

# Working Paper on Intervention against Child Abuse and Neglect in Slovenia<sup>1</sup>

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## Part 1: The Intervention Sequence and the Response to Core Questions

### 1 Empirical Data and case story

This working paper is based on two multiprofessional workshops in which the intervention responses to violence against children were explored (see background paper). Each workshop comprised a one-day session, and a focus group methodology was used. Participants were given a case story in three sequences to discuss. Six “core questions” were introduced during the discussions. The stories were agreed across the four project countries (i.e. Germany, UK, Portugal and Slovenia), but adapted to fit the national context of Slovenia whenever necessary.

Participants in the Slovenian workshops on child abuse and neglect were: 2 police officers from 1 city, 2 public prosecutors, 2 judges, 1 social worker, 2 teachers from 2 cities, 2 representatives from 2 NGOs, 1 patronage nurse (health visitor).

For the workshops on child neglect and abuse in Slovenia the story was as follows:

#### 1<sup>st</sup> PHASE OF THE STORY

*Adam, born on 3rd January 2007, lives with his family. He is the first of three children. He has a younger sister (3 years) and brother (15 months, born in September 2012). Adam is a very active child who is constantly seeking the attention of his parents. Both find this can be wearying, and his repeated attempts to be noticed sometimes lead to a heated atmosphere. Quite often, the father rebukes him harshly. The mother sometimes sees the only way to stop Adam is to slap him.*

#### 2<sup>nd</sup> PHASE OF THE STORY

*In school his teacher has concerns that Adam can be clingy and fearful of how adults respond to him when he asks for things or needs attention. She is also concerned about the black and gritty pictures Adam paints. She recognizes that Adam’s mother quite often brings him to school late and that Adam is dressed the same for two or three weeks in a row. He often seems hungry and asks other children if he can share their snacks. Adam’s teacher notices bruises on his arm and asks him about them. He explains that he got bruised when he was playing with his younger sister and brother, but the teacher*

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*is not convinced by this story. The teacher slowly wins Adam's trust and one day he confides in her that a bruise is from being punished. When she starts to ask further questions he becomes upset and pleads with the teacher not to tell anyone because he is afraid that his mother would be very angry with him and that his father will punish him. Around the same time the sister tells her kindergarten teacher that Adam is naughty at home and that the parents have to show him how to behave. The mother regularly brings the children to the paediatrician and at one visit, when he asks her about the bruises, she tells him that she sometimes cannot control herself and, also, asks for strict confidentiality.*

### **3<sup>rd</sup> PHASE OF THE STORY**

*The teacher informs the social service. Someone from the social work centre comes to the school the next day and sees Adam's bruises in the face and suspect there might be bruises on other parts of his body. The social services initiate a medical examination and the diagnoses are haematoma on the back and buttocks caused by adult hands and being struck with objects like a belt or something similar.*

*When confronting the parents with the findings both mother and father deny that they have hit Adam with a belt or anything like a belt. However, the mother admits that her hand slipped once or twice but explains that Adam is such a difficult child. All attempts of the social work centre to find out who used the belt to punish Adam fail.*

*The family accepts support of the social work centre. They cooperate and after a while the social worker reports that the development of the three children made significant progress, that the parenting skills of the parents are constantly improving, that the mother controls her temper better, and that the father disciplines the children in a more adequate way. The relationship between Adam and his parents is characterized by increasing trust. Some concerns remain: the family struggles for money, parents frequently cancel or reschedule the appointments and the apartment is not as tidy or clean as it could or should be.*

*After a sports lesson the teacher, again, notices bruises on Adam's back when he is changing clothes. She immediately informs the social work centre. Confronted with the information the mother concedes that her husband sometimes hits Adam with a belt. The father admits.*

*Placement in a foster family and initiation of a criminal procedure are being discussed. The case worker wants to call a multidisciplinary team and to collect information from all the professionals involved in the family. Both parents refuse their consent for the sharing of personal information.*

## **2 Intervention pathways from the perspective of professionals**

In Slovenia child abuse and neglect are addressed through criminal legislation and family legislation. According to Article 54 of the Constitution of the Republic of Slovenia parents have their constitutional right and duty to provide for, educate and raise their children, which means that the legal order protects the autonomy of the parents, but on the other hand it also limits this autonomy. If the parents do not meet their obligation, the state is authorized by the constitution to intervene in the rights of parents. In 1977 the Marriage and Family Relations Act was adopted, which governs the parental rights. The same act (with subsequent modifications) is still in effect today. The provision of Article 119 of this Act authorizes social work centres (social services) to use various measures for the protection of the child when he or she is endangered. The social work centres are also authorized to take the child from parents (Article 120 of the Act) or withdraw parental rights of parents who abuse their parental rights (Article 116 of the Act). The social services are therefore authorized to interfere with parental rights of parents when they act against the best interest of the child. As mentioned, the measures available for the Centres of Social Work in cases of physical abuse and neglect of children are defined in the 1977 Marriage and Family Relations Act and have not changed significantly since its adoption. Therefore there have not been any explicit attempts to comply with any available EU or international standards.

The criminal justice system institutions are authorized to proceed with investigating and prosecuting activities for which there is a suspicion or a well founded suspicion (depending on the competent body) that a crime has been committed.

The 2008 Family Violence Act (the act is not part of criminal law, but forms part of civil and administrative law) in Article 6, § 2 specifies the obligation of anyone, and in particular professionals in health services and educational facilities to immediately inform the Centre for Social Work, the Police or State Prosecution in case of suspicion that a child is a victim of violence.

In Slovenia social work centres are responsible for issues of both child protection and social services for families (including children). There are 62 social work centres in Slovenia. In the civil society there are quite a few non-governmental organizations active in the field of violence (Association for Non-violent Communication, Association SOS Telephone for Women and Children-Victims of Violence, Association Women's Counselling Centre, Association Ključ (these first four associations also co-operate under the title Non-Violence Alliance), Institute Ema, Association against Sexual Abuse, Association White Hoop and others).

The relationship between the social services and the NGOs is not specified in the law. One of the few provisions that mention the role of NGOs states that NGOs as well as any other professional who suspects that a child is a victim of violence have the duty to report this to centres for social work, the police or state prosecution.

Institutions are bound by reporting duty on two levels. The first level is the reporting duty included in the 2008 Criminal Code, according to which all officials have to report a crime for which a foreseen punishment of imprisonment is three years or more, if they find out about this crime while performing their duty. That means that if a doctor or other medical personnel find out about a crime they are obliged to inform the head of medical facility, who is considered to be an official bound by the reporting duty. The second level is specified in the Family Violence Act which states that all bodies and NGOs are obliged to deal with cases of violence, cooperate among each other and exchange information. Paragraph 2 of Article 6 of the Family Violence Act stipulates that in case of a child victim any person, health care professionals and employees in day-care institutions and schools in particular, are obliged to immediately inform the responsible social work centre, the police or the state prosecutor's office. Through these provisions these professionals are discharged from the obligation of keeping professional secrets.

According to Article 10 of the Family Violence Act and the protocols, the NGOs have the same responsibilities as state authorities in terms of informing the competent bodies about the case of family violence and exchanging information, if it is the NGO that suspects family violence (including child abuse) is taking place.

