



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE  
CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF  
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

**Initial reports of States parties due in 2006**

**SLOVENIA\* \*\***

[16 November 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annex is available in English only.

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## I. INTRODUCTION

1. Pursuant to paragraph (1) of Article 12 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Republic of Slovenia as a member of the United Nations, a State Party to the Convention on the Rights of the Child and a State Party to the Optional Protocol hereby submits its initial report on the implementation of this Optional Protocol.\*

2. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified by the National Assembly of the Republic of Slovenia at its session on 15 July 2004. It was published in the Official Gazette of the RS, No. 85/04 - International Treaties, No. 23/04 and entered into force on 17 August 2004. The Republic of Slovenia did not submit any reservations to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

3. With respect to the legal status of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in the legal order of the Republic of Slovenia we would like to explain that Article 8 of the Constitution of the Republic of Slovenia (Ur. l. RS (*Official Gazette of the Republic of Slovenia*), No. 33/91, 42/97, 66/00, 24/03, 69/04 and 68/06) stipulates that laws and regulations must comply with generally accepted principles of international law and international treaties that are binding on Slovenia, and that ratified and published treaties are applied directly. Paragraph (2) of Article 153 of the Constitution of the Republic of Slovenia further defines that laws must be in conformity with valid international treaties ratified by the National Assembly of the Republic of Slovenia whereas regulations must also be in conformity with other ratified international treaties.

4. The said provision of Article 8 of the Constitution of the Republic of Slovenia establishes supremacy of international treaties, which are binding on Slovenia, over laws and other regulations with the exception of the Constitution of the Republic of Slovenia that is from a hierarchical standpoint the supreme act of the Slovenian legal order. Paragraph (2) of Article 153 of the Constitution of the Republic of Slovenia governs harmonisation between laws and regulations in terms of constitutionality and legality.

5. In accordance with the provisions of the Constitution of the Republic of Slovenia (Ur. l. RS, No. 33/91, 42/97, 66/00, 24/03, 69/04 and 68/06) children enjoy special protection and care. Children are guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. Article 56 of the Constitution of the Republic of Slovenia of 1991 (with amendments adopted up to 2006) stipulates: "(Rights of Children) - Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and maturity. Children shall be guaranteed special protection from economic, social,

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\* The data in this report reflect the situation as of 31 December 2006.

physical, mental or other exploitation and abuse. Such protection shall be regulated by law. Children and minors who are not cared for by their parents, who have no parents or who are without proper family care shall enjoy the special protection of the state. Their position shall be regulated by law.”

6. The Protocol covers areas under the responsibility of different ministries. The Ministry of Labour, Family and Social Affairs performs tasks in the field of the family and children as well as social affairs; the Ministry of the Interior performs tasks in the field of public security and police, administrative internal affairs and migrations; the Ministry of Justice performs tasks in the field of organization and status of courts, the prosecutor's offices and the state attorneys' service, and the Constitutional Court, supervision over the operations of the prosecutor's offices and the state attorneys' service, in the field of civil and criminal law, judicial proceedings, justice-system management, attorneys, notaries, execution of penal sanctions, personal data protection and international legal aid. The latter is also responsible for co-ordination with respect to the Criminal Code (Ur. l. *RS* No. 95/04 - officially consolidated text 1), the Criminal Procedure Act (Ur. l. *RS* No. 32/07 - officially consolidated text 4) and the Act on Liability of Legal Persons for Criminal Offences (Ur. l. *RS*, No. 98/04 - officially consolidated text 1). The Ministry of Health covers the field of health care, health insurance, health care activities or health care services; the Ministry of Education and Sport performs tasks in the field of education, primary, secondary and post-secondary vocational education and sport; the Ministry of Foreign Affairs is responsible for cooperation with other countries and international organizations, it also proposes international treaties for ratification as well as promotes and coordinates cooperation with other countries.

7. The Inter-ministerial Working Commission for Human Rights as an expert consultative body of the Government of the Republic of Slovenia was established at the national level to co-ordinate human rights issues. It is composed of the representatives of competent ministries and non-governmental organizations. The Inter-ministerial Working Commission follows international law issues concerning the exercise and protection of human rights and freedoms on the basis of international acts that are binding on Slovenia.

8. In its Decision no. 240-05/2003 of 18 December 2003 the Government of the Republic of Slovenia appointed an inter-ministerial working group for combating trafficking in human beings (hereinafter the IWG) composed of the representatives of ministries, government bodies and non-governmental organizations. The activities and projects of the IWG include those concerning children (prevention, i.e. awareness raising and research activities; assistance to victims of trafficking and their protection; training and international cooperation).

9. An Expert Council for Problems related to Domestic Violence (Ministry of Labour, Family and Social Affairs) is active at the ministerial level. The Expert Council has the following tasks: it discusses open issues and formulates opinions, initiatives and proposals aimed at improving the system of protection against domestic violence; on proposal of the ministry it advises about drafting laws, implementing regulations and other legal documents; it formulates opinions and positions on individual issues and monitors the implementation of legislation and the ministry's entire policy on protection against domestic violence.

