

Working Paper on Intervention against Trafficking for Sexual Exploitation in Slovenia¹

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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 trafficking for sexual exploitation 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 workshops on trafficking for sexual exploitation in Slovenia were: 3 police representatives from 2 different cities: two from the Uniformed Police Division, one from the Criminal Police Division, 2 specialised public prosecutors, 2 lawyers/attorneys, both working in different NGOs, 2 social workers: one from a pro bono clinic and one from an asylum centre, 1 gynaecologist, working also at a pro bono health clinic for at-risk-persons and persons without health insurance, and 1 representative of a NGO that specialises in prevention of trafficking and assistance to victims of trafficking.

For the workshops on trafficking in Slovenia the story was as follows:

1st PHASE OF THE STORY

Maria came from Ukraine / Africa² on a 6-month tourist visa, expecting that she would be able to work in a hotel and send money home. She is in debt for the costs of her travel and her family also took a loan to help with the costs, so they are in debt as well. On her arrival she was taken to a night

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² In the first workshop, Maria was presented as coming from Ukraine, which in Slovenia is among the most common country of origin for potential trafficking victims and female immigrants also more generally. In the second workshop, Maria was presented as coming from Africa. This followed from the fact that Ukrainian language is a Slavic language (like Slovenian, and therefore enabling at least some mutual comprehension) and that “Ukrainian culture” was not discussed as different in the first workshop, thus an attempt was made to elicit more discussion of potential cultural encounters in interventions if Maria would be coming from Africa.

club. She speaks only a little of Slovenian language and the night club manager has her papers. Seeing no alternative, she agrees to work in the night club for a limited period until the debts have been paid off. She has been in the country for 4 months and the visa is due to expire in 2 months. During one of her shifts Maria collapses. The hostess at the night club has one of the other women take her to the public health centre where her physical and mental health are assessed as poor and she is found to have a sexually transmitted infection. The doctor indicates the need to inform Maria's sexual partners but Maria responds that this will not be possible. The doctor prescribes Maria antibiotics and hands her a card with details of a helpline.

2nd PHASE OF THE STORY

Maria saw no option but to return to the night club. She has been there for 7 months. She is exhausted and very unhappy and has been looking for a way out of her situation, but has been told that her visa has expired and that she can be prosecuted as a criminal if she is found by police, and also if she goes to any other public office or agency. She has received practically no money and is now even more in debt as she had to take time off to recover but was still required to pay for the antibiotics and her living expenses. Now she is very afraid: afraid of the night club owner, afraid of being sent to prison and afraid of being deported to stand empty handed in front of her family. In desperation, she calls the helpline and tells them about her situation and names the night club. The helpline gives her information about other sources of support.

3rd PHASE OF THE STORY

Early one morning members of the uniformed police enter the night club to carry out a check of the occupants. They find Maria and a number of other women, as well as two men. The men produce valid identity documents. Maria is unable to produce any identity documents and is detained. The officers suspect she may be a victim of trafficking but she is reluctant to talk to them. She believes the helpline gave her away. She is fearful of the authorities and unwilling to make a formal statement but says she is afraid for her family back home and is likely to be in danger herself if sent back. She appears unstable and there are concerns for her mental health. It is also apparent that she has no money and says she owes a great deal of money.

2 Intervention pathways from the perspective of professionals

2.1 Current legal-institutional framework in Slovenia:

The law and policy concerning migrants in Slovenia are in the hands of the Ministry of Interior, which means that the legislative approach in the field of trafficking is entirely through criminal law. With the 2004 amendment, a criminal offence of trafficking in human beings was introduced in the Criminal Code of the Republic of Slovenia (trafficking in human beings was thus criminalised). The criminal offence of trafficking in human beings (hereafter THB) is defined as purchasing another person, taking possession of it, accommodating it, transporting it, selling it, delivering it or disposing with it in any other way, or acting as a broker in such operations, for the purpose of prostitution or other forms of sexual exploitation, forced labour, enslavement, servitude or trafficking in organs, human tissues or blood. The article also contains an aggravated form of the general provision which is: the above described offence, "committed against a minor or with force, threat, deception, kidnapping or abuse of a subordinate or dependent position, or with intention of forcing towards pregnancy or artificial insemination". The described provision is therefore in compliance with the

definition of the UN Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.³

Considering the debates in the workshops, which tied trafficking to instances of slave(-like) relations, Article 112 that defines this should here also be highlighted:

Excerpts from the Criminal Code⁴:

Enslavement (Article 112)

(1) Whoever, in violation of international law, brings another person into slavery or a similar condition, or keeps another person in such a condition, or buys, sells or delivers another person to a third party, or brokers the buying, selling or delivery of another person, or urges another person to sell his freedom or the freedom of the person he supports or looks after, shall be sentenced to imprisonment between one and ten years.

(2) Whoever transports persons held in the condition of slavery or in similar condition from one country to another, shall be sentenced to imprisonment between six months and five years.

(3) Whoever commits the offence under paragraphs 1 or 2 of this Article against a minor shall be sentenced to imprisonment between three and fifteen years.

Trafficking in Human Beings (Article 113)

(1) Whoever purchases another person, takes possession of them, accommodates them, transports them, sells them, delivers them or uses them in any other way, or acts as a broker in such operations, for the purpose of prostitution or another form of sexual exploitation, forced labour, enslavement, service or trafficking in organs, human tissue or blood shall be given a prison sentence of between one and ten years.

(2) If an offence from the preceding paragraph was committed against a minor or with force, threats, deception, kidnapping or exploitation of a subordinate or dependent position, or in order to force a victim to become pregnant or be artificially inseminated, shall be given a prison sentence of between three and fifteen years.

(3) Whoever carries out an offence from paragraphs 1 and 2 of this Article as a member of a criminal organisation to commit such offences, or if a large pecuniary benefit was gained through committing the offence, the perpetrator shall be subject to the same punishment as specified in the preceding paragraph.

2.2 Intervention sequence: regulatory framework

The criminal offence of trafficking is prosecuted *ex-officio* and the criminal justice system has no possibility to decide whether the criminal prosecution should commence or not. Whenever there are elements of the criminal offence as defined by the law, state institutions are obliged to act. The victims may decide whether they will or will not cooperate as a witness, and whether they receive a permission to stay for the duration of the criminal procedure or not hence depends on this decision. A victim of trafficking in human beings is entitled to all protection measures intended for witnesses in accordance with Article 240.a of the Criminal Procedure Act: a deletion of all or certain personal data from the criminal file; marking of all or some of the data as an official secret; issuing of an order to parties to keep certain facts or data secret; assignment of a pseudonym to the witness; taking of testimony using technical devices.

³ Since the criminalisation of trafficking in human beings in 2004 there have been no legal reforms. Internal trafficking is covered by the same provision, which means that internal trafficking is not specifically addressed or monitored.

⁴ See Criminal Code of the Republic of Slovenia (*Kazenski zakonik (KZ-1)*), <http://www.uradni-list.si/1/content?id=86833>.

If the conditions of provisions of the Witness Protection Act⁵ are satisfied, the victim of trafficking can be placed in a witness protection programme.⁶ The only other protection measure for victims of trafficking, established by law, is included in the Aliens Act. A temporary residence permit can be issued to victims of trafficking. In accordance with Article 38.a, the police is able to allow a temporary permission to stay to a victim of trafficking who resides illegally on the territory of the Republic of Slovenia. This is issued either upon the victim's own request or *ex officio*, and only for a period of three months, with the purpose to allow a "reflection period" in order to afford some time for the victim to decide whether they wish to participate as a witness in criminal proceedings regarding the trafficking in human beings. The period of stay may be extended for a period of up to three months for justified reasons. Under certain conditions, the stay may also be denied, for instance if residence of the victim of trafficking in the Republic of Slovenia would pose a threat to public order, security or international relations of the Republic of Slovenia.