Protection of data of the victim is protected under the general Personal Data Protection Act. The Family Violence Act additionally protects the identity of the victim, prohibiting the exposure of personal data to the public – data that would make the victim and his/her family recognizable. Submitting such data for child victims is not even possible on the basis of explicit consent as the latter is only possible for victims who are over 18 years old.

Expert groups, composed of representatives of social work centres and NGOs, developed professional guidelines for work of social work centres in regard to the protection of children from family violence (*Strokovne smernice za delo centrov za socialno delo pri zaščiti otrok pred nasiljem v družini*);

The guidelines include procedures in cases of family violence. The recommended procedures depend on the risk assessment in each individual case. The recommended procedures in the assistance plan depend on whether the perpetrator admits to performing violence and accepts the responsibility for his/her actions or if he/she denies his/her actions and responsibility. The plan also includes the assessment of the abilities to support and protect of the parent who is protecting the child. The goals of the plan are set and the methods of work and the providers of help are determined.

More extreme measures are prescribed by the currently valid Marriage and Family Relations Act, which foresees the following means of intervention into parental rights: removal of the child from their parents, placement of the child in an institution, and demand that parents report on managing the property of the child. These measures can be carried out by the Centres for Social Work. Removal of parental rights of the parents is a measure that can only be issued with court order.

Coordinated intervention with multidisciplinary teams were being used in more difficult cases even before the 2008 Family Violence Act stipulated team work as mandatory. Before the adoption of the act some social work centres had established permanent internal teams and other centres established teams in certain cases and also the composition of the teams varied significantly. Based on the Family Violence Act the Rules on the organisation and work of multidisciplinary teams and regional services and on actions of the social work centres in dealing with domestic violence (*Pravilnik o sodelovanju organov ter o delovanju centrov za socialno delo, multidisciplinarnih timov in regijskih služb pri obravnavi nasilja v družini*) were adopted. The rules define the role of social work centres in addressing family violence and present a legal basis for the establishment of multidisciplinary teams. The aim of these teams is to exchange information needed to ensure the protection of and support to the victim, coordination of activities, providing information to the victim on all forms of available assistance, preparation of the assistance plan for the victim, provision of the most appropriate form of protection to the victim and adoption of assistance measures appropriate for the victim.

The above described legal framework was reflected in the professionals' responses to the phases of the story.

### The core research questions

- (1) As a professional what might lead you to try and discover whether this might be a situation of child abuse or neglect or, on the other hand, what might keep you from getting involved?**
- (2) How might it come about that your institution or profession is the place to which a person or family turns for advice, intervention or support? Or how else might it happen that someone in your position would become involved?**

In both workshops the participants debated on the causes of violence and what violence is and how to determine whether violence occurred or not. Violence was not taken for granted. The participants questioned the situation from their own professional perspective.

The situation where the child is seeking the parents' attention as in the 1<sup>st</sup> phase of the story was recognized as a signal that the situation in the family might be problematic and it could evolve into physical violence. Particularly representatives of non-law enforcement institutions (school teacher, social worker, NGO) spoke of the necessity to talk to the parents and work with the family; the situation being the entry point for addressing possible issues within the family.

*Social worker: 'The parents' attention' – this is already a signal of something happening in the family, the child seeking attention and both parents feeling that this is tiresome which means it's a problem. We can see here already that the child is, I wouldn't say excluded, but has a special position in the family and something has to be done about it. The electric atmosphere in the family also means that (...) something is wrong and that it needs to be addressed. In such cases, I feel the powerlessness of the child and the powerlessness of the parents, who are in a way provoked by the child seeking attention, to handle the situation and find the appropriate level of attention. And then they resort to physical violence.*

*NGO representative: "I'd like to join in now because I'm somewhere in-between. I see three things here: one is a slap, then harsh scolding, which can sometimes be worse than a slap precisely because we don't consider it a problem, and the educational inability of parents (powerlessness of the parents). First of all, slapping and harsh scolding are unacceptable, which is also something that they as parents probably don't want to do to their child. I see this in their powerlessness because of the child's behaviour and their readiness to look for ways to turn this*

*powerlessness into something more effective, to look for ways in which the child functions as they would like them to. This is what I'd proceed from.*

The need for a reaction to the situation was emphasised. Particularly in one workshop participants spoke of 'educational inability' (*vzgojna nemoč*) of the parents, their helplessness to react properly to the child's attempts to gain their attention, which can result in a slap or further.

*Prosecutor: "It's evident from this that this is a case of 'educational inability' of parents, and there are no consequences on the child listed here, that are otherwise stipulated by the legislation. The law says that there have to be certain consequences that negatively affect the child's healthy psychophysical development for the parents to be accused of severely violating their care duties and treating the child roughly. This is not clear from this text so, as a prosecutor, I wouldn't be professionally interested in this case. The human, ethical, family aspects are another matter; they would interest me as a father, but definitely not as a prosecutor."*

In general the need for a repressive reaction to the slap was not recognized, and in one workshop the public prosecutor stated that as a professional he would not be interested in the case as it is clear that at this stage no criminal act has been committed; in the other workshop the participants agreed that this was a mild form of violence. However, the policewoman explained the duty of the police to react: a report even at this stage would not allow any discretionary decision whether to investigate the report or not – it is obligatory.

*Policewoman: "For example, if, as a policewoman, I receive a report, I have no right to decide whether to get involved or not, I'm obliged to respond to everything [ ... ] If it's only an occasional slap, it's hard to get all the elements of the criminal offence of neglect because the law stipulates when the parents seriously violate their duties to the child or act roughly. If the slaps, the physical violence, are a sort of a habit and an educational measure, this is by all means unacceptable and I would first lodge a criminal complaint and then it would be deliberated. We definitively also involve the Social Work Centre. ... The interview with the child is an open question. If it's not necessary, I don't interview the child so they're not exposed because the school, for example, where the staff spends so much time with this child, can conduct the interview."*

The professionals explored the intervention pathways mostly through the facts presented in the workshop story. They took the school as the initial source of information and the initial point that triggers involvement of other competent institutions. The teacher that would notice the distress of the child would alert the school counselling service that involves a psychologist. However, concern about the school service often being unresponsive was expressed. Most likely the school would inform the social work centre and/or the police. That would lead to the intervention of the social services and/or intervention of the law enforcement institutions (police, prosecution). In the one workshop the policewoman explained that if the situation was reported to the police, they would contact the school and try to gather information on Adam's behaviour there, how he reacts when the mother or the father picks him up from school; they would get in contact with the social work centre for information on possible previous interventions. Information would be gathered also from other institutions that are likely to be in contact with the family and might have insight of the situation (paediatrician concerning possible injuries and child psychiatrist).