10. The text of the Optional Protocol was published on the Internet pages of the Ministry of Foreign Affairs and the Ministry of Labour, Family and Social Affairs. The Optional Protocol was also published in the brochure "Človek ni naprodaj - izbrani dokumenti in ukrepanje proti spolnemu izkoriščanju in zlorabi otroki" ("People are not for sale - selected documents and measures against sexual exploitation and abuse of children"). This brochure was published by the Information and Documentation Centre of the Council of Europe (IDC SE) at the National and University Library (NUK) in Ljubljana in July 2005 on the occasion of the following two conferences held between 5 and 9 July and organized by the Government of the Republic of Slovenia in cooperation with the Council of Europe, UNICEF, the World Health Organisation, the United Nations High Commissioner on Human Rights, and the non-governmental organization Advisory Panel: Stop Violence Against Children: Act Now!" - Regional consultation on the UN Study on Violence Against Children, Europe and Central Asia; "Yokohama Review for Europe and Central Asia - Combating Sexual Exploitation of Children". The publication was financed by the Information and Documentation centre of the Council of Europe at the National and University Library in Ljubljana, the Ministry of Labour, Family and Social Affairs, the Ministry of the Interior, the Council of Europe, UNICEF Slovenija and the Human Rights Ombudsman of the Republic of Slovenia. It was published in 2,000 copies and distributed to police directorates, primary and secondary schools, centres for social work, non-governmental organizations and the media throughout Slovenia. In addition to the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, this publication includes translations of the following important international documents:

- Yokohama Global Commitment 2001
- Council of Europe Convention on Action against Trafficking in Human Beings No. 197
- Explanatory Report to the Council of Europe Convention No. 197
- Council of Europe Committee of Ministers Recommendation Rec (2001)16 on the protection of children against sexual exploitation and sexual abuse
- Council of Europe Parliamentary Assembly Resolution Res. 1307 (2002): Sexual exploitation of children: zero tolerance
- UNICEF Guidelines for Protection of the Rights of Child Victims of Trafficking in South Eastern Europe

#### **Data on trafficking in human beings and data on child victims of criminal offences**

11. Data on trafficking in human beings (we started collecting this data in 2002) and data on child victims of criminal offences are collected in Slovenia.

12. The methodology for collecting data on trafficking in human beings in Slovenia that encompasses child victims of trafficking and prostitution was designed by the Inter-ministerial Working Group for Combating Trafficking in Human Beings. It is based on measurable data kept by the Police and the Prosecutor's Office, and data of the non-governmental organizations on their work with victims of trafficking in human beings is also taken into account.

13. The police data show that victims are in some cases female minors who become victims for the purposes of sexual exploitation. In 2002 the police dealt with 5 girls of Slovenian nationality who were sold to a foreign country. They were all 17 years old and were sold abroad for the purposes of sexual exploitation. In 2003 (1 minors) and 2004 the police did not deal with any cases of trafficking in children (minors) and in 2005 it handled 1 case.

14. In 2002 the Supreme Prosecutor's Office of the Republic of Slovenia considered two cases involving underage victims of a criminal offence of establishing slavery relations (two Slovakian girls) but the offender against which a criminal complaint was filed was not convicted in the end. In 2003, 2004 and until May 2005 the prosecutor's office did not consider any new cases of criminal offence of trafficking in human beings against minors.

15. In 2002 the Society Ključ participated in the return of two Slovenian girls aged 16 from the Netherlands. The Society also handled the case of a Slovenian girl also aged 16 in Slovenia. We cannot claim with certainty that these three cases involved child trafficking. In 2003 they dealt with two cases involving two female minors aged 14 and 17, one was a citizen of the Republic of Slovenia and the other of Serbia and Montenegro. In 2004 the Society Ključ dealt with 23 potential victims of trafficking in human beings (5 persons where minors), and they were from South-Eastern Europe. They dealt with five potential underage victims in 2005 and with three in 2006. The Slovene Caritas us performer of the programmes of "Care of victims of trafficking in human beings for the year 2006", in the period from 22 May 2006 to 31 December 2006, did not record any cases of children - victims of trafficking in human beings.

16. Within the framework of the PATS project which was carried out in the Asylum Home from June to the end of 2004, Slovenska filantropija (Slovenian Philanthropy) observed strong suspicion of trafficking in human beings in five persons of Albanian nationality of which three were female minors.

**Table 1**

**Statistical data on investigation and prosecution of criminal offences in connection with trafficking in human beings for 2005 (CC - the Criminal Code)**

Criminal offence (Article of Criminal Code)	Trafficking in human beings Article 387.a of Criminal Code - 04	Establishing slavery relations Article 387 of Criminal Code	Abuse of prostitution Article 185 of Criminal Code	Total
No. of cases (criminal charges, reports) filed with the District State Prosecutor (No. of persons charged)	3 (6)	4 (6)		7 (12)
Number of victims of criminal offences (status)	6 (adult female)	1 (young female) 1 (adult female)		8
Charges dismissed by the District State Prosecutor (No. of persons)	1 (1)	2 (5)		3 (6)
Instituted investigations (No. of persons investigated)	2 (5)			2 (5)
Final sentences				
Pending cases from previous periods		5 (12)		5 (12)
Instituted investigation		3 (from 2001 and 2002)		3
Filed charges		2 (from 2001)		2
Verdict (acquittal, non-final)	1 (1)			1

*Source:* Report by the Inter-ministerial working group for combating trafficking in human beings for 2005.