During the period of allowed stay, the victim of trafficking enjoys the rights guaranteed by law to foreign nationals with allowed temporary stay, as well as the right to free translation and interpretation. The police and non-governmental organisations must inform the victim about the possibilities and conditions for acquiring a residence permit. A temporary residence permit may be issued to victims of trafficking regardless of other conditions defined by law, if the victim is prepared to cooperate as a witness in criminal proceedings and his or her testimony is important, which is confirmed by the authority that is competent for the criminal prosecution. The temporary residence permit is issued for the foreseen duration of the criminal proceedings, but for not less than six months or more than one year. The temporary residence permit may be extended upon the victim's request, each time for the period of up to one year, until the criminal proceedings are concluded. A victim of trafficking in human beings who has been issued a temporary residence permit and has no means of subsistence is entitled to emergency healthcare as well as health insurance and basic care, which is the same as for foreign nationals who are allowed temporary stay in the Republic of Slovenia.⁷

The reflection period is often too short for a victim to decide whether he/she shall participate as a witness in criminal proceedings, the victims are afraid and might even be suffering from post-traumatic stress disorder. The fact that otherwise he/she will not have a right to a legal status can force the victim to participate even though he/she is not ready to do so. Since prosecution of trafficking in human beings is very difficult in Slovenia, criminal investigations are usually not completed in such a short time-span. Moreover, sometimes the investigations have not even started by the time the reflection period is over.

2.3 NGO involvement / NGO role:

In Slovenia, the first organisation to offer support services to victims of trafficking in human beings was Association Ključ – Centre for Fight against THB (*Društvo Ključ - Center za boj proti trgovini z ljudmi*), established in 2001. In the mid-2000s, it was joined by the Slovenian Caritas (*Slovenska*

⁵ *Zakon o zaščiti prič*, Official Gazette No. 113/2005, entered into force on 31.12.2005.

⁶ The conditions are that the criminal proceedings have been initiated, that the witness is able to testify on the criminal offence, the perpetrator or other relevant circumstances and that investigation and proving the offence is not possible without the cooperation of the victim, that there is serious danger to the victim's or another person's life or body, that such danger cannot be deflected without protective measures or placement in witness protection programme and that successful implementation of the programme is possible. There are various protective measures available, such as provision of physical and technical protection of persons and places of residence, resettlement, disguising and changing the identity.

⁷ The victim may obtain employment or perform work in the Republic of Slovenia during the period of validity of the temporary residence permit under the conditions defined by the act regulating the employment and work of foreign nationals. Another temporary residence permit is issued for other purposes for residence in the Republic of Slovenia if the victim fulfils the conditions for the issue of such a permit.

Karitas), and these two organisations are still the only ones providing assistance to victims of trafficking in human beings. They carry out psycho-social assistance, integration and raising awareness projects, and operate shelters and safe houses.

Assistance and protection of victims in trafficking in human beings are in Slovenia generally implemented by non-governmental and humanitarian organisations; civil society is actively included in the action against trafficking in human beings. Thus, active cooperation between the state or government institutions and the competent civil society organisations is outlined in agreements and contracts defining procedures for mutual notification and joint activities, and co-financing actual programmes of assistance for victims. In 2004, an agreement on such cooperation was concluded between a non-governmental organisation Ključ (*Društvo Ključ*) and the Ministry of the Interior, the Police and the Office of the State Prosecutor General. On this basis, Ključ and the police have been actively cooperating and notifying each other on signs or suspicions of trafficking in human beings, and also on victims of criminal offences. If necessary, representatives of Ključ are included in the police interviews with the victims of trafficking, and in the education of police officers and criminal investigators.⁸

It is here relevant to note that in the workshops, the term “assumed victims of trafficking” (orig. *domnevne žrtve trgovine z ljudmi*) has been used by the police and prosecution representatives to signify their awareness of regulations and sticking to the rule of law, which makes it hard to “prove” that one is “actually” a victim of trafficking – unless one proclaims oneself as such.

2.4 Intervention sequence as debated in workshops:

When the information indicative of trafficking for sexual exploitation (hereafter TSE) comes to the attention of professionals or agencies at any “port of entry” to the intervention system, this would regularly lead to some sort of involvement of others. The police, when they are faced with such a case, would immediately remove and protect the victim(s), (attempt to) remove her/them from the people with whom she cooperates – most often these would in fact be her employers – and who could actually be in a role of organisers (of prostitution and/or trafficking) or/as well as those who are holding her in a position of dependence (and fear). In the very next instance, the Criminal Police would automatically be informed, to further investigate the issue.

The victim’s unwillingness to report and testify stops further steps in the intervention sequence in the sense of victim protection and allowing the victim to enjoy the legally stipulated rights and privileges of THB victims. The police, nonetheless, continue their work of gathering evidence against suspected perpetrators/offenders – even if the victim does not give an official statement (yet, based on the workshop discussions and empirical evidence, this most often means that nothing of enough significance can be gathered for prosecution and further steps in intervention because the most important proof – a witness account – is missing).

At the same time, it also seems that the strategy of the Slovenian NGO Ključ is fairly unique in their attempt to apply the awareness-raising activities – or, rather, potential intervention – already at Slovenian embassies abroad. In other words; a potential victim of TSE would go and request a visa (in-person application is mandatory, since nobody else can request a visa for you), but in the process it may become apparent to the embassy official that she may be involved in some suspicious circumstances. The workshop participants specifically pointed out that the potential situation of trafficking should already become apparent to embassy officials who are processing visa requests (abroad) or to those agencies that deal with foreign nationals in terms of issuing them various permits once already in Slovenia (e.g. administrative offices, employment service). However, even though both workshops revealed that potentially the “entry point” for intervention should be the

⁸ Slovenia, Interdepartmental Working Group for the Fight against Trafficking in Persons (2013), Annual report of the Interdepartmental working group for the fight against trafficking in persons for the year 2012, Ljubljana, p. 20.

Slovenian embassies abroad or the regional (or national) Administrative and Employment Offices in Slovenia, where the potential victim would come to arrange their documents, the fact is that the actual interventions do not follow this pattern. Likewise, a visit to a medical facility – as exemplified in our phased story – would not lead to intervention, apart from the fact that a medical practitioner would be bound to inform the Centre for infectious sexually transmitted disease (but only on account of informing the potentially infected who had come in contact with Maria, not to reveal her name or start any sort of intervention involving her personally). Moreover, it was noted that Maria's sexually transmitted disease could also go undetected if she did not visit a specialist doctor.

It's basically about the police or prosecutor gaining the basic information, data, indices about somebody potentially being a victim. Only based on that, once we have some sort of information, can we then begin to act. (Police)

It therefore follows that, even though the police is not the first agency to encounter potential TSE victims, the intervention would most probably ensue from the police involvement because they are legally obliged to act and investigate. In addition, they are also – apart from the NGO sector and certain professionals in public bodies (e.g. the special prosecutor's office) – the most trained and are hence able to “recognise” the signs of THB as well as potential trafficking victims (and perpetrators).

The procedures of the Criminal Police were described in the workshops to be exactly as specified on the basis of the Law on Criminal Procedure. These operations are carried out by specially trained investigators dealing with investigation of organised crime, who are experienced in investigating especially crimes related to human trafficking, the abuse of prostitution, illegal immigration and crime. The police representatives noted that, unfortunately, the initial process of collection of first information could also be repeatedly victimising because the police officers on site need to conduct the first informative interview (with the potential victim) in order to determine the actual situation. The intervention procedure may also include the involvement of non-governmental organisations, which could actually get involved in the proceedings as an aide to the victim and be there when the interviews with potential victims of trafficking take place, or even prior to the procedure itself (if approached by the victim or encountering the victim prior to the police involvement).