*Policewoman: "Yes, we start the investigation, of course, which means we collect data, conduct interviews, try to establish whether the physical violence occurs on a daily basis. If the child suffered physical injuries, then the work is straightforward, we photograph the injuries, the child is taken to the doctor's, we usually take the child to the Institute for Forensic Medicine, where there are experts in this field who can write down and tell you with certainty that the injury was caused by a belt or a rod and so on. An intent is needed, an intentional injury. So most of such criminal complaints are dismissed with the explanation that they don't exceed the bounds of the usual educational punishment."*

Particularly the participants in one workshop pointed to the lack of clear guidelines for each profession on how to react and what is the first step of their intervention. While that would help professionals such as teachers and nurses proceed correctly, avoid confusion and address dilemmas concerning losing communication and access to the family, it would also help the police and public prosecutors prosecute criminal offences – that one slap within a wider context might suffice for criminal prosecution.

The second phase of the story did not affect the intervention pathways in the view of the professionals, however, at this stage the participants of one workshop quickly determined that the elements of the story provided enough information for immediate reaction of institutions and intervention. The policewoman and the social worker both expressed an expectation that the school in such situations informs the police and/or the social work centre. Ensuring immediate protection and safety of the child was stressed as a priority, which would then be followed by further communication with the police. The art teacher commented that Adam's drawings as such do not necessarily pose reason for concern; however, other elements convinced her that this is a case of neglect. Duty to report and to react, regardless of the family's consent, was emphasised.

*Social worker: "I'd expect to be called by the school immediately, and I'd employ the teacher who is clearly the boy's confidant, the child's confidant, and would establish a relation with this child in this way. Because when the parents realise that this came from me, that they'll be punished, there's a great danger of me losing the child, as I like to say, because the parents would somehow persuade them not to talk about it anymore. So I'd first focus on the child, protect them, ensure their safety, and then contact the detectives ... I have no dilemmas here because there are so many signs of neglect and physical abuse. So there are no doubts that the child has to be taken away and appropriately protected."*

*Teacher: "If I may. As a teacher, I wouldn't ask the mother or father; what is written here [in the story] would suffice for me. That is, that the child is dependent, afraid of the adults' reactions, these dark drawings, these are not by themselves an indicator, but OK. Wearing the same clothes for three weeks, that's neglect in my opinion. So I'd notify our school service about this. This is definitively not normal, all these indicators. So I wouldn't talk with the father or the mother."*

As several actors are already involved in the second phase of the story, the participants expressed the need for establishing a multidisciplinary team that would provide a risk assessment and indicate the way to proceed. The policewoman explained that she would propose the social work centre to establish the team, which would happen within three days. The team would include professionals from the school, the police, the social work centre and the paediatrician.

### **(3) Would you consider asking the mother, the father or Adam directly about the abuse, or what reasons might there be not to do so? How important do you think this is?**

The responses to this question were not entirely uniform. It is interesting that the teacher and the NGO representative both deemed it unnecessary to speak to the parents in such a situation and emphasised more the need to talk and explain to the child that such situations are for adults to handle - in this context the dilemma of keeping/betraying the child's trust and confidence emerged. The social worker would also rather employ the teacher as the child's apparent confidant to approach the child. The fear of 'losing the child' was mentioned: if they approached the parents before providing protection to the child, it is very possible that the parents will influence the child and prevent him/her from speaking about it. Speaking to the parents in the presence of the police (parents as suspects) was mentioned both from the social worker and the policewoman.

*NGO representative: "This seems a critical situation to me, too, in which institutions have to take measures and not think about how they can get additional information because there's enough information. But I'd like to point out a dilemma here: a child confides something to us and if we pass this information on, we'll be abusing their confidence in a way, so I think it's*



*important to explain to the child that they can't resolve such situations, that they have to be resolved by adults and that's why we have to pass the information on in order to help them."*

In the other workshop the importance of informal conversation with the child emerged with the emphasis of child friendly environment (school, kindergarten) to avoid shock when encountering the repression of the system.

In this workshop the participants pointed out the concept of 'non-threatening parent' (the parent who is not the perpetrator and is perhaps not aware of the abuse or is perhaps him/herself threatened by the other parent) and unacceptability of intervention without involvement of the non-threatening parent.

The participants from non-law-enforcement institutions also exposed their concerns about the legal obligation to report and possible criminal law consequences of not reporting, and on the other hand their possible liability for false criminal complaint - the problem of not fully understanding what such obligation entails.

*Prosecutor: "I think we should always ask – not about whether to pass the information on, but those at the first level should always talk to the parents. Talk with them within the scope of their duties – ask them what happened, whether the child fell, whether they hit the child, the boy says he fell, anyway ... A certain contact needs to be established. This is a general fault we have – the doctors, educators, teachers, all who come ... We are alienated, don't take the time. When to pass the information on and bypass the parents? I'm very strict here. As I said at the beginning, an unthreatening parent must always know that we've decided to take the next step. Always. We can't take actions without the knowledge of the parent – that's very dangerous."*

#### **(4) When might you pass on information to relevant authorities or institutions without the consent of the child/the parents? Or, on the other hand, what might keep you from doing so?**

In one workshop this question immediately elicited the concept of duty under the law to react and report. Again, the parents would be approached only after the child was removed and safe – only after that would the social services inform/communicate/offer help to the parents. Lack of consent of the child again is not an obstacle to pass information, however, the child's trust should be obtained and he/she should be prepared for the procedure that follows, as this is paramount for success of any measures imposed.

*Social worker: "When the child is safe, the parents must be notified and we must talk to them and offer them help, forms of help that would potentially be suitable. We try very hard to maintain contact with the primary family or somehow normalise this relation while the child is somewhere safe."*

*Moderator: "So if I understand you correctly, you would pass the information about this case on to the relevant authorities and institutions without the consent of the child or family? That's what this means. Is there anything that might keep you from doing this perhaps?"*

*Teacher: "That's it."*

*Policewoman: "The legislation now obliges the schools, health care institutions, centres to do it, the police, too, of course, and all the NGOs, it obliges all to react. And this was adopted precisely with the intention to protect the child."*

*NGO representative: "This is because the preparation of this information, if the parents were notified, could lead to us no longer having access to the child, to the parents taking the child away, trying to conceal matters, preventing the child from talking about it, making the child subsequently say that they've made it all up, and that would make the protection of the child much more difficult."*

Opposite to the discussion in the other workshop, where participants were concerned with betraying the child's trust by conveying information to institutions, this public prosecutor spoke of abuse of the child's trust by keeping the information and not reacting: the child speaks about abuse with the hope that the person he/she trusted would react and help.

*Prosecutor: "The educator asks the same: "What happened?" And then she answers: "Father wanted something ..." And things develop – and then she says: "But don't say anything, otherwise he'll beat me." And the educator says nothing. Why did she even ask? To satisfy her curiosity? She abused the child if she kept it to herself. So she can tell it over a cup of coffee? Seriously? So there's no reason not to pass on the information about a child being endangered especially because we all come from institutions. Civil society understands this more and passes on more information. How? Does it do it in the right way? That's another story that we'll need to talk about in the future."*

In both workshops the work of multidisciplinary teams and inter-agency cooperation was emphasised.

**(5) When could it be right/ appropriate to initiate measures of protection from further violence, even without consent or against the wishes of the child/the parents? What concerns might prevent you from doing this or cause you to hesitate?**

The question of placing the child in foster care induced debate, as well as the option of introducing a multidisciplinary team – in the opinion of the participants the latter should be involved already in phase 2. In their opinion, the social work centre should in any case report the situation to the police in phase 2 and not choose to merely work with the family in terms of social intervention, as failing to report leads to criminal liability for the social work professional.

