to be easier by those who were interviewed by male officer (Out of 5 who were interviewed by male officer, three had bad and two neutral experience with interviewing)
- ✓ In some cases prohibition of contacts (or restraining order) with abusive person during the process
- ✓ Reporting about the perceived abuse from different sources (School representatives, NGO-s, Centre for social work) and therefore diminishing the feeling of responsibility of the victim
- ✓ Thoughtful questioning and taking into account the needs of children

d) Problematic aspects (as viewed by children)

- ✓ Repeating their story several times (at the police, at the court expert etc.)
- ✓ Conducting interviews in inadequate space
- ✓ Long and exhausting interviewing
- ✓ Lack of relevant information on the procedure (phases of the procedure, progress)
- ✓ Long waiting for the trial (the process of waiting negatively influencing relations with friends, with the family...)
- ✓ Not feeling safe during the trial
- ✓ Sometimes waiting in the court for a long time
- ✓ Sometimes feeling lost and alone at the court
- ✓ Feeling responsible for the consequences for the perpetrator
- ✓ The child/victim was not always protected from suspect, his influence during or after the trial

<u>d) Needs & Recommendations</u> (as viewed by children)



- ✓ Need for only one recorder interview implemented in safe rooms
- ✓ If there is a need for additional hearings, it should be via video conference
- ✓ To determine a confidential person who would accompany the child through the process
- ✓ The possibility of constant therapeutic and psychosocial support for children (as well as for non-abusive parents)
- ✓ To meet and talk with trial commissioner before the court case

4. Recommendations

- ✓ A need to have <u>only one interview</u> with victim child (recorded and conducted on the bases of agreed experts involvement);
- ✓ Development of national protocol on management of the procedures for the protection of children at risk the need of strong inter-ministerial cooperation and precise determination of the procedure phases, appointment of services, timelines definitions etc.
- ✓ Responsible institutions should always consider best interest of the child as the main principle guiding all parts of the procedure dealing with sexual abuse. They should consider best interest of a child victim of sexual abuse are:
- To be interviewed on what happened to him/her as soon as possible;
- Not to reiterate the interviewing on what happened
- That an interview should be run by expert with vas knowledge on sexual abuse and psychophysical development of a child which will guarantee proper understanding of what the child told;
- ✓ To train enough clinical psychology and criminalistics experts to implement taped interview with children, adapted to the age of the child and avoid repeated interviewing
- ✓ The need for free psychological and therapeutic treatment of the child



✓ Necessity for coordination, cooperation and exchange of information and opinions between the processes going on at the same time

Based on all data gathered, provide a brief description of country specific needs and recommendations. When analysing the data we should bear in mind that our immediate goal is to develop a training manual for professionals to build capacity in relation to communication skills when approaching children.