The most important part of the intervention is acquainting the victims with their rights, either by the police or by the representatives of non-governmental organisations. This means letting the potential victim know that she is entitled to a period of reflection and recovery, and, in the event of criminal proceedings, also to long-term accommodation. For this purpose, a Criminal Police officer or a NGO representative or a volunteer would speak to the potential victim. However, any of these “further” rights, such as long-term residence, accommodation and re-integration programmes are formally tied to the fact that she is recognised as a victim of trafficking, since according to the legislation, the victim protection amenities are subject to participation in criminal proceedings. This must be defined by the competent authority, which is a specialised public prosecutor's office.

Victims are housed in protective accommodation as victims of trafficking in human beings for the period of reflection and recovery in a non-governmental organisation which carries out the project or programme of offering a crisis settlement (*krizna namestitev*). After a certain period, which is at least 30 days, such a person is then settled with another non-governmental organisation, which operates a programme of long-term settlement for the so-called care of victims of human trafficking – a safe place (*varna namestitev*). During this period, the proceedings or pre-trial procedure are instituted, where Criminal Police, on the basis of legal options that they have, is trying to gather sufficient evidence on which it can then be processed further. The investigation of these crimes is hence carried out exclusively by members of the Criminal Police on the regional and national level. On the basis of this, a specialised public prosecutor's office takes over, which is the only one with the responsibility for directing the pre-trial investigations, including those by the Criminal Police.

This means we inform her of her rights, if she is a victim of trafficking, to have the period to reflect and recuperate, and then, in continuation, she has a right to long-term accommodation, if the criminal procedure is set in motion, which, sadly, according to our legislation, is conditioned with participation in the criminal procedure... (Police)

The intervention sequence as it pertains to the NGO sector involvement was described as following a path that focuses primarily on the victim and her well-being:

I'd be worried immediately, even upon just seeing this here [referring to the description of Maria's circumstances in the story]. I'd conduct an interview in order to understand the circumstances, I'd try to find out the context and her own understanding of her situation. (Lawyer, NGO)

Social workers' involvement depends on their institutional affiliation; one of the participants was very skilled in working with trafficking victims, this was the case in one workshop, attended by an employee of the asylum centre, where a special "early detection" programme is at place. In the other workshop, on the other hand, a social worker employed by an NGO and specialising in working with at-risk-persons without health insurance at a pro bono clinic did not receive any special training in recognising and working with potential victims of trafficking. However, she exhibited high levels of sensitivity and personal engagement that allow her to engage with clients and forge good trust relations in her work. She used the workshop as an opportunity to engage with other practitioners and also address her practical dilemmas and ask for advice on how to proceed in situations she may encounter in the future.

Immediately upon arriving ..., we have an informative talk with all at-risk-persons regarding trafficking. The report is written and I get to see it, and if I notice any elements of trafficking, I conduct a personal interview. Based on this more in-depth conversation, I'd then call the standard operating procedure, involving all these people [other professionals], where we'd then work out a plan of action. A plan about where to start, how to help the person. (Social worker, asylum)

2.5 Participants' responses to Core Questions

(1) As a professional what might lead you to try and discover whether this might be a trafficking situation or, on the other hand, what might keep you from getting involved?

In both workshops, the responses to the first core question were used as an opportunity to start speaking about how the participants understood the issue of trafficking more generally. They were often also keen to explain what their job entails or show that they have the necessary expert training and thus knowledge on the issue. The responses included defining the understanding of trafficking in human beings as an international, transnational occurrence. Each participant responded from their own institutional vantage point; in one workshop most (though not all) also said that they could potentially encounter such a story, and such a victim, and then described what their obligations are formally and how they would act. Some included stretching their responses from their own personal experiences to their opinions and understandings regarding what other stakeholders would do in such a situation. Some expanded the debate and jumped to other phases of the story.

Most workshop participants – especially in one workshop, where the prosecutor, Uniformed Police and Criminal Police officers began the discussion – agreed straight away that the story presented has clear indications of Maria being a trafficking victim, so did not dwell much on "what might lead you to try and discover whether this might be a trafficking situation" because they (especially the police representatives in both workshops) noted that the signs are quite obvious indicators of Maria being a victim of trafficking. As obstacles to getting involved, some participants noted the lack of expertise (either for certain other stakeholders, or their own) on account of being afraid they would not know what to do or how to act appropriately.

In the other workshop, the participants were much more reluctant to assign a victim status. They prompted the doctor to begin the discussion, who then only commented on the fact that Maria had stated her sexual partners cannot be notified – as being suspicious. The prosecutor and police officer then added that based on such a story they probably would not hear of Maria’s case at all, adding that the medical personnel should report their suspicions to the police, who would then have grounds to investigate further. Their responses can thus be summarised as pointing out the need on the side of the police and prosecution to get some sort of report or information first, in order for them to then be able to get involved, start investigating further. Considering the doctor’s reluctance and highlighting of the fact that the story does not offer sufficient grounds for a doctor’s involvement, let alone reporting, it could be concluded that the two workshops came to a diverging conclusion regarding intervention after the first phase of the story.

(2) How might it come about that your institution or profession is the place to which Maria turns for advice, intervention or support? Or how else might it happen that someone in your position would become involved?

The responses here continued with giving us more information about the actual intervention practices in Slovenia. The police representatives elaborated mostly and were the first to pick up on the subject as a response to the second core question. They would, for instance, respond to an intervention (a call to the emergency police number and similar) and a dispatch police unit would be directed to go on site, where they could encounter a potential victim.

The NGO representatives described when and how they would / could become involved; either early on if contacted directly by the police or the victim (see above, examples of Ključ in particular) or in the next stage of intervention, after already having been contacted by another NGO, or by way of specificity of their position of being the institution where a potential victim is housed – this was the example of an asylum centre representative describing special training and programme that allows their staff to be particularly sensitive towards recognising potential victims of trafficking and then also working with them.

(3) Would you consider asking Maria directly about being trafficked, or what reasons might there be not to do so? How important do you think this is?

The responses to this question were somewhat ambiguous and not always directly addressed. The participants in one workshop agreed that they would directly talk with a potential victim whether she/he thinks that she/he has been a victim of TSE, and then the discussion about the consent followed.

In the other workshop, however, we posed the core question directly. On the one hand, certain NGO representatives exhibited sensitivity and understanding of what it means to be a victim of trafficking – especially for sexual exploitation (i.e. trauma, feelings of shame, etc.) – by adamantly refusing to ask (e.g. so as to not cause more harm), or noting the importance of first making sure that there is a mutual understanding and comprehension (e.g. language issues and making sure the victim understands her rights). On the other hand, the police and staff in the asylum centre explained that in their “informative procedures” of gathering the information via conducting an interview with the potential victim, they would of course need to pose questions, but all of them at the same time highlighted that they would tread lightly and with caution when doing so.

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

While the NGOs noted that they always need the victim’s consent and would never act without it, the state officials cited the official procedures, which demand certain further steps of action. In the case of state agencies, the intervention hence means proceeding with researching and gathering information about the situation, as well as gathering evidence against the perpetrators of trafficking – understood as criminal activity. This excludes the women possibly working as prostitutes, since

prostitution in Slovenia is decriminalised, thus intervention would not include a criminal prosecution of women for prostitution, for instance.