Based on these late reactions one of the workshop participants (NGO representative) concluded that the story does not seem credible, considering Slovenian legal framework, while participants in the other workshop recognized the sequence of events as plausible.

The participants did not have many difficulties with initiating protection measures without consent as all conditions for intervention and protection of the child are fulfilled.

*NGO representative: "... I'd say that, in practice, the Centre would report a criminal offence and then work with the parents at the same time, that these are not two mutually excluding cases, but I doubt that any Centre would dare just work with the family without reporting the offence. This is what happened in this case if I understand correctly."*

*Policewoman: "The Centre for Social Work calls a meeting of this multidisciplinary team immediately, not at a later time as was the case here, but immediately so that they can make a plan indicating what the members of the team will do to protect the child. This meeting is called without the parents' consent, who are not included in the multidisciplinary team."*

*Policewoman: "Here, all the conditions for the child's protection are met – we need no consent of the parents if they're the perpetrators. In this case, we'd probably ... Because of the hematoma on the back or the backside, we would probably detain the perpetrator. The SWC would, of course, have to become involved immediately. I don't know if there'd even be time for the team or later, yes. Now it's almost too late to resolve the situation. The child absolutely needs to be ... nowadays the child would usually be settled in the Palčica crisis centre. We'd ask the prosecution to propose to the judge that an expert conduct several interviews because in one interview you probably can't discover all the child's traumas. On the basis of this, we would of course lodge a criminal complaint and even bring the father before an examining judge. And that's it. We come, we act, we leave – the rest is up to the social services and others in contact with the family."*



## Transition to minority case

### **(6) If Adam was from a minority community, would your strategies of intervention differ in any way from what you have described in the first part of our workshop?**

Transition to the minority case was smooth; even before the introduction of the minority case one of the participants gave the example of cultural differences. Participants brought into discussion: Roma, immediately, then Albanians, Kosovo and Muslims, then “other migrants”, then migrants from Africa, South America, China, and ex-YU, Romanians, Ukrainians, Macedonian Roma, as well as “Nigerians married with Slovenian women” were mentioned as problematic; Russians, USA, French immigrants were mentioned. Then also: drug users, people with mental health problems, families with children with special needs, wealthy and influential people in power positions, privileged people (social status). Also: “marginal groups”. At the end the participants agreed to discuss the case in view of Roma minority.

In this stage of discussion it was at times difficult to keep the focus of the debate on child abuse and neglect. The participants discussed the position of women and violence against women to great extent and it appears that there is a presumption that the mother would be the victim of violence together with her children. The position of the woman within the minority group was viewed as a very important factor in how intervention would be carried out. In that respect, particularly isolation of the Roma population from the mainstream population, dependence of the extended family, importance of the husband’s family, the practice of children staying with the husband and his family if the woman gets away, etc. Although it was not the subject of the workshops, participants spoke of child sexual abuse and child marriage.

In general the participants stated that their intervention in Roma cases would be identical to their reactions in mainstream cases. However, cases were mentioned where institutions ‘lowered their standards’ in Roma cases; e.g. the case of Roma children being exploited by their parents for begging on the street and the prosecutor (not a prosecutor participating in the workshop) dismissed the charges as begging was the only source of the family’s income.

Although the participants stated that intervention would be the same, they also came to the conclusion that the approach might be different due to the group’s specifics. Cultural differences and language barriers were mentioned and the fact that many times there are status issues (entire family or some family members are undocumented). It was also mentioned, that the usual gathering information from neighbours or extended family would probably be more difficult than in mainstream cases. On the other hand the prosecutor said that in general the law-enforcement has difficulties finding witnesses, people that would be prepared to speak up – in mainstream cases as well. Often it was that the first statements seemed to derive from stereotypes of the minority group which were later reflected and approximated to their experience in mainstream cases.

## Part 2: Framing of the problem and the intervention

### 3 Framing child abuse and neglect and intervention

#### 3.1 Key frames in legal and institutional documents

##### **(1) Neglect and Maltreatment of a Child (*Zanemarjanje mladoletne osebe in surovo ravnanje*)**

This is the main frame within the criminal legislation. Neglect and maltreatment of the child is a criminal offence as defined in Article 192 of the Criminal Code („A parent, adoptive parent, guardian or other person who seriously breaches his obligations to a child shall be sentenced to imprisonment

for not more than three years«). Violence against children (except in the case of sexual assault/abuse) is specifically treated only within the family.

## **(2) Serious breach of obligations towards a child (*huda krtev dolžnosti do mladoletne osebe*)**

is the main element that constitutes the criminal offence of Article 192, however 'serious breach of obligations' is a term that is not further defined by the law, neither is maltreatment, meaning that it is open to interpretation by the courts. However, 192(2) of the Criminal Code contains the definition of the aggravated offence: »A parent, adoptive parent, guardian or other person who forces a child to work excessively or to perform work unsuitable to his age, or who out of greed inures a child to begging or other conduct prejudicial to his proper development, or who tortures him shall be sentenced to imprisonment for not more than five years.«.

## **(3) Special protection and care for under-age family members (*posebno varstvo in skrb za mladoletne družinske člane*)**

Outside the criminal law, violence against children is again treated only within the family. Article 4 of the 2008 Family Violence Act specifically provides for special protection and care for children. The law stipulates that neglect is a form of violence 'when a person omits due care for a family member – the care that the family member needs due to illness, disability, age, developmental and other personal circumstances.

## **(4) Parental neglect (*zanemarjanje otrokove vzgoje in varstva*)**

The 1977 Marriage and Family Relations Act provides for protection measures for children when the parents neglect their duty to care for the child (such as removal from the family). Another frame that is very important in connection to all measures concerning the child is the **best interest of the child** (*otrokova korist*).

## **3.2. Key frames from the perspective of intervention professionals**

Workshop participants were familiar with legal provisions and drew upon the official (legal) frames of child abuse and neglect. Below are the additional frames that surfaced in the workshops.

### **(1) 'Educational inability' of parents (*Vzgojna nemoč staršev*) →**

### **(2) Is occasional slap a criminal offence/ occasional slap is not a criminal offence (*ali je občasna klofuta kaznivo dejanje/ občasna klofuta ni kaznivo dejanje*)**

This is the frame through which the participants tried to explain the family dynamics in which the parents are not capable of properly reacting to the child's provocations and attempts to gain their attention. This frame emerged many times during phase 1, when the experts assessed that the elements of the story do not constitute a criminal offence requiring a repressive intervention. Although the participants agreed that slapping is violence and it is not acceptable, experts from the law-enforcement institutions emphasised that such conduct hardly constitutes the criminal offence of Neglect and Maltreatment of a Child. At the beginning the participants persistently spoke of educational inability as the cause of the situation (as in phase 1); in response to a direct question, one of the participants (policewoman) stated that this is not the rule and the issue of dominance over the child or repeating of primary family patterns could be the cause of such conduct.