**Table 2****Number of potential victims of trafficking in human beings handled by a non-governmental organization**

	Potential victim of trafficking in human beings	Potential victim of forced prostitution	Potential victim of forced labour	Total
Minors (citizenship)	1 (Macedonia) 1 (Serbia and Montenegro) 1 (Slovenia)	2 (Slovenia)		5
Adults (citizenship)	1 (Slovak Republic) 1 (Dominican Republic) 1 (missing person - Slovenia) 1 (mother of a missing person - Slovenia) 1 (Ukraine) 1 (Columbia) 1 (Slovenia)	1 (missing person - Slovenia) 1 (Slovenia) 1 (Serbia and Montenegro)	1 (Slovenia)	11
Total	10	5	1	16

*Source:* Report by the Inter-ministerial working group for combating trafficking in human beings for 2005.

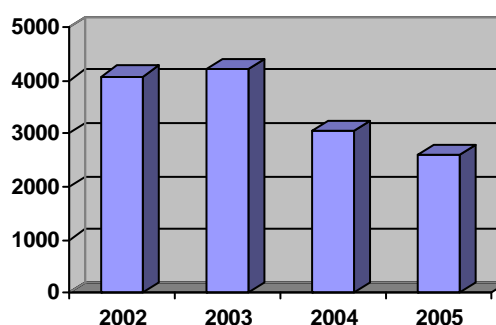
17. Data on child victims of criminal offences. According to police data the number of child victims of criminal offences (under the age of 18 years) in the period 2002-2005 irrespective of the type of a criminal offence, including criminal offences against property, life and body, sexual integrity, totalled:

**Table 3****Victims under the age of 18 years**

Year	2002	2003	2004	2005
Number	4 075	4 205	3 046	2 593

*Source:* General Police Directorate.





*Source:* General Police Directorate.

18. The number of cases reported under Article 183 of the Criminal Code (sexual assault on a person under the age of 15 years), Article 184 (violation of sexual integrity by abuse of position), Article 185 (abuse of prostitution), Article 201 of the Criminal Code (neglect and maltreatment of minors) and Chapter XXI of the Criminal Code (criminal offences against marriage, family and youth) in the period 2002-2005:

**Table 4**

**Number of reported cases**

Year	Number of reported cases			
	2002	2003	2004	2005
Article 183 of Criminal Code <sup>1</sup>	239	196	218	188
Article 184 of Criminal Code <sup>2</sup>	28	27	26	32
Article 185 of Criminal Code <sup>3</sup>	0	1	5	9
Article 187 Criminal Code <sup>4</sup>	7	14	14	36
Chapter XXI of Criminal Code <sup>5</sup>	389	743	383	477
Article 201 of Criminal Code <sup>6</sup>	225	252	210	242
Article 204 of Criminal Code <sup>7</sup>	0	0	0	0

*Source:* General Police Directorate.

<sup>1</sup> Sexual assault on a person under the age of 15 years.

<sup>2</sup> Violation of sexual integrity by abuse of position.

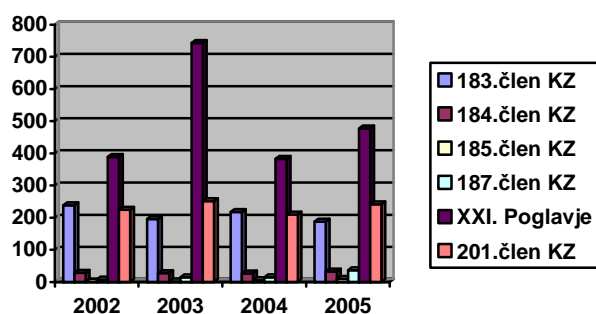
<sup>3</sup> Abuse of prostitution.

<sup>4</sup> Display, production, possession and distribution of pornographic material.

<sup>5</sup> Criminal offences against marriage, family and youth.

<sup>6</sup> Neglect and maltreatment of minors.

<sup>7</sup> Incest.



Source: General Police Directorate.

19. The number of reported criminal offences has increased over the past ten years. This increase in the number of reported cases is, in the opinion of experts, the result of increased public awareness, the fact that experts are better trained to recognize signs of abuse. It also reflects better coordination between the police and social services, schools, kindergartens, health care institutions and the fact that subsequently people or victims are more trusting of institutions.

20. The increase in reported criminal offences has not been followed by the number of condemnatory judgements, chiefly on account of an extremely complex procedure for taking evidence.

**Table 5**

**The reported, the indicted and the convicted in Slovenia, 2002-2005**

Year	2002		
	Number of criminal complaints	Number of indictments	Number of convictions
Article 183 of CC[1]	167	66	23
Article 184 of CC[2]	13	8	7
Article 185 of CC[3]	7	6	1
Article 187 of CC[4]	3	2	2
Chapter XXI of CC[5]			
Article 201 of CC[6]	186	81	55
Article 204 of CC[7]	-	-	-
Year	2003		
Article 183 of CC[1]	184	76	55
Article 184 of CC[2]	19	9	6
Article 185 of CC[3]	1	4	-
Article 187 of CC[4]	6	2	-
Chapter XXI of CC[5]			
Article 201 of CC[6]	214	92	59
Article 204 of CC[7]	-	-	-

Year	2004		
	Number of criminal complaints	Number of indictments	Number of convictions
Article 183 of CC[1]	136	59	43
Article 184 of CC[2]	9	4	1
Article 185 of CC[3]	5	4	2
Article 187 of CC[4]	9	4	2
Chapter XXI of CC[5]			
Article 201 of CC[6]	247	125	72
Article 204 of CC[7]	-	-	-
Year	2005		
Article 183 of CC[1]	142	58	42
Article 184 of CC[2]	12	6	4
Article 185 of CC[3]	15	6	-
Article 187 of CC[4]	3	2	2
Chapter XXI of CC[5]			
Article 201 of CC[6]	255	121	76
Article 204 of CC[7]	-	-	-

*Source:* Statistical Office of the Republic of Slovenia.