In accordance with the Personal Data Protection Act, NGOs, which are bodies governed by private law, can pass on information to third parties only on the basis of personal consent. It's different for state bodies. Ključ and probably also Caritas have agreements with the police about sharing information about the perpetrators, but not the victims. NGOs, on the other hand, can pass on the information of their users only on the basis of their personal consent. (Lawyer, NGO)

In fact, such a person [victim of trafficking] has no interest in proceedings being launched against the supposed perpetrators. They have no interest and you can't persuade them. But the fact is that the Criminal Code says that trafficking is a criminal offence regardless of the possible consent of the injured party. (Police)

(5) When could it be right / appropriate to initiate measures of protection from further violence, even against Maria's wishes? What concerns might prevent you from doing this or cause you to hesitate?

Please also see above, the issues of Maria's consent and wishes are closely inter-related.

Since the responses were mostly very formal and the participants, especially from the police, described the legal measures and their mode of intervention as working well in practice, they did not pose questions in terms of dilemmas whether or not to do something. This resulted in the debate flowing as if the question of Maria's wishes is not relevant for further steps in the intervention, since the intervention follows a certain predetermined path, supposedly devoid of such dilemmas. The public officials (i.e. police officer, criminal investigator, prosecutor) are to act on an issue if certain conditions have been met – regardless of Maria's preferences. The participants nevertheless did express formal concerns over Maria's safety and noted that the procedures they follow have been designed with this aim in mind. In both workshops, several participants kept coming back to reiterate that Maria's rights have priority.

(6) Let us imagine that Maria is an EU citizen (for example, if she came from Hungary, the Czech Republic, Slovakia, Bulgaria, Romania, or ...?). Would your strategies of intervention differ in any way from what you have described in the first part of our workshop?

The participants answered that there would be no difference in their intervention should Maria be a national of a European Union country – or, for that matter, if she was perceived as “belonging to” a (cultural / ethnic) minority. In fact, Maria being portrayed as an Ukrainian national or a person coming from Africa is automatically constructed in the story and thus perceived in the workshops as a “foreigner”. When asked to think about possible differences in intervention if she was from a EU country, the workshop participants hence instead raised the question of what would happen differently if Maria were a national of Slovenia who was trafficked and exploited (and therefore not entitled to certain provisions for victims of trafficking that are targeted towards protecting foreign nationals, such as the right to reside in protective housing).⁹

Formally, all the participants therefore agreed that they would not react differently based on Maria's assumed (EU) citizenship, culture, nationality, ethnicity and so on – intervention would be the same, however, a slight difference would occur regarding the status and (not knowing the) language. As an EU citizen, Maria could also not go to the asylum centre (and therefore could not claim international protection) because it “caters” only to so-called third country nationals. This means that, as an EU

⁹ This opens the dilemma of conditioning of the placement in safe houses with participation in the criminal process. Slovenian citizens do not have the same status of being a victim of TSE in order to be eligible for protective accommodation in a safe house (please see the section on ethical dilemmas for a further elaboration of this point).

national who is free to cross the internal EU borders, nobody (no governmental nor nongovernmental agency) would actually get to work with Maria in the long run (there are more programmes, assistance and professional knowledge available in the asylum centre – therefore for non-EU migrants, the so-called third country nationals).

Part 2: Framing of the Problem and the Intervention

3 Framing trafficking and intervention

3.1 Key frames in legal and institutional documents

This section discusses how trafficking for sexual exploitation is framed in law and policy and some of the implications, tensions and contradictions which are revealed. Trafficking in human beings (THB) and (the abuse of) prostitution are the main frameworks. The key official document is the Criminal Code, dealing with the dimensions of THB, prostitution, (sexual) exploitation and abuse.

(1) Trafficking is a criminal offence / “countering trafficking in persons” (orig. *boj proti trgovini z ljudmi*)¹⁰

Trafficking in general is framed as a criminal offence in Slovenia. The key official document is the Criminal Code; dealing with the dimensions of THB, prostitution, (sexual) exploitation and abuse. Establishing the *Inter Departmental Working Group for Countering Trafficking in Persons*, in 2001 the Republic of Slovenia started to “tackle the issue” actively. The very name of the interdepartmental working group highlights the official frame of “countering trafficking in persons”. It is therefore under the umbrella of THB, where several offences / purposes are listed and defined. Article 113 of the Criminal Code defines trafficking as follows:

Whoever purchases another person, takes possession of them, accommodates them, transports them, sells them, delivers them or uses them in any other way, or acts as a broker in such operations, for the purpose of prostitution or another form of sexual exploitation, forced labour, enslavement, service or trafficking in organs, human tissue or blood shall be given a prison sentence of between one and ten years.¹¹

Furthermore, Article 101 defines “trafficking in human beings, especially women and children” as a crime against humanity. Trafficking for sexual exploitation is therefore not a separate frame but a sub-frame of the wider THB framing of the issue / question / debate, using the terminology “prostitution or another form of sexual exploitation”.

Furthermore, the term “countering” (official English translation of the Slovenian term “*boj*”, meaning “fight”) relates to the interlinking between THB and (fight against) organised crime. Therefore, trafficking is inevitably also framed in relation to securitisation, border protection and the overall issue of transborder immigration and organised crime.

In order to understand such framing, it is necessary to highlight the overarching fact that the issue of THB in Slovenia is within the prerogative of the Ministry of the Interior – and the Police and the Border Police – rather than the Ministry of Labour, Family, Social Affairs and Equal Opportunities, as are the issues of domestic violence and child abuse and neglect.

The official general frame of (countering) THB hence has several related and / or sub-frames:

¹⁰ See the heading on the governmental web site http://www.vlada.si/teme_in_projekti/boj_proti_trgovini_z_ljudmi/

¹¹ See <http://www.policija.si/eng/images/stories/Legislation/pdf/CriminalCode2009.pdf>.

- It is the state's duty to protect the victims of THB/TSE
- It is the state's duty to prosecute (organised) crime

(2) "Exploitation of prostitution" (orig. *izkoriščanje prostitucije*) and "other forms of sexual exploitation" (orig. *druge oblike spolnih zlorab*)

The issue of trafficking in persons, or – more specifically – trafficking for sexual exploitation is officially framed within the related discourses of transnational migration, organised crime and prostitution. The official legal terms used in the Criminal Code are "exploitation of prostitution" (*izkoriščanje prostitucije*) and "other forms of sexual exploitation" (*druge oblike spolnih zlorab*). These are deemed as punishable under the Article 113 (see above) and Article 175 of the Criminal Code:

Exploitation through Prostitution [orig. "zloraba prostitucije"]¹² (Article 175)

(1) Whoever participates for exploitative purposes in the prostitution of another or instructs, obtains or encourages another to engage in prostitution with force, threats or deception shall be given a prison sentence of between three months and five years.

(2) If an offence from the preceding paragraph is committed against a minor, against more than one person or as part of a criminal organisation, the perpetrator shall be given a prison sentence of between one and ten years.

3.2 Key frames from the perspective of intervention professionals

In terms of consistency, it is important to note that the workshop participants were familiar with legal provisions and drew upon the official terminology and the underlying official (legal) frames of THB and exploitation of prostitution. They hence talked about (assumed) victims of trafficking, EU / non-EU nationals, native / migrant, etc.; in this regard there were no dilemmas or specific questions raised, and official frames were readily drawn upon.

The additional frames that came up in the discussions, however, overlap significantly and are often hard to disentangle. Moreover, some frames might appear more prevalent simply due to certain workshop participants being more vocal or eloquent, while others more reserved in the discussions, possibly resulting in some of the frames appearing merely as subframes or not elaborated on sufficiently. Below, I hence list the key identified frames, sometimes also adding to these a grouping of several interrelated subframes. Combined, I then elaborate in a more conflated manner with the most illustrative quotations from both workshops.