*Social worker: "Now, if this is an occasional slap, then it is difficult to find all the elements of the criminal offence of neglect, because the law stipulates that the parents seriously breach their parental responsibilities or maltreat the child. If these slaps, this physical violence are supposed to be a custom or an educational measure, this is definitely unacceptable and I would then firstly report the incident to the police and then it would be assessed [if it is a criminal offence]."*

*NGO representative: "First of all, slapping and harsh scolding are unacceptable, which is also something that they as parents probably don't want to do to their child."*

### **(3) Duty to react and to protect the child (Zakonska dolžnost reagiranja in dolžnost zaščititi otroka)**

This frame surfaced as a response to the core question on passing the information to relevant authorities or institutions without the consent of the child/the parents. The professionals referred to the legal obligation to report child abuse and the duty of the responsible authorities to react. Duty to react and protect is also the concept that helped the professionals resolve the question of abusing the trust of a child who told about the abuse in confidence.

*Policewoman: "The legislation now obliges the schools, health care institutions, centres to do it, the police, too, of course, and all the NGOs, it obliges all to react. And this was adopted precisely with the intention to protect the child."*

*Policewoman; "Look, we have to protect you, I have also told this to a child in the emergency room ... what will happen now that I've told. Many times I've told the child: 'it is right that you have told, if you hadn't told, we couldn't protect you, to prevent it'. And then you repeat that to the child that it is okay, to let him know that it was right what he did. And then we try not to disappoint the child in this protection we offer."*

### **(4) Coordinated approach (koordiniran pristop) / Cooperation (sodelovanje)**

The participants spoke of the necessity of coordinated approach. As different professionals approach situations differently, it is important that there is coordination of these different approaches with the aim of finding the best solution. The participants also spoke of cooperation and importance of each institution doing their job.

*Social Worker: "The Centre is supposed to coordinate all these approaches in a way that is right for and benefits the child. It is precisely due to these differences, the different approaches that the law places the Centre in the role of a coordinator that somehow tries to unify matters and find the best solution."*

*Prosecutor: "And then there are teams, which are more or less well organized... and it is good if everyone that knows something reports about it – how they saw it with their own eyes. And this is what is direct about it, because they were the ones who asked – what was reported to them, how it was told to them. In these teams it often happens ... to both the police and prosecutors that we become the team leaders and we are then looking for elements of criminal offence. The team is not for that. The team is there to determine the endangerment of the child which is only in exceptional cases punishable. And this is why it has to be discussed directly, did you ask a direct question. Did you ask the social worker, did you ask the patronage nurse: 'Do you think she did it on purpose, does the family control the situation or not or we should maybe send help to their home twice a week'..."*

### **(5) Not trusting the system (Nezaupanje v sistem) / The child is once again abused by the system - secondary victimisation (otrok je v sistemu ponovno zlorabljen)**

Some of the participants expressed their doubts that the system works and that reacting will actually bring positive changes and not perhaps even deterioration of the position of the child. The mentioned situations when the parents 'lawyered-up' and legally attacked the institutions that reported violence, which is why the institutions rather protect themselves than children and no longer report violence to the authorities. The question of worsening the child's situation is also connected to procedural issues and the child victims being forced to answer questions numerous times as many different court procedures take place simultaneously.

*Teacher: "Perhaps there is some distrust. What can possibly change? That's my eternal question. What? Distrust in the system and distrust in the paths forward. It's not only that they come with lawyers, it's what they actually do ... The one with the concrete family, he is then imprisoned, OK. ... a girl was abused by her father who was then imprisoned, she, as I have said, the girl stayed at home, went out to see him [the father in prison] with her mother and so*

*back and forth ... What can happen? What can they do? That's what interests me. What concretely can we do for those things not to happen in that family anymore? This is probably a matter of prevention."*

*Social worker: "Not to even mention the children, what they're going through. With sexually abused children, we've started proceeding from the assumption that the abuse hadn't happened and we try to prove that it hadn't, not that it had, which means that we don't believe the child and this is something that the child senses quite strongly. But it's unacceptable that the child is examined by five experts, each examination taking from 30 minutes to an hour. While at the same time we've worked with the child for several years, and our conversation with the child is ... well, if you know the child for a longer period of time, you become their confidant. We know how they function (...) unfortunately some experts don't know that, how a victim doesn't function, how a child functions, and it's not easy to gain the trust of an abused child. And they get abused again by the system, which is unacceptable. All that's left is to empower the child, raise their self-confidence and teach them how to act in case they find themselves in a similar situation. This is a very long process. In the procedures themselves, the child is completely degraded."*

## 4 Framing culture and difference

### (1) Basic civilization norms (*Osnovne civilizacijske norme*)

"The difference between 'civilized' and 'uncivilized'. People from ex-YU were understood as culturally different from the very beginning, although perceived as those who have already accepted "our norms" to a great extent. In general, three cultural classes could be identified from the debate: 1) we and those who understood our norms, 2) those who are socialised but still not enough, who are lying and trying to abuse our system (Roma, Albanians,) (for example, they report violence to a social worker or district nurse and then in the official procedure they deny it), and 3) those who are not socialized at all (Africa, South America), they see human rights differently than us, their common, cultural rights are above our human rights.

*Prosecutor: "... If we talk only about the citizens of former Yugoslavia, we take it that they've adopted the basic civilisation norms, approximately the same civilisation norms – and I think that ... Although they don't see us, the system, as their own – the Albanians, for example, don't accept certain of our rules, which doesn't stop us from intervening when I think it's right, regardless of their nationality. It doesn't stop us in other cases either, we only get very powerless."*

### (2) Women are property / Roma women are more difficult to protect because all of the family is looking for them /Roma women tolerate violence longer (*ženske so lastnina/ romske ženske je težje zaščititi, ker jih vsa družina išče/ romske ženske dlje tolerirajo nasilje*)

The participants expressed their belief that tolerance towards violence is higher in those "other" cultures and that the women would tolerate violence longer, because of the different position of women within Roma community and social isolation and them being dependent of the Roma community, which makes the interventions more complicated and difficult.

*Social worker: "From Kosovo, yes, also from Albania. The attitude towards violence is the same, there is no tolerance. But we do have to make some adaptations; in view of the family specifics, the assistance is not the same. The ways of entering a family, the way into a family is essentially different. ... In traditional families, it is especially women who are in a specific position because they're still property. The women in such families, too, need some time to recognise certain of their roles. They also have to deal with the men having several wives, not officially, but unofficially. This can be quite exhausting because there are lots of conflicts. We*

most often intervene in Roma families because of violence against children or women. As you said, if a Roma woman decides to leave, it's essentially different because she needs more protection because everyone looks for her. So that's definitively different, a different approach. With abused Roma women, the way we talk to them, the methods of work we use, their fears are a bit different compared to Slovenian women, they have different views and we have to ..."

Social worker: "She experiences it painfully. I think she doesn't see it as essentially different, she just doesn't express it, she's afraid to express it. She suffers it a lot longer. For example, precisely this lady whose every bone had been broken and it's all healed up now, she didn't dare say that it's because of that, she always fell down the stairs. But, in my practice, I've never seen a woman injured to such an extent. This means she didn't dare talk about it all those years and we have to really motivate her to actually talk about it. Her life was in danger, so when she left, it was a close call, it was a real decision, she left her children, if she hadn't, she'd probably be dead now. This is a very frequent situation in their community."