## Research

21. In 2003, the Ministry of Labour, Family and Social Affairs financed a survey entitled “Violence Against Women or How to Reach Zero Tolerance” carried out by the Institute of Medical Sciences of the Scientific Research Centre of the Slovenian Academy of Sciences and Arts (ZRC SAZU). The survey was an analysis of professional and research publications in the field of violence for the period of the previous five years (1998-July 2003). The existing technical and scientific literature was selected from the COBISS System under the entry *violence*. The resulting general database on violence contained 309 publications which we analysed according to: general indicators on the publication, perpetrators, victims, type and environment of violence.

22. IOM Ljubljana, in cooperation with the Peace Institute, carried out a “Survey on Trafficking in Human Beings to, from, and across Slovenia”. The purpose of this survey was to compile, examine, compare and evaluate a number of data on trafficking in human beings in Slovenia. The survey was financially supported by the US government. The survey results were published in a special report which represented also the first overall overview of this problem in Slovenia. The report in the form of a book was published in October 2003 and was presented to the representatives of the media at a special press conference. The results of the survey were also presented to various target groups on seminars organised as part of the project entitled *Capacity-Building in the Field of Prevention of Trafficking in Human Beings in Slovenia*.

23. Under the auspices of the organization “Save the Children”, the non-governmental organization Ključ participated, in the year 2002-2003, in a regional survey on child trafficking. A survey on child trafficking from, across and to, the Republic of Slovenia was carried out. Its purpose was to assess the situation related to child trafficking in Slovenia.

24. The Ministry of Labour, Family and Social Affairs co-financed a two-year survey entitled "Analysis of Domestic Violence in Slovenia", carried out by the Science and Research Centre of Koper of the University of Primorska. The survey was concluded in August 2006. It revealed that 23.7 per cent of respondents personally experienced domestic violence. Out of these persons, 73 per cent had been victims of domestic violence in the family in which they had grown up, and fewer in those families where they had lived as adults. Prevailing forms were psychological or emotional violence (66.5 per cent) and physical violence (63 per cent) while there was less economic violence - in terms of withholding money - and sexual violence (3.7 per cent). Violence therefore appears to be present in every fifth family in Slovenia, which matches the data of non-governmental organizations.

25. The Ministry of Labour, Family and Social Affairs financed the above survey for two reasons: 1) for its results to serve as a technical basis for the preparation of national policies to prevent domestic violence and 2) because Slovenia needed a comprehensive study into the issue of domestic violence covering, on the one hand, perception of violence as seen by citizens, and, on the other, the issues of media exposure of minors in cases of domestic violence.

26. In the survey, slapping and screaming was taken as the criterion of assessing violence against children. More than one half of respondents are aware of at least one family in which screaming at children is an ordinary way of communication. One third of respondents are aware of at least one family in which a child is slapped for punishment on a regular basis.

27. The report consisted of contributions by ministries and government services responsible for the implementation of the Protocol. The Human Rights Commission, too, participated in its compilation. The report was made available on the website (see below) of the Ministry of Labour, Family and Social Affairs and sent to non-governmental organizations covering this particular field ([http://www.mddsz.gov.si/si/zakoNo.daja\\_in\\_dokumenti/predpisi\\_v\\_pripravi/](http://www.mddsz.gov.si/si/zakoNo.daja_in_dokumenti/predpisi_v_pripravi/)).

## **II. PROHIBITION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY AND CHILD PROSTITUTION**

28. Under Slovenian penal legislation children enjoy protection against all criminal offences just like adult persons do. Their age and maturity may, however, be taken into consideration during the selection and the level of penalties imposed on the perpetrator as aggravating circumstance. The relevant legislation articles can be consulted in the annex to this report.

29. The Criminal Code (Ur. l. RS No. 95/04 - official consolidated text 1) contains provisions relating to the prohibition of sale of children, child pornography and child prostitution in the following articles: sexual assault on person under the age of fifteen years - Article 183; violation of sexual integrity by abuse of position - Article 184; abuse of prostitution - Article 185; presentation, manufacture, possession and distribution of pornographic material - Article 187; and trafficking in human beings according to Article 387.a of the Criminal Code. Under Slovenian legislation, perpetrators are considered as exclusively responsible for the above offences, and never their victims, i.e. children.