(1) Exploitation of prostitution is a crime and must be combated ("*zloraba prostitucije*):

Related to the regulation of prostitution / sex work, prostitution was debated both as a voluntary activity (prominently related to the "domestic" women, as well as some EU nationals coming to Slovenia to earn more money, who choose it as a lucrative occupation) and as a social problem. Thus prostitution was debated both as "a person's private choice" that should not be criminalised as well as seeing sex work as not welcomed, as something to be abolished.

In 80% of the cases, prostitution is not voluntary, and I believe that this is so in substantially more cases. Only prostitutes who work for their own account can be said to have entered and to be able to leave the situation voluntarily. All the rest, I argue, are not there voluntarily. (Lawyer, NGO)

Some women say that prostitution is a type of work and that they don't see it as exploitation, but a type of work. You can't explain to such a woman that it's not the same because in

¹² See <http://www.policija.si/eng/images/stories/Legislation/pdf/CriminalCode2009.pdf>.

Slovenia it's not listed as a profession or a job. She simply believes it and you can't change her mind, can't make her think differently or say anything different (...) The formulation in the Criminal Code refers to the exploitation of prostitution and one needs to prove exploitation, which involves not only force, but – especially in Slovenia – also economic exploitation and the exploitation of personal dignity. In Slovenia, this is the kind of exploitation that is involved in prostitution. (Police)

The workshop discussions also touched on the issue of agency (of women engaged in sex work) as well as debating various other “models” (e.g. the Swedish model, the German model) and comparing these experiences with the situation in Slovenia. In general, the issue of prostitution was discussed with non-shared positions, with some participants closely relating it to the dimension of migration and dangers of trafficking, noting the economic necessity as a cause of the problem (i.e. harsh socio-economic conditions in some countries forcing women to search for any kind of employment). Moreover, the issue of prostitution (related to the regulation of prostitution) was debated as being tied to demand, where it is the economic necessity that should be understood as the underlying cause of the problem.

We stick our heads in the sand and pretend that there's no prostitution (...) And we say neither that it's legal nor that it's prohibited. I think that in Slovenia we should come to a decision and determine where prostitution belongs. If we say it should be legalised, then this would probably entail a different traceability and a range of statuses of the girls in this line of work, and probably also health control and the payment of contributions and taxes. And perhaps then there would no longer be any trafficking or prostitution abuse. (Prosecutor)

Nevertheless, despite the divergent views / positions on “how to understand prostitution”, the participants were in agreement about the need to prosecute any kind of exploitation related to prostitution. It is hence possible to speak of an overarching frame about the need to protect the victims of those who benefit from exploiting prostitution, and the need to ensure the state can do something about it. The debate hence diverged from Maria's story and revolved around the issue of how to best (if at all) regulate prostitution.

The workshops debate also brought forth the opinion shared by all participants that criminals are always ahead of the game, hence the need to understand THB as a constantly evolving phenomenon where the criminals are always several steps ahead, constantly adapting to the existing legislation and attempts at curbing THB so as to be able to “get away with it” (e.g. in Slovenia this means a particular practice of setting up individual “private entrepreneur” businesses by women involved in prostitution in order to hide the fact that these are in fact managed by one hidden “real boss” – dubbed as “new forms” of trafficking and prostitution).

Related subframes (subtopics) can be subsumed as follows:

- Assumed victims of trafficking (“*domnevne žrtve trgovine z ljudmi*”)
- Prostitution is not regulated (not legalised) (“*prostitucija ni regulirana (ni legalizirana)*”)
- Prostitution as a form of work (“*prostitucija kot vrsta dela*”) vs. prostitution as a form of violence (“*prostitucija in nasilje*”)
- Economic coercion / exploitation on the one hand, and individual's free will on the other hand (“*ekonomska prisila*” / “*izkoriščanje*” vs. “*prostovoljno*”)
- Vulnerability (of victims) (“*ranljivost*” (žrtev))

(2) Victim's safety and informing her of her rights as a priority:

This overarching topic was debated and framed with slight differences depending on the workshop, thus it is here relevant to expand it as including also the following subframes:

- Professional duty of confidentiality: in terms of the intervention, nothing can be done without the woman's consent – except in terms of further investigating the potential crime by the police and prosecutors, which is automatic.
- It is up to the victim to decide what options to pursue
- A basis of trust must be built with great care before Maria can begin to speak openly about what happened to her

These could also be treated as separate frames, or as one overarching umbrella frame of caring for the victim's safety, her rights, and treating these concerns as a priority in interventions.

Namely, trafficking victims are understood **either** as frightened, deeply distrustful of any agency connected to the state, especially distrustful of the police (on account of – according to the participants' argumentation – prior experiences from their countries of birth, where the police and other public officials tend to be corrupt and more frequently prone to employing violent measures), **or** as not interested in prosecuting their "bosses" (i.e. employers – effectively traffickers and exploiters) because they know that the procedures in Slovenia would most likely not conclude favourably for them. But also because they do not see themselves as victims but rather adopt a more proactive agency approach to their situation, or because they may be involved in further semi-legal ventures, such as formally heading their own private business and similar activities (see above for "new forms" of trafficking and prostitution that make it almost impossible to prove THB in formal court procedures).

Usually lacking any prior experience with NGOs and therefore having no idea of what to expect from their involvement, the victims may also be distrustful towards various civil society actors and refuse their help / advice / involvement. In consequence, all agencies that come into contact with a possible trafficked person need to take special care to build a foundation of trust before asking them to tell any more of their story than what they have already volunteered to reveal. The professionals all emphasised the need and the difficulty of gaining trust of trafficking victims, who have suffered or are still suffering violence, coercion, threats and exploitation, and who have been warned not to talk to the authorities.

The police will definitively continue gathering information to remove this potential threat from Maria, that is, to arrest the perpetrators endangering Maria. This is the priority. The police will not deal with Maria, this will be the task of NGOs and not the police as such. This is why the police has agreements with NGOs, which it involves in all its activities related to the victims of human trafficking. In line with our system, when a victim is settled with an NGO, the NGO and the police together assess the degree of danger that the victim's settlement with the NGO poses, while the police carries out a risk and threat assessment. On the basis of the latter, the police carry out certain activities in order to ensure the victim's safety because this is their priority goal. (Police)

(3) Self-recognition of the victim as the key point of intervention¹³

Self-recognition of the victim was framed as the starting point of the intervention; there was an assumption by several of the participants that the majority of women involved in prostitution are doing this involuntarily, on account of desperately needing the money; hence the difference was made between sex workers who work for themselves and can stop doing it anytime (mostly Slovenian and other EU nationals) and those who are forced into it by different means (including economic reasons, lack of options in their own country). Since they are guided by a strong factor of grave financial necessity, one of the terms mentioned in the workshops was also that these are factually "economic migrants".

¹³ For more, see Part 3 below.

Unfortunately, our experiences have shown that we are not very successful in identification. The completed criminal procedures have also shown that we very rarely succeed with gathering information or manage to identify the victims, and if we do manage to identify the victims of human trafficking, then the victims very rarely recognise themselves as such. The reason for this, at least as far as the nightclubs are concerned, may be the fact that in our country prostitution is not regulated ... (Police)¹⁴

The above citation shows how closely intertwined the frames of countering trafficking and victim protection are with the issue of prostitution in Slovenia. Since prostitution is such a “grey area” it is frequently not possible for the police or the prosecutors to formally prove that a person was involved in prostitution, let alone prove exploitation of prostitution and human trafficking – unless the victims describe what had happened to them and testify about it. And while most participants chose to emphasise the precarious financial situation of the victims, who are additionally burdened with threats and other kinds of intangible fear, there were a few instances where “cultural differences” were also drawn upon in an attempt to rationalise why there is a lack of self-recognition of trafficking victims:

Perhaps it is precisely due to these cultural differences that the victims are even more vulnerable. They don't recognise themselves as victims because of the difference between the environment they have come from and the environment they are in. This is why the information does not reach the appropriate institutions, that is, the person doesn't report the crime because she doesn't recognise herself as a victim (...) In such procedures, you always wish to cooperate with the victim, the injured party. If they cooperate and relate everything that happened to them, it is considerably easier to prove the crime. If the person clams up, if they don't recognise themselves as victims, it's hard to prove the crime. So it's very important that the person, the injured party, is ready to cooperate by reporting the crime and stating who was involved, what happened and when it happened. (Prosecutor)

(4) Cooperation between agencies is the key to effective intervention

In both workshops, the participants from state institutions emphasised how well they cooperate interdepartmentally and also with certain NGOs, while NGO representatives noted their practice of consulting among themselves. There were some weak points mentioned in terms of a lack of communication from certain professions (e.g. medical doctors, where the issue of confidentiality and lack of training on THB seem to seriously preclude them from “recognising” THB cases; and administrative officers who issue or prolong work and residence permits to migrants), but it seems to be more an issue of a lack of information and communication than actual lack of trust. The police and NGOs noted their good cooperation and synergetic approach that works well in practice.