### **(3) Our tolerance is lower with Roma (pri Romih smo spustili stopnjo tolerance)**

The frame reveals different perception and different treatment of Roma children compared to other children as some practices are accepted as a way of life and the authorities do not intervene as quickly or as severely as they would if same practices were detected in other, mainstream groups.

Prosecutor: "But with Roma we also lowered the level of tolerance... We dropped it to the lowest level possible because we accepted it as a way of life. ... We had a family, if you remember it is not that long ago, when two boys were playing [instruments] on the bridge in Ljubljana and there was a criminal complaint. I was a prosecutor at the time and I said: 'Absolutely, this is neglect. The child is playing and the father comes every now and then to collect [money].' ... The [competent] prosecutor stated that this was the only source of income and dismissed the complaint. Everybody sees it with their own eyes... Now we have these beggars. ... I can easily say that they are under 18. And what do we do? This is more of a subject for someone else... Do we investigate every time if he is underaged or not? Who he is? The problem are unaccompanied minors ... These are again the things you ask about, how we act if they are foreigners. If, for instance, the child comes somewhere from the north and he is unaccompanied – let me tell you, all alarms are ringing. Everyone. We are searching, who is missing this child. But if he comes from somewhere else, he is simply accommodated at the [aliens] centre. "

### **(4) Cute differences with the French community vs. Obvious differences with the Ex-Yu communities as the man is dominant and the woman follows (simpaticične razlike v francoski skupnosti vs. očitne razlike v skupnosti iz nekdanje Jugoslavije kjer je moški glavni, ženska pa mora slediti)**

The debate revealed obvious difference in points of perception – concerning the more civilized French community and observing the 'quarrels' between Slovenian-French couples concerning the upbringing of their children on one hand and on the other encountering only that part of ex-Yugoslavian population where violence is present and where the man is dominant and the woman is submissive.

Social worker: "Now, there are quite a few French people here, I don't know how come, apparently they've bought some property here. My colleagues and I have difficulty understanding their views on raising children. The break-up of the family, for example. The problem is that our mothers are too possessive and they raise the children differently, and if it's a mixed marriage, then as a rule the French partner, be it a man or a woman, wants to have custody solely because the Slovenian mother or father would spoil the child too much and so on. We then try to balance these differences, which are very interesting. I find it engaging because we have real discussion about the different customs. Regarding the families from former Yugoslav republics, I must say that we encounter only the specific population in which something is happening, there's violence or some other problems, and the differences are quite



*evident, the man has the main say in the house, the woman must follow, and the women who become emancipated or whatever you might call it, rebel, and this causes a problem. We have to do these things with sensitivity; when we work on relationships, we have to do it sensitively. We have to try and understand that a person who has such patterns perhaps needs a bit more time, and we need to work with them a bit longer so that they recognise that perhaps the woman does have the right to say that something doesn't suit her, that she'd like things to be different. Or, for example, when we talk about children who have behavioural problems, and we say that we'd like to talk with the child, we often hear: "You can't possibly think of asking the child, who asks a child for their opinion?" That's their attitude, for example. And then you stop for a moment and think about what they're saying. There are many such differences."*

## Part 3: ETHICAL ISSUES AND DILEMMAS from the perspective of practitioners

### 5 Ethical issues in the workshops<sup>2</sup>

The participants in our workshops were prepared to openly discuss the practical and ethical dilemmas they encounter in their work. However, these seem to overlap and it is not always possible to completely distinguish between the ethical and the practical dilemmas. Often a practical dilemma of the practitioners was linked to an ethical dilemma.

#### 5.1 Practical Dilemmas

##### 1. When to act only in terms of counselling and when to engage other institutions?

The social worker expressed the doubts she is facing when pondering sufficiency of counselling against the possible necessity for engaging other institutions, mostly this means the police. This dilemma deals with the awareness that engaging the police would mean the possible start of a criminal investigation and criminal sanctions, which is linked to an ethical dilemma – what this brings to the child and to the family and whether criminal sanctions have the potential to change the situation for the better.

*Social worker: "Yes, I am sure that the behaviour of the child is always the consequence of the parents' attitude or upbringing. And now you will say how we [social workers] talk to the child differently than you [the police]. We talk to the child not to gather evidence but to unburden and mostly to teach parents how to react appropriately to the reactions of the child (...) These reactions, with which the child is provoking attention, are not always pleasant. And here, in my opinion, it is very important to assess how far to go or how far to go into other institutions in these situations. And there is always a professional dilemma, when do we try to solve things in terms of counselling or psychosocial help and when to approach and go forward with the help of other institutions. And I think we should always be very mindful of what that brings to the child or the family, unfortunately it is not always good."*

On the other hand, the prosecutor expressed the concern that the police, due to their training and knowledge are prone to identifying criminal offences even in situations that would rather require social intervention (psychosocial help, therapy, conversation).

*Prosecutor: "And this is my distress when I get a criminal complaint against Adam's mother who slapped him. Did I, was the police as an investigation authority the one that had to change the slap into an element of a criminal offence? With their police knowledge, police officers can quickly change it into an element of a criminal offence. We need to know that, in our*

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<sup>2</sup> For consistency with the outline, we label this section chapter 4, although there is no chapter 3.



*professions, all of us carry the baggage of our specialised knowledge. Police officers have specialist knowledge of elements of a criminal offence – and will be able to find these elements in all such matters. Police officers must have such a dilemma because they're human, too, and they also slap their child, but they'll unburden themselves by saying: "The school reported it, they know more than me." Frankly, when the case gets to the prosecution, such dilemmas have already stacked up. The dilemma of the social worker without any guidelines, without a doctrine about how to act, a social worker that is in my experience a bureaucrat..."*

## **2. How to justify criminal procedure against the perpetrator if the child was not removed from the family?**

The prosecutor highlighted the dilemma linked with inadequate interventions of other institutions: how can a prosecutor justify a criminal indictment for a criminal offence which is punishable with imprisonment of up to 3 years, while the social work centre did not remove the child from the family and apparently did not deem the child's safety to be threatened.

*Prosecutor: "... in cases when a criminal complaint is lodged, when all the efforts of the NGOs have clearly been unsuccessful and the issue continues, it's a problem, because, at least in the area of Ljubljana's CSWs, I can't remember a child being taken away. And then you see a case, a very similar CSW, which is the first among state institutions that should protect the child, but it didn't or not enough, and then the question is whether the child is endangered to the degree to launch proceedings for a criminal offence which is punishable with imprisonment of up to 3 years. And then we have a dilemma. That is, the child is obviously not seriously endangered if they can still live with the family; in at least a third of the cases, the family does not care a straw for any institution, and then we have a moral dilemma. If it's really that bad, why has the child not been removed? And if it's not, are the actions really to be criminally prosecuted?"*

## **3. The dilemma of whether to act and how to act in relation with the response of the public and the media - Fear of public lynching – 'it is wrong if we don't do anything and it is wrong if we do something'**

This professional dilemma was discussed in relation to highly publicized cases of child removals where actions of institutions are under scrutiny of the public eye. The social worker stated that in such cases they are being criticized by the media and the public, no matter which action they take (or not take) whilst not having sufficient systemic support.