30. A person having sexual intercourse or performing any other sexual act with a person under the age of fifteen years will be punished for the criminal offence of sexual assault on a person under the age of fifteen years if in this specific case there exists manifest disproportion between

the maturity of the perpetrator and the victim (Paragraph 1 of Article 183 of the Criminal Code). This means that excluded from the criminal offence are instances of sexual intercourse consented to, as well as other sexual acts between young people of approximately the same age and level of maturity. Paragraph 2 of Article 183 of the Criminal Code provides for a more serious form of this criminal offence. These are cases of sexual intercourse and sexual acts with persons under the age of ten years, frail persons under the age of fifteen years, and cases of the rape of persons under the age of fifteen years (use of force or threat). The next more serious form of criminal offence is provided for in Paragraph 3. It deals with sexual intercourse or other sexual acts with persons under the age of fifteen years committed by a teacher, educator, guardian, adoptive parent, parent, priest, doctor or another person by abuse of position. Thus the qualificatory sign of this criminal offence is a special capacity of the perpetrator.

31. Article 184 of the Criminal Code penalizes the violation of sexual integrity by abuse of position, thus also sexual intercourse or other sexual act by coercion. Paragraph 1 provides for abuse of position as a criminal offence for sexual intercourse or other sexual acts with adult persons. Paragraph 2 provides for a more serious form of this criminal offence committed by abuse of position by a teacher, educator, guardian, adoptive parent, parent, priest, doctor or another person against a person between the age of fifteen years (for victims under the age of fifteen years see Paragraph 3 of Article 183) and eighteen years (age of majority). Abuse of prostitution is penalised under Article 185 of the Criminal Code that also defines sanctions for cooperation in the prostitution of another person. A more severe sentence is prescribed for cases in which the criminal offence of abuse of prostitution has been committed against a minor (person under the age of eighteen years).

32. Presentation of pornographic material to persons under the age of fourteen years is a criminal offence under Article 187 of the Criminal Code while Paragraph 2 of the same article prohibits and penalises persons who use minors (persons under the age of eighteen years) for the production of pornographic materials. The amendments of 2004 to the Criminal Code (KZ-B; Ur. l. RS No. 40/04), has added paragraphs 3, 4, and 5 to this criminal offence. Paragraph 3 defines as criminal offence any dissemination and possession with the purpose of dissemination. Paragraph 4 defines as a more serious form of criminal offence any abuse of a minor for the production of pornographic materials or dissemination of such materials if it is committed in the framework of a criminal association or as part of organised crime. Paragraph 5 provides for a compulsory seizure of pornographic materials depicting minors.

The issue of further necessary amendments, if any, to Article 187 of the Criminal Code will be studied during the preparation of subsequent extensive amendments to the Criminal Code.

33. With amendments to the Criminal Code in 2004 some modifications of the Criminal Code in the field of prostitution and trafficking in human beings entered into force. Trafficking in human beings was introduced as a new criminal offence - Article 387.a of the Criminal Code, prohibiting trafficking in human beings; Paragraph 2 of this article defines trafficking in minors as a more serious form of criminal offence.

### **Other criminal offences in the Criminal Code**

34. Maltreatment of children in the family is penalised under a separate article entitled “Neglect and Maltreatment of Juveniles” (Article 201 of the Criminal Code). The basic form of this criminal offence is neglect, while the qualified forms are various forms of treatment that harm the development of the child and constitute child abuse; to force a minor to perform excessive work or unsuitable work or to make a minor beg out of the perpetrator’s greed, maltreatment and torture of minors. According to Article 201 of the Criminal Code, also psychological violence is deemed a criminal offence; statutory definitions are also “maltreatment and torture” and “neglect”. However, No. cases have been encountered in the Slovenian court practice only with alleged mental violence of the parents in the criminal proceedings.

35. Illegal transplantation of parts of the human body is deemed a criminal offence under Article 191 of the Criminal Code, in particular the illegal work of doctors and those who serve as agents in the illegal transplantations of parts of the human body. A doctor who transplants illegally a part of the body may be sentenced to imprisonment from six months to five years. The amendments to the Criminal Code which took effect in 2004 have brought some modifications to the Criminal Code relating to trafficking in human beings - Article 387.a of the Criminal Code which, in Paragraph 1 of the said article, defines trafficking in human organs, human tissue or blood as a more serious form of criminal offence.

### **Limitation of criminal prosecution**

36. The rules relating to the limitation of criminal prosecution are defined in Articles 111 and 112 of the Criminal Code. The limitation of criminal prosecution depends on the sentence that may be imposed for a specific criminal offence in accordance with the Criminal Code. Important in connection with minors is the provision contained in Paragraph 3 of Article 111 of the Criminal Code which stipulates that the period of limitation of criminal prosecution cannot expire before the expiry of five years from the coming of age of the victim if the criminal offence in question was either against sexual integrity or against marriage, family and youth.

### **Criminal liability of legal entities**

37. Liability of legal persons for criminal offences is provided for in the Criminal Liability of Legal Entities Act (Ur. l. RS No. 98/04 - official consolidated text). This act determines the distinctive features of substantive criminal law and procedural law relating to legal entities, and defines criminal offences contained in the Criminal Code, for which legal entities are criminally liable. According to Article 25 of the Criminal Liability of Legal Entities Act, legal entities may also be criminally liable for criminal offences under Articles 185, 187 and 387.a of the Criminal Code.

### **Participation in criminal offence**

38. Article 22 of the Criminal Code also defines the punishability of the attempt to commit, and participation in, a criminal offence (Articles 25 to 29 of the Criminal Code).