(5) Traffickers are much more advanced and ahead of the authorities who are trying to combat trafficking

In both workshops, the participants of all professions emphasised that the traffickers – as all criminals usually are – are “way ahead of the game”. They noted how they are skilled with various online manners of recruiting, how they master the process of making it all appear non-problematic and legal, how they have adapted to the Slovenian legal system and can thus operate quite legally. They ensure that the women possess valid work and residence permits, which makes it very hard, if not almost impossible, to prove foul play, let alone trafficking, forced prostitution, exploitation of prostitution etc.

¹⁴ See also above under the “exploitation of prostitution” frame.

4 Framing of culture and difference

In one workshop, there was no discussion of culture at all. No cultural difference was mentioned and the issue of status and citizenship was not related to culture at all, not even on the level of language. However, it was exposed that “Ukrainian women” are perceived in Slovenia as those whose main occupation is prostitution. In a different way – regarding the question of perceived supposed cultural difference, Slovenia was deemed as a country less developed than other EU countries regarding the regulation of prostitution, especially, for example, when compared to Sweden.

In the other workshop, the moderator therefore chose to specifically pose questions to tease out a debate about culture. Thus, an economically deprived country of origin was noted as causing an impetus for migrant victims of trafficking for sexual exploitation to look for work abroad. The team knew that the concept of culture does not work in Maria’s story, and there was again no mention of it in the debate, so we prompted a discussion by posing some more specific questions. Poorer countries (not “different cultures”!) were noted as different from Slovenia and Europe, where even a bad situation (in which a TSE victim finds herself) is considered better than the harsh living conditions and a total lack of options at home.

They’ve come to a better place. Perhaps they live better here than at home and can help their families, provide them with certain financial means. But it always comes down to the situation of prostitution. When these girls are faced with what has happened to them, at court hearings for example, they deny it despite everyone knowing and proving that they prostituted themselves under certain conditions. They consent to prostitution due to the environment they’ve come from and out of distress, but reject it on the inside which is why they don’t admit it. They wouldn’t be sentenced for what they’ve done, but the persons who got them into it would be, of course. Despite this, they deny that they prostitute themselves, which means that they’ve started to realise that it’s something negative which they can’t face. Because of the vulnerable situation they’re in, they consent to prostitution and the demanded split of the money, of course (...) There’s always a subjective reason for someone consenting to exploitation through prostitution. I believe that in Slovenia there are many citizens who prostitute themselves for their own account. To a lesser degree, there are also individual Slovenian citizens who prostitute themselves under exploitative conditions, but due to their personal character, they are, how should I put it, vulnerable, perhaps due to their intelligence or something like that. And, as a rule, vulnerable persons don’t recognise themselves as victims or they do it with more difficulty. The girls coming from abroad, from poor countries, are much more vulnerable. (Prosecutor)

4.1 Minority groups

During the workshop debate, the examples of Romania, Bulgaria, Czech Republic and Slovakia, Hungary, Ukraine, China, Thailand, Philippines, Dominican Republic, Kenya, Ghana, as well as internal trafficking (Roma, Slovenian) were mentioned, and the situation of forced labourers in construction coming to Slovenia from the other Yugoslavia successor states (e.g. Bosnia-Herzegovina, Kosovo, Serbia, Macedonia).

The participants exposed that it is harder to determine TSE for EU or Slovenian citizens.

As noted already above, the TSE story deals with the issue of intervention with minority groups *per se*, since Maria is from Africa (or Ukraine) and as such officially considered a “third country national”, a migrant, who speaks a different language, has a “different culture”, comes from a “different environment” etc. Therefore, since trafficked women are in majority perceived to “come from a ‘different culture’”, any further elaboration on framing culture and difference seems superfluous.

Part 3: ETHICAL ISSUES AND DILEMMAS from the Perspective of Practitioners

The workshops revealed a notable lack of a need on the part of professionals to consider the possibility of dilemmas, possibly also a reluctance to discuss ethical dilemmas. This could be related to the fact that the issue of trafficking is framed in criminal law discourse as the fight against trafficking in human beings and the need to prosecute criminals and organised crime on the one hand, while protecting the victims on the other. The officials therefore described their work as following a predetermined set of rules (stemming from legal procedures and law regulations), not mentioning any dilemmas. They also highlighted that the story is so straightforward and stereotypically obvious (in terms of Maria being a TSE victim) that it would not pose any dilemma in terms of how to act and how the intervention would unfold.

They did, however, note dilemmas in relation to the so-called new forms of trafficking, where it has become increasingly impossible to officially identify a victim and prosecute a trafficker. In addition, a notable practical dilemma – that was not framed and discussed in workshops as a dilemma at all – is the fact that some agencies simply lack appropriate training in order to be able to spot potential victims of trafficking and react accordingly. A number of practical difficulties of intervention can thus be seen as arising from insufficiently established or trained staff especially among medical personnel (e.g. doctors – general practitioners, specialists, nurses, administrative staff in medical / health centres).

Some dilemmas were nevertheless either teased out or specifically prompted with moderator's questions also in relation to the specific story of Maria. In an attempt at summarising them, I put them in clusters of related or similar dilemmas as follows:

5.1 Victims do not identify themselves as victims of trafficking.¹⁵

The main practical dilemma is the fact that most victims do not identify themselves officially as victims. Relatedly, they most often also do not wish to act against the perpetrators, let alone testify in criminal proceedings against them. This obstructs the intervention in terms of how much the officials can do, apart from merely following the formal official procedure and investigating without the victim's testimony. The fact that prostitution is not regulated also seems to represent a practical dilemma in terms of determining whether one is involved in prostitution or not (and following from this, whether one is sexually exploited in prostitution or not), and then further investigating whether THB / TSE have been the issue.

We do ... as much as we can, but there's a problem regarding proof (...) There's enough of evidence if she speaks to us, in 15 minutes I know enough, who is and who isn't [a victim of trafficking]. But only if she's speaking. If she doesn't want to speak about anything that's related to it, then it's really hard to infer something or guess. (Police)

5.2 The state has a duty to prosecute, penalise and stop trafficking. However, it can only effectively do so if the victim identifies herself as such and testifies.¹⁶

This follows from the dilemma described above and is both a practical as well as an ethical dilemma because it encompasses questions listed below, as noted in the two workshops by the practitioners:

¹⁵ This dilemma could also be phrased as "how do you 'convince' a victim that she is a victim" or more broadly speaking in terms of policy as "the ethics of victimless prosecution".

¹⁶ This is a dilemma as debated in workshops and should not be (mis)understood as a factual legal condition in Slovenia, where traffickers can be legally prosecuted also without a victim's account. However, it greatly diminishes the prosecution's options if there are no direct witnesses willing to testify in court.