*NGO Representative: I very much agree and I should be first to claim there are not enough removals [of the child from the family]. However, it helps me to know that not acting cannot make these situations better. If you act, you are at least trying to do what is in your power to protect the child. If you do not do anything, then the child stays in this. This is what helps me in procedures that are long and agonizing and not necessarily going the way we would like. The same is with sexual abuse; I know many victims say that the fact that everybody knew and nobody acted was worse than abuse itself.*

*Social worker: "Also journalists, they don't even think to drag the children through the papers and the same is with the measures of the professionals. But in fact I think that the professionals that act or should act do not have enough systemic support. Namely, this is how it is in our country, if we do something it is wrong and if we don't do anything it is wrong. We are always choosing lesser of two evils. In our profession as in your profession a lot depends on the individual and his/her attitude towards violence, training, knowledge, skills and so forth and exactly because of fear of consequences and public lynching, the institutions move responsibility from one to another, we to the courts and the courts to us. This is one problem where I, after 32 years of working, dare to say we took several steps backwards – compared to 10 years ago when we were able to address things more decisively. I absolutely agree that our talks of protecting the rights of children and family are very much contrary to what is going on in practice, precisely because of these unresolved issues. As a social worker I find it hard to*

*understand that due to a formal error of procedure a child can be pushed back into an even worse situation. I ask myself what is the best interest of the child.*

#### **4. How to intervene, where to start if there is no certain guidelines?**

The professionals expressed the need for more clear and precise guidelines or doctrine that would help social workers, teachers, doctors etc. define the first steps of their intervention and therefore set the course of the entire intervention.

*Prosecutor: "The social worker would also be in a great dilemma in this case. We don't have a developed doctrine. This lady came to us because she's doing something and she wants to do it. But, for our children, for our Adam, we need certain guidelines about when and how to start. I think that this is one of the fundamental dilemmas that all of us dealing with this problem have, that is, when to start and according to which doctrine. We don't have such a doctrine. I mean guidelines for social workers, for example, and then guidelines about how to act in schools. I think – and I always have this dilemma – that we try to resolve the parents' educational inability through law-enforcement authorities."*

#### **5. Personal implications of intervention for the professionals**

##### **a) Fear of workplace mobbing and retaliation (linked with collisions of opinions within the same institution)**

The teacher spoke of a case where she recognised a child is a victim of violence but the school counsellor did not agree and did not wish to inform the social services. The debate led to the discussion about the possibility of anonymous report to the police or social services.

*Teacher: "That's how it is. That's why, because there was a really horrific case, I made an anonymous report because I knew that if they knew that it was me ... Actually, the headmistress did call me into her office afterwards and asked me whether it was me, and I said it wasn't because I didn't know what they'd do to me. That's why I'd like to know if I could do it in any other way so that they don't ask themselves who from the school launched the proceedings and then look at who taught the child and then make a whole analysis."*

##### **b) Fear of retaliation by the parents**

This dilemma appeared more relevant for the non-law enforcement professionals as there is more chance the parents will blame them for possible court proceedings and consequences in terms of sanctions – they will not act on their anger against the policeman or the judge but against the teacher, the doctor or the nurse. This fear was assessed as one of the reasons the teachers, for example, do not report as often.

*Policewoman: "For example, as a policewoman, I've decided and I know I'll conduct interrogations and all that, and that they'll look at me askance, perhaps even the entire family. In school, for example, I work with the child as a teacher and talk to the parents about the child, but I didn't become a teacher so I could sit in court. You often see teachers who are afraid that if they report the offence, the father will threaten them and they'll be questioned and attacked in court. Often this is the obstacle preventing a teacher or a school from reacting in due time. Because they're afraid of it all. Because, often, whatever the case, let's say the child got a reprimand for slapping a schoolmate, there's a problem. The parents come and ask: "What did you do to my kid?" And that's also a problem. That they're afraid of these procedures and threats by the parents and all that. Sometimes this is the reason for there not being more reports."*

#### **6. Dilemmas linked to data protection**

The professionals spoke of a case in which a protection order was issued against the father, but if the school personnel never saw the father before and the police cannot show them a photo of the father, how will they recognize him if he tries to approach the child at school? In that respect they

also spoke of social services and prosecution not being able to access information on perpetrator's previous convictions or health condition (i.e. drug abuse) which would help the intervention.

*Policewoman: "Perhaps this, the kind of dilemma we have. We have an order of protection for the child who goes to school or kindergarten, and we're obliged to inform the kindergarten or the school that a father mustn't come within 100 m of the child. Which is fine if they've actually already seen the father, but if they haven't, how am I supposed to ... I can't show them the photo that I'm entitled to get from the records, I have access, I can't show the photo to the educator, I don't know whether they'll put it up in the staff room, saying "Aha, he mustn't come within 100 m of the child". That's one dilemma. If they don't know one of the parents and there's a protection order against this parent, it's very difficult. Perhaps the problem is the exchange of information ... As far as the children are concerned, I have no difficulties in the sense of health care institutions saying "we can't tell you when or why the child was here". I have more problems getting information about the parents."*

## **7. Experts that promote violence for disciplining a child**

The professionals expressed their concerns over the fact that many seminars and trainings intended for professionals dealing with intimate and family violence include expert speakers that promote violence for disciplining a child – how to physically discipline a child, what kind of slaps to use and on which parts of the child's body for that to (supposedly) be acceptable and yet effective. As these are personas that in public receive accolade for being great experts in their fields, the professionals expressed their dilemma how to confront these prominent experts that promote violence.

*NGO representative: "They hold lectures for professionals on how to slap a child so it won't leave marks."*

*Social worker: "And then a foster carer beats up the child and says: 'That gentleman told me that every now and then you can hit a child.' You see, these are the ethical dilemmas, some of us are appalled by it and some just aren't."*

*NGO representative: "Yes, another thing is how to go against such an authority as [...] that is praised by so many people as an expert. It is impossible to confront him directly, because the people that believe him will believe him even more and the people that are against it are against it. I think it is necessary to continue with awareness-raising – why it is not okay. And also to speak very clearly in all professional events that this is not an appropriate way and that violence is a criminal offence..."*

## **5.2 Ethical dilemmas**

### **1. Whether to act or not and how to act**

The professionals spoke of the dilemma of acting or not in relation to the fear that the child is not speaking the truth and that that might cause unjustified interference with the family.