## **Other measures and sanctions**

39. Protection of children in employment relationships is governed by the Employment Relationship Act (Ur. l. *RS* No. 42/02), of which Chapter VII “Special Provisions” deals with child labour of children under the age of fifteen years, apprentices, students, and undergraduates. The Employment Relationship Act prohibits child labour for children under the age of fifteen years (Paragraph 1 of Article 214 of the Employment Relationship Act). Child labour is exceptionally allowed subject to a special permit granted by the Labour Inspectorate. The issuance of the permit is subject to a special written application filed by the statutory representative of the child (parents, guardian, etc.).

40. A labour inspector may grant the permit for a child under the age of fifteen years for:

- Participation in film production
- Preparation and appearance in artistic performances and other works in the field of cultural, artistic, sports and advertising activities

A permit for light work or other activities may be granted to a child who is 13 or older, however, for a maximum of 30 days during school holidays.

41. According to Articles 8 and 10 of the Rules on issuing work permits for children under 15 years of age (Ur. l. *RS* No. 60/04), an inspector visits the employer prior to the issuance of the permit to assess whether the work in question might affect the child’s health, morals and development. If such an assessment cannot be performed, the inspector requests, in addition, an opinion from the relevant social work centre or the school advisory service prior to the issuance of the permit. The permit may be granted for a maximum of one year and remains in force for as long as conditions exist under which it has been issued. The existence of these conditions is checked by the labour inspector.

42. The meaning and definition of light work that may, under certain conditions, be performed by children of 13 let are defined in the Rules on the protection of health at work of children, adolescents and young persons (Ur. l. *RS* No. 82/03), in Article 3: “Light work that may be performed by a child of 13 under certain conditions is work which in its nature and with regard to work conditions in which it is performed is not harmful to the safety, health and development of the child and is not such as to adversely affect the child’s presence at school, his or her participation in vocational guidance programmes approved by the competent authority, or his or her ability to positively benefit from the education received.”

43. Articles 214 and 215 of the Employment Relationship Act provide a legal basis for the work of apprentices, students and undergraduates over the age of fourteen years, performed during the practical part of their training. Article 217 of the act guarantees, in all the above cases, the application of protective standards relating to working hours, breaks, rest and special protection of workers under the age of eighteen years, as well as provisions on liability for damages. The protection of young workers is also regulated in detail in the Employment Relationship Act.

44. The Labour Inspectorate supervises the implementation of provisions of the Employment Relationship Act. If an employer - legal entity - enables child labour for children under the age of fifteen years contrary to Articles 214, 215 and 217 of the Employment Relationship Act, such conduct is subject to a fine of at least SIT 1,000,000.00, while in the case of an employer - natural person - in the amount of at least SIT 500,000.

### **The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption**

45. In 1999, the Republic of Slovenia acceded to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The act ratifying the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Ur. l. RS No. 45/99 - International Treaties, No.14/99) was drafted by the Ministry of Labour, Family and Social Affairs as the central authority for the implementation of the Convention. In cooperation with social work centres, other authorised organizations, Ministry of the Interior and other relevant ministries, it ensures implementation of the Convention. A bilateral agreement on intercountry adoption is currently under preparation; it will form a basis for the conduct of adoption procedures with the Republic of Macedonia. The adoption procedures are defined in the Marriage and Family Relations Act.

## **III. PENAL/CRIMINAL PROCEDURE**

### **Jurisdiction**

46. The **Criminal Code applies to all persons**, regardless of their citizenship, who commit a criminal offence in the Republic of Slovenia, on board a domestic vessel or a domestic civilian or military aircraft, which is in detail regulated by Article 120 of the Criminal Code.

47. With respect to paragraph (2) of Article 4 of the Optional Protocol, the Slovenian Criminal Code is applicable to all citizens of the Republic of Slovenia even when they commit a criminal offence in a foreign country in line with Article 122 of the Criminal Code. The issue of the victim's citizenship is important only when the perpetrator is a foreigner. This is regulated by Article 123 of the Criminal Code.

### **Extradition procedure for defendants and convicted persons**

48. The procedure for extradition of defendants and convicted persons is governed by the Criminal Procedure Act. The extradition is requested and conducted on the basis of these provisions unless otherwise provided by an international treaty. Extradition is possible with respect to all criminal offences under the Criminal Code.

49. Statutory requirements for extradition are established by the competent court and the case is afterwards decided on by the minister responsible for justice. The minister responsible for justice does not allow extradition when the person concerned exercises his/her right to asylum in the Republic of Slovenia, if this is a military or political criminal offence, or when an international treaty is not concluded with the country requesting extradition. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography may serve as a legal basis for extradition. The minister responsible for



justice may refuse extradition (but this is not mandatory) if for these criminal offences the Criminal Code stipulates the sentence of imprisonment of up to three years or if a foreign court passed a sentence of imprisonment of up to one year, but considering the prescribed penalties for criminal offences under Articles 185, 187 and 387a of the Criminal Code this option may not be exercised by the minister responsible for justice.

50. In principle the Republic of Slovenia does not extradite its own citizens but the above-mentioned Article 122 of the Criminal Code allows prosecution of such a suspect and trial in the Republic of Slovenia.