- How do you decide there is violence / TSE?
- When is intervention legitimate?
- How to prove that someone is a victim? For instance, although the victim is identified as a victim by the police and prosecutor, she/he is often not recognised as such in court.
- How to maintain the victim's trust if you suspect she's a victim? How to keep in contact, to ensure you can follow up, meet with her again, so as not to "lose her"?
- The dilemma when practitioners perceive and recognise a potential victim as a victim of trafficking but she/he does not recognise her/himself as a victim: What to do if the victim is not talking while prosecution for trafficking requires the credible victim-witness as evidence?
- How to reconcile between the state's duty to prosecute and sanction trafficking as organised crime and the duty to support, help and empower trafficking victims?

The work with victims depends entirely on their will. We can't force anyone into anything. In this concrete case, one of the girls who recognised herself (...) We had a woman who was a professor with a university degree. So a person who was educated enough to be aware of her rights, but had gone down this path anyway. She also told us why. The police actually recognise all these people as victims, but it all depends on their will. We can't force anyone; all these people have been offered programmes. In all conversations, which took place at ten different locations, NGO representatives were included. Our intention was to make the girls aware that they were the victims of human trafficking. We didn't come to the bar ad hoc, it had been under investigation for a year so we knew for practically every girl what had been going on with her. We actually had concrete, material evidence that they were recruited, brought over, settled and exploited through prostitution. As far as we were able to, we explained to all the girls what had been going on with them, that they had been vulnerable. The NGO colleagues assisted us in this. But as I've said, the will of every victim, for us they were victims, was her own personal will, she decided whether to take part in the offered programmes, to trust what we, the police, or the NGO people offered, or to return to the environment she had come from. Unfortunately, the majority decided to return to the environment and now they work for various other employers, not the ones they used to work for because they no longer exist, but at various locations with a temporary work permit. (Police)

5.3 Practical and ethical dilemmas surrounding the issue of prostitution

- Is prostitution socially acceptable or not?
- Debate about the regulation of prostitution and whether or not to prosecute / criminalise clients.
- How to resolve a dilemma between apparent voluntariness and force?

Both workshops included debates that can be subsumed under the "prostitution dilemma". These included questions related to the fact that prostitution happens "underground" and it is therefore impossible to know exactly who works as a prostitute and generally who are the actors involved. The debates also included the participants making a distinction between voluntary prostitution and abuse / exploitation of prostitution, noting the dilemma in assessing which one is at stake when dealing with real-life situations.

Moreover, the participants highlighted important differences in sensitivity towards the issue of prostitution (and by logic then to TSE) between agencies, e.g. the courts / judges as not recognising the nuances necessary to prosecute trafficking, whereas the police, the prosecutors and the NGO sector does so:

We try to understand the international pathways, we try to follow a certain group of people that come to Slovenia with a certain purpose, for which we can assume that it has something to do with exploitation, of prostitution concretely. So that every kind of work in a nightclub (...) because we try to work with police statistics, a nightclub entertainer is synonymous with a

prostitute. But it seems to me that the courts have not adopted this terminology yet. This is a problem. We, the police and the prosecution, can launch a procedure, but the problem is how the courts respond to this. This is it, an ethical problem, a professional problem, that is the difference. (Prosecutor)

5.4 Victim as victim and victim as (co)offender

- How to deal with a certain idea of how a victim should behave: e.g. being non-active, passive, receiver of help, grateful, obedient, dependent – and the fact that she may not actually “fit the bill” at all in real life?

In relation to the above described frames and dilemmas, it was the police representatives who most adamantly claimed that they can “spot” a situation of trafficking, or rather, a victim of TSE, especially if the person is also willing to speak to them and describe her situation and circumstances of her employment etc. Similarly, NGO representatives also have many ways of establishing when somebody is at risk and they possess many strategies to help potential victims. However, they also noted a dilemma related to the fact that it can sometimes be difficult to draw clear-cut lines between an “ideal type” victim and the factual situation, where women may in fact be involved in illegal activities, even trafficking, themselves.¹⁷ They related such cases in particular to the so-called new forms of trafficking, as already described above.

In the workshops, they also shared their practical experiences where victims were already recipients of re-integration programmes but it eventually became known to the NGO that the victim was in fact at the same time engaged in recruiting further victims for trafficking from her country of birth. This represented an unexpected professional and practical dilemma for those who personally vouched for the person to other organisations, as well as an ethical dilemma in terms of how to handle one’s own perception of what a victim “should be like” and how to address one’s own personal disappointment.

But what if she’s the one committing criminal offense? Such as that now she is the one who recruited other Ukrainians to come to Slovenia with some sort of a story about what they would do. And then, when these girls come to Slovenia, the story, the working conditions, the type of work are suddenly completely changed. Maybe they do receive some payment, but if this is completely disproportionate to a pay for the work done that other citizens in Slovenia get, this is exploitation. This is how we should see things. (NGO)

The victim – offender, sometimes this line is blurred or a person is moving between the role of a victim and the role of a perpetrator. (NGO)

5.5 How to resolve conflicting priorities and responsibilities of the police and NGOs regarding rights of victims

- Intervention without consent?
- Always asking the victim if she is a victim of trafficking?
- How to ask? How to proceed gathering information without asking?

In Slovenia, NGOs need consent from the potential victim, whereas the police can operate without it as well. The police prosecute offenders and do not get involved with the victim any further in the

¹⁷ A trafficking victim cannot be prosecuted for any potentially illegal activities that she was forced to engage in. I wish to here again note that the debate in the workshops revolved around the issue of victims rarely identifying themselves as victims – meaning that if she does not claim to be a victim of trafficking and is not protected as such under the law, she may technically be prosecuted for, for example, recruiting new victims. In such a case, she may only be formally understood as an offender and not as a victim of trafficking which would undoubtedly mitigate her guilt. This is why it is important to understand what the prosecutors were telling us in the workshops; that even if the police and prosecutors have one view of the issue, the courts, the judges frequently have another, hence the prosecution of trafficking is difficult.

following steps of intervention.¹⁸ The victim, namely, is “handed over” to the NGO sector, in particular the select NGO organisations with programmes for victims of THB.

5.6 Dilemmas related to victim assistance, e.g. safe house is not suitable for everyone

The issue of conditioning of placement in safe houses with participation in the criminal process was brought up by NGO representatives, who also noted that the law does not take into account that Slovenian citizens do not have the status of TSE because they are not foreigners, whose situation is mitigated based on legal provisions for victims of trafficking.

The workshops’ participants also highlighted that the existing programmes are not appropriate to cater to all victims. Trafficking victims are not only women, thus men are at a disadvantage, as are Slovenian citizens and especially the Roma minority.¹⁹ Moreover, they debated the lack of long-term assistance to trafficking victims.

Yes, this is our wish and it’s important here to emphasise the possibility of choice, which is actually very limited. You have the choice of cooperating and staying in Slovenia for a period of one year or until the end of criminal procedures, but no more. There is no programme of reintegration in Slovenia, but we search for the possibilities of schooling, employment, which are quite curtailed. If a person is to return home, it’s crucial to cooperate with an NGO in the country of origin, that is, if such an NGO exists. If there’s a male victim of human trafficking accommodated in a safe place, the possibilities are even more limited. We know that most organisations accept only female victims of human trafficking, they don’t accept men. When they return home, such men are then left to themselves. This is a fact. (NGO)

Lawyer, NGO: But, by all means, it’s not enough to accommodate the victims and not do anything with them afterwards, we have to strengthen and empower them, work with them psychologically and prepare them for their future life. If there’s no comprehensive care ... and the NGOs endeavour to provide comprehensive care, but they’re often limited by funds, even reintegration is not a regular programme or is very rarely paid ... Anyway, if there’s no comprehensive care, the probability of an autonomous life without violence, of any kind, is smaller than if comprehensive care is provided.