*Teacher: "But you see what the child is doing, you see them doing things that six-year-olds don't do. You pass this information on and hope that something will happen. I'm talking as a teacher because my experience is that not much happens. But it's also true that some teachers are afraid because it's something we don't talk about, it's good we don't in case it's not true and the child's making it up, that's the problem. As a rule, the child doesn't just say "I'm getting beaten at home". Unless there are visible marks, as the gentlemen said, certain physical evidence, we get that, too, and we pass this information on as well, you can see a bruise in the shape of an entire hand and the child even says that his/her father did it, we pass this on and nothing special happens. Such is my experience in school."*

### **2. Reporting without consent/ obligation to report vs. liability for false criminal complaint (the problem of not fully understanding what such obligation entails)**

This dilemma is linked with the professional dilemma about the appropriate course of intervention. The professionals spoke of the danger of losing (access to) the child by acting and talking to the parents before protecting the child. This is also linked to the dilemma of reporting suspicions without the consent (of the child or of the family) which can be in tension with the professionals' legal obligation to report. In relation to this dilemma the patronage nurse expressed her concern of being liable for false criminal complaint (if it turns out that there was no abuse). The discussion at this point revealed that there might not be sufficient understanding among non-law enforcement professionals what the obligation to report entails and what is the legal concept of false criminal complaint.

*Social worker: "If we assess that the child is endangered to the degree that if we told the parents, we would lose the child, as it were, then we have to be very careful. If we assess that the child's life is in danger, then we don't talk to the parents, but, as a rule, take the child away. These are such situations. In my experience, it's not possible to work only with the child. In my case, in order for us not to talk to the parents, the situation would have to be very serious and it would imply taking measures."*

*Social worker: "Because when the parents realise that this came from me, that they'll be punished, there's a great danger of me losing the child, as I like to say, because the parents would somehow persuade them not to talk about it anymore. So I would first focus on the child, protect them, ensure their safety, and then contact the detectives. In Maribor, the detectives in this field are mostly women, and we'd talk to the child together, and the first conversation with the parents would be conducted together with the detectives."*

*Patronage nurse: "Thank you for this line which I wrote down: 'Gathering evidence is not your work.' Great, that will help me with my work a lot. ... Would I ask the mother about the possible abuse? Looking from the point of view of my profession, no. I am interested to keep the contact. I would ask in a way that doesn't break the contact but keep it. ... When do I have to report something and when can I just discuss it over coffee? ... But if it is connected to the child, they then told me that the official person is obliged to report any suspicion of abuse of a child. ... and I am criminally liable if I don't report it. And then we discussed who even is an official person? If I understood correctly, I am not an official person, the family doctor is not an official person, but the director of the health care centre is...."*

*Prosecutor: "You know, you don't have to be obliged. ... You know, one of the obstacles for citizens is: 'I don't want to give a criminal report because it can turn out that I gave a false criminal complaint.' ... No, false criminal complaint is only in cases when you know you have lied about somebody doing something criminal. Only that. ..."*

### **3. The dilemma whether reporting cases will actually make a difference or will it further deteriorate the child's situation**

The professionals spoke of numerous hearings the child has to endure once legal procedures are instigated – child being abused by the system over and over again; in this view, is intervention justifiable (will intervention change anything or just cause greater damage).

*Social worker: "I currently have a case in which the child is old enough to talk about it, before he was too little. There is one expert for the awarding of custody and contacts, one for sexual abuse, but because the father wasn't satisfied with him, we now have another, and for the same reason another one for contacts. I asked all the parties involved, I wrote which procedures are currently taking place, to focus on one expert who would talk to the child several times and ascertain things, and would after all establish a confidential relationship with the child through these meetings. No, despite this, the child sees two experts in 14 days, and you can't protect him from this, which means that the system abused him once more or two more times..."*

### **4. Criminal sanctions: do they have the potential to change things for the better?**

The professional discussed the dilemma of the effectiveness of criminal sanctions – whether they can bring the result that should be the aim of an intervention - protecting the child and changing the situation in the family for the better.

*NGO representative: "From the family's viewpoint, there's a sanction in any case, I mean every measure we'd take is a sanction. Even if you place the child in foster care and work with the parents at the same time, the family considers this a sanction. The system did something that wasn't to their liking. I now understand better this dilemma with the criminal sanction, how much influence it has on things actually changing. But it's a fact that these things can't be separated, I think I see them in the framework of everything."*

#### **5. The dilemma of always following the rules in a hyper- regulated society vs. walking on the edge of law to protect the victim at all costs**

The professionals discussed the concern that the hyper-regulated system sometimes hinders the professionals' efforts to protect the victim which may lead them to try to find balance between the rules and the best interest of the victim by 'stretching' the rules.

*NGO Representative: "In practice I see the problem that we have become such a hyper-regulated society ... in acute situations there is an exchange of information within the multidisciplinary team and the information is confidential and it is because it is to save people that are at risk. But I feel there is often a situation that is not so acute but the information is valuable for helping or preventing endangerment but there is a complication with personal data sharing."*

*Social worker: "I am not saying it is illegal, what I am trying to say is that we are walking on the edge. For example, there is a protection order issued but only to protect the mother and not the child that is 2 years old. So there are also contact arrangements between the father and the child. But who will take the child to see the father? It's absurd. So we tell the mother to go to the shelter and we will stretch things a little bit. Send her from the shelter in three weeks instead of 8 days and try to buy time. But the end we have to accept supervised contacts ... To sum up, we walk on the edge, it happens. But when the safety of the child is at stake, we assess what is the bigger risk. And that for us is always an ethical dilemma, but we do try to respect all the rules and on the other hand try to find these options. Because, if there is suspicion of sexual abuse and the procedures take three, four years then in that time safety of the child has to be ensured. And that can be very hard."*

## **6 Summary**

In Slovenia child abuse and neglect are addressed through criminal legislation and family legislation. However, the overall approach to violence is through criminal law, which was often visible through the discussions at the workshops as much attention was devoted to assessment whether certain situation amounts to criminal offence and demands criminal prosecution.

Neglect and maltreatment of the child is a criminal offence as defined in Article 192 of the Criminal Code („A parent, adoptive parent, guardian or other person who seriously breaches his obligations to a child shall be sentenced to imprisonment for not more than three years«). Violence against children (except in the case of sexual assault/abuse) is specifically treated only within the family.

Slovenian legislation turned to a specific approach to the issue of family violence that is not present in any other field of interpersonal violence. In February 2008 Family Violence Act was adopted. Family violence is recognized as an important issue in Slovenia. The act is also a counterbalance to the approach through criminal law since as it is addressing the problem from the victim's perspective by introducing new measures and new protection orders. The act regulates coordination, mutual support and exchange of information among various actors dealing with victims of domestic violence – the police, social work centres, educational and medical institutions, as well as NGOs. The

importance of interdisciplinary cooperation and coordination was emphasised by the participants of the workshops as well. They expressed the need for more explicit guidelines that would help each profile of professionals identify the steps and measures to be taken in cases of child abuse and neglect.

During the discussion, the professionals drew from the key frames in the legal and institutional documents. The dominant frame of the discussion was that even an occasional slap is violence; however, it is not a criminal offence.

In general, the professionals at the workshops were very much prepared to speak openly about their experiences and dilemmas they encounter in their work related to child abuse and neglect. Despite the above mentioned dominance of the criminal justice approach, they were extensively discussing the implications and consequences for the child victim and questioned whether the system really helps the child. The main dilemma was also how to manoeuvre between the best interest of the child and their legal obligations in highly regulated system that on the other hand does not provide all the answers in delicate situations of child abuse and neglect.