51. With respect to the request for statistical data on the number of extraditions on the grounds of criminal offences defined by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography we wish to explain that the Republic of Slovenia does not keep a record of extraditions according to an individual criminal offence but according to countries requesting extradition or countries from which the Republic of Slovenia requested extradition. Therefore, we cannot send you the said data on extraditions concerning criminal offences under Articles 185, 187 and 387a of the Criminal Code.

52. The procedure for extradition on the basis of “classic” international treaties takes about 4 to 6 months. The procedure pursuant to the European Arrest Warrant takes a few days if the person concerned consents to being extradited or about one month if this person does not consent.

#### **Confiscation of goods and grounds for confiscation of pecuniary gain**

53. The Criminal Code defines material and legal aspects of confiscation. Article 69 provides rules for confiscating items used for a criminal offence or intended for such use or resulting from a criminal offence. Articles 95-98 of the Criminal Code provide rules for confiscating proceeds of a criminal offence or proceeds acquired due to a criminal offence.

54. In accordance with the Criminal Procedure Act confiscation of proceeds of crime is imposed by a court in a judgement with which the defendant is found to be guilty. Proceeds of a criminal offence or proceeds acquired due to a criminal offence are determined ex officio in a criminal procedure; during the procedure courts and other competent bodies before which the criminal procedure is pending must gather evidence and investigate circumstances relevant for establishing proceeds. The court defines the amount of proceeds of crime at its own discretion if its determination would be linked to unreasonable difficulties or if this would delay the procedure considerably.

55. The procedure for provisional seizure in a preliminary procedure or during a criminal procedure is stipulated by the Criminal Procedure Act (Articles 498, 502, 502.a, 502.b, 502.c, 502.č and 502.d).

#### IV. PROTECTION OF THE RIGHTS OF CHILD VICTIMS

##### **The treatment of child victims in the criminal procedure**

56. In accordance with the provisions of the Criminal Procedure Act, the aggrieved party (victim) shall have the right to point out all the facts and propose consideration of the evidence relevant for establishing a criminal offence, tracing the perpetrator and specifying his claim for indemnification. At the main hearing, the victim has the right to propose evidence, pose questions to the plaintiff, witnesses and experts, make comments and give explanations regarding their testimonies and make any other statements as well as other suggestions. The victim shall also have the right to review the files and examine the material evidence. The investigating judge and the president of the court shall have to acquaint the victim and the private prosecutor with the mentioned rights.

57. If the victim is a minor or a person devoid of legal capacity, his/her legal representative shall be entitled to make any statements and undertake any actions that the victim has the right to make or undertake according to the present law. The victim, who has reached the age of 16, is entitled to make his own statements and undertake procedural acts.

58. In criminal proceedings concerning criminal offences against sexual inviolability (including criminal offences under Articles 185 and 187 of the Criminal Code of the Republic of Slovenia), criminal offences of parental neglect and maltreatment under Article 201, and criminal offence of trafficking in human beings under Article 387a of the Criminal Code, an authorised person (legal counsel) must be appointed to a minor throughout the criminal procedure in order to attend to the minor's rights, particularly those related to the protection of his integrity during the court hearing and to the enforcement of a pecuniary claim. A minor victim, who has not got a legal counsel yet, is appointed one by the court *ex officio* from among the attorneys.

59. In accordance with the provisions of the Criminal Procedure Act, in the course of investigation the investigating judge may order that the defendant be removed from the hearing if the witness (e.g. a criminal offence victim as witness) is not willing to give a testimony in his/her presence, or if the circumstances indicate that the witness will not speak the truth in his/her presence, or in the case that court identification should be carried out after examination of the witness. The defendant must not be present at examination of a witness under 15 years of age, who is a victim of a criminal offence against sexual inviolability, criminal offence of parental neglect and maltreatment and criminal offence of trafficking in human beings.

60. If a person under 14 years of age is being heard as witness at the main hearing, the competent panel may decide that the public be excluded from the main hearing. Persons under 15 years of age, who have been victims of criminal offences against sexual inviolability, criminal offence of parental neglect and maltreatment and criminal offence of trafficking in human beings, may not be exposed to direct examination at the main hearing. In such cases, the court must adjudicate that the record of a previous hearing of such persons be read out.

61. At the trial, a plaintiff who is investigated as a witness should be asked whether he/she has intention of claiming for indemnification in the criminal procedure. The indemnification claim is dealt with in a criminal procedure, provided that this does not prolong the procedure excessively. Otherwise, the plaintiff with an indemnification claim shall be referred to civil proceedings.

62. When investigated, a minor, particularly if he/she is a victim of a criminal offence, should be treated with consideration in all phases of the criminal procedure in order to avoid that the investigation should adversely affect his/her mental condition. If necessary, the interrogation of a minor shall be carried out by the help of a social pedagogue or some other expert.

63. When the disclosure of certain personal data or complete identity of a particular witness would entail a severe risk to his/her life or body, or to the life or body of his/her close relative or other persons close to the witness, the court may order that one or more protective measures to conceal the identity of such witness be used for the purpose of the trial in order to protect the witness and those close to him/her. The investigating judge shall, upon the proposal of the state prosecutor, witness, plaintiff, defendant, their statutory representatives and attorneys or *ex officio*, order the mentioned protective measures by a written decision. In the course of the main hearing, the president of the court shall have the competence to order such measures.