Social worker: Yes, because otherwise life in a safe house is life in a vacuum. The person again depends on an organisation. This is definitely not a healthy circumstance. This is why life in a safe house is a harmful situation in the long run because it’s not in the least bit similar to ordinary life. It’s full of restrictions, rules, and also conditionings.

5.7 Prosecution as an ethical dilemma in itself

Knowing the ordeal that criminal prosecution of a trafficker would mean for the victim-witness, the question was posed whether or not it is even ethical to encourage women to report their employers, and then to testify against them. How to decide between the duty of the state to enforce the law, combat organised crime, and to stop trafficking, on the one hand, and, on the other hand, the human rights of a victim who will most probably be re-traumatised in the proceedings, as well as exposed to new and unknown dangers threatening her and her family at home? This particular dilemma is

¹⁸ Please see above under the elaboration of intervention sequence for further contextualisation. Of course, the police and prosecution will need to gather evidence, so they will need to conduct interviews. This description follows an elaboration of the workshop participants (e.g. the police) who wanted to emphasise that psycho-social assistance, housing, re-integration programmes and so on are under the auspices of the NGO sector.

¹⁹ For a more detailed elaboration of the situation of the Roma minority in Slovenia, please see working papers for DV and CAN.

especially potent due to the legal practice in Slovenia, where most cases fail to see a positive outcome at court, and THB is rarely even recognised. It was noted especially by the NGO sector representatives, who had gone through several court procedures together with TSE victims, and in the workshops mentioned variations of this dilemma at various opportunities. It was also noted by a prosecutor, and more generally by most participants as an agreement when somebody spoke about it during the workshop debates and more clearly also during the lunch breaks, when we debated the situation in Slovenia more informally.

What was not discussed, only mentioned, but is important to also note here, is that agencies work in their own field and that it is not always very clear to all the formally responsible profiles what procedures to follow. There can be a lack of cross-agency interaction – though this was discounted by one policeman in our workshops, who noted that things run smoothly as far as the police is concerned and that they are used to connecting with the prosecutor’s office and NGO sector.

The Specialised Office of the State Prosecutor directs us and actually gives us guidance and in the end determines whether we’re actually dealing with a case of human trafficking, a criminal offence of prostitution abuse, a violation of any other legislation like labour legislation in relation to exploitation or something else. On the basis of this, it is concluded whether a concrete criminal offence had taken place. But I think the problem here is precisely this transfer of information about a certain criminal offence. What to do if a victim is not prepared to cooperate: should we say nothing about it? I think we can’t condition these things with the victim’s cooperation. Today, we talked about what the victims are like. They’re not prepared to talk and expose themselves. (Police)

To sum up, regarding potential tensions and contradictions in intervention system, these do exist, as elaborated already above (see, for instance, the dilemmas about the state’s duty to penalise, prosecute, and stop trafficking, but is dependent on the victim’s voluntary cooperation; and the state’s diverging obligations (from a human rights perspective) that are sometimes difficult to reconcile: e.g. its duty to prosecute and sanction trafficking as organised crime on the one hand, and its duty to support, help and empower THB victims on the other hand).

The relation and interdependence between many frames and dilemmas is apparent from the above elaborations, where it has often been difficult to separate between frames on the one hand and dilemmas on the other. This is best illustrated by the quotes from both workshops, which tend to frequently touch upon several topics / frames at the same time and expose interrelated practical and ethical dilemmas that the professionals may face in their daily activities.

6 Summary

The Criminal Code of the Republic of Slovenia was amended in April 2004 with two provisions for the prevention and punishment of trafficking. The Criminal Code thus prohibits the unlawful transfer of “foreigners” who have no permission to reside on the territory of Slovenia, and prohibits transporting and / or helping them to hide. A direct prohibition of trafficking in human beings is also included. The provision states that a person who, for the purposes of prostitution or other forms of sexual abuse, forced labour, slavery, servitude or trafficking of human organs, tissues, or blood, purchases, takes over, accommodates, transfers, sells, delivers, or in any other way handles another person or acts as a middleperson in the course of such actions, shall be punished with imprisonment in duration from one to ten years. Trafficking for sexual exploitation is therefore in Slovenia defined together with other forms of trafficking in persons.

In Slovenia, the legislative approach in the field of trafficking is entirely through criminal law. The issue of trafficking is hence framed in criminal law discourse of fight against trafficking in human beings and the need to prosecute criminals and organised crime on the one hand, while protecting

the victims on the other. This in itself is a possible conflict and may cause stakeholders and professionals to struggle with various practical as well as ethical dilemmas in terms of intervention and how to act when confronted with actual people in real-life situations. Most visibly, this topic has come to the fore as a practical dilemma about respecting the victim's wishes, her right to privacy and her often related reluctance to testify against traffickers on the one hand, and, on the other hand, the commitment on the side of state institutions, especially the police, to prosecute organised crime and penalise traffickers.

However, the workshops offered only a modest elaboration of such contentious issues, since the professionals mostly claimed they follow predetermined plan of intervention, which makes them simply follow the rules and abide by the law. NGO representatives, social workers and medical personnel elaborated more on what they encounter as practical and / or ethical dilemmas in their work, mostly struggling with how best to cater to the victim's needs while navigating the legal and bureaucratic procedures.

Official frames and terminology of "trafficking in persons" and "countering exploitation of prostitution" permeated both workshops and were used by participants on all "sides of the spectrum" (i.e. governmental representatives as well as NGO sector). The fact that prostitution remains a proverbial "hot potato" that nobody really wants to handle has been brought up often in the discussions, which leaned more toward debates of formal, legal procedures and actual, empirical cases than debating culture and difference. It would be wrong to summarise the debates as racialised, though some ethnicised and gendered stereotypes came to the fore. These, however, were mentioned more as examples of how "other agencies" or non-specific "people in Slovenia" would treat victims of trafficking – particularly if women from Ukraine are at stake, being highly sexualised. These were, in short, not factually uttered as instances of the participants' view (though there were a couple of exceptions, where stereotypical, if not prejudiced, position was apparent in participants' categorisations).

The participants debated the question of why people become involved in trafficking networks and working in prostitution by relating to the issue of structural violence, predominantly economic subordination on a global scale. Indices of trafficking as indicated in the story on TSE mostly worked well: Maria being in debt, her documents being taken away, the presence of a hostess in a nightclub (replacing the brothel receptionist in the original story narrative). However, that no physical force is needed for the TSE anymore but economic factors are enough for slave relations was the predominant understanding and "new forms" of trafficking were argued to work in significantly different ways than our phased story of Maria.

In short, the participants noted that the TSE story does not work well; they commented that they found it hard to relate to the real life situation of trafficking in Slovenia because the story is outdated and cliché. The participants highlighted that trafficking is much more subdued, hidden, different, not that obvious at all and that TSE especially now runs differently than in the story (which they said would work a decade or two ago but not any more). In reality, coercion and violence are manifested differently, documents are no longer taken away, condoms are habitually used, thus making the danger of sexually transmitted disease extremely unlikely, women are not "clueless" victims of traffickers but often know quite a lot about the prospects when choosing to follow a certain path in life, etc. To conclude, the participants of all professions emphasised that the traffickers – as all criminals– are "way ahead of the game". They noted how they are skilled with various online manners of recruiting, how they master the process of making it all appear non-problematic and legal, how they have adapted to the Slovenian legal system and can thus operate quite legally. They ensure that the women possess valid work and residence permits, which makes it very hard, if not almost impossible, to prove foul play, let alone trafficking, forced prostitution, exploitation of prostitution etc.