64. Protection as defined in the former paragraph of this report refers solely to concealment of the identity of endangered witness for the purpose of hearing procedure and during the main hearing. Pursuant to the provisions of the Criminal Procedure Act, the highest possible level of personal security for such witnesses should also be provided during the pre-trial procedure and after the completed criminal procedure. Such protection shall also be ensured for the close relatives and other persons close to the endangered witness. The procedure and conditions for the inclusion in the protection programme and for the termination of protection programme, competent authorities, urgent protection measures and protection programme measures are laid down in the Witness Protection Act (Ur. l. RS No. 113/05).

### **Compensation to crime victims**

65. In accordance with the **Act on Compensation to Crime Victims** (Ur. l. RS No. 101/05), the plaintiff has the right to claim compensation for the damage suffered due to a criminal offence. The compensation may be claimed by a victim of a violent and intentional criminal act resulting in a bodily injury, damage to health or mental suffering, provided that the victim has not received a compensation on some other grounds (e.g. from the offender). According to the Criminal Code, an intentional aggressive act is an act with characteristics of criminal offence, which may be committed deliberately, by force or breach of sexual inviolability, and which is punishable by a sentence of imprisonment of more than one year.

#### **A. Other protective measures**

##### **1. Obligation of reporting**

66. In accordance with the Criminal Procedure Act, all the state bodies and organizations with public authorization shall be obliged to report criminal offences for which a perpetrator is prosecuted *ex officio*.

67. According to the first paragraph of Article 286 of the Criminal Code, everyone who is aware of a perpetrator of a criminal offence, punishable by a sentence of imprisonment of thirty years (e.g. murder), or who knows that the offence was committed, may be himself/herself considered an offender.

68. A person failing to report such criminal offence is not subject to sanctions in the case that he/she is a marital or extra-marital partner, an immediate relative, brother, sister, adopter, adoptee, legal counsel, physician or confessor of the perpetrator.

## **2. Protection of professional secrecy in criminal offence proceedings where the victim is a minor**

69. In a criminal proceedings witnesses are bound to give testimony and tell the truth (unlike the defendant, who may remain silent and is not bound to tell the truth). Due to familial or similar special relationships between the defendant and an individual witness the Criminal Procedure Act lists taxatively the circle of persons granted legal benefit to decide for themselves whether they are going to give a testimony - as privileged witnesses (items 1 - 4 of the first paragraph of Article 236 thereof). Until 2003, such legal benefit had also been granted to the persons who, being bearers of certain professions, were bound to protection of professional secrecy (lawyers, physicians, social workers, psychologists or others - item 5 of the first paragraph of Article 236 thereof). Referring to professional secrecy, they had been able to use that legal benefit regardless of the nature or severity of the criminal offence. Pursuant to the amended Criminal Procedure Act of 2003 and 2005 (ZKP-G, Ur. I RS *Uradni list RS*, No. 101/05), protection of professional secrecy may not be claimed as a reason to withdraw as witness, if the subject of criminal proceedings are criminal offences from the third paragraph of Article 65 thereof (different forms of sexual abuse of a minor and violence against children in the family - Article 201 of the Criminal Code, and criminal offence of trafficking in human beings under Article 387 thereof).

## **3. Treatment of child victims in the police procedures**

70. In 2004, the police prescribed the procedures to be followed in the treatment of victims. Apart from the treatment approach, the guidelines define which information the police officer is obliged to supply to the injured party: information on the police officer in charge of the particular case, on the course of police proceedings and the possibilities and forms of help and support offered by governmental and non-governmental organizations. Upon a request of the injured party/victim the information shall also be provided in writing. In the event that the victim of a criminal offence is a child, the information shall be forwarded to the legal representative or a social service.

## **4. Appropriate support services to child victims, including psychosocial, psychological and other support**

71. The social protection policy is defined in the Resolution on the national social assistance programme 2006 - 2010 (Ur. I. RS, No. 39/06). The Resolution in its premises for the development of social welfare networks, promoted and co-financed by the state until 2010, defines the public, development and experimental programmes that may cover children - victims of trafficking in human beings, child prostitution and child pornography:

- (a) Public programmes
- (i) The network of specialised prevention programmes with the overall framework capacity of 50 placements for short-term day and full-time care for children deprived of normal family life and children and adolescents experiencing violence or sexual abuse.
  - (ii) The network of specialised therapeutic programmes providing psychosocial assistance to children, adults or families aiming at resolving inter-personal problems - one specialist per approximately 50,000 inhabitants.
- (b) Development and experimental programmes
- (i) The network of teams for telephone counselling for children, adolescents and other persons in personal distress. Establish at least three different programmes of telephone counselling for different age groups for the entire state territory. Counselling for persons in distress, children and women victims of violence.
  - (ii) The network of psychosocial support centres for victims of violence to ensure regional coverage by statistical regions.

72. The fundamental act in this area is the Social Assistance Act (Ur. l RS No. 3/07 - official consolidated text 2, 23/07 - popr., 41/07 - popr., 114/06 - ZUTPG), which specifies several types of social services that should be available to assist individuals, their families and groups in coping with personal distress, as well as to provide care, protection, education and training. The aim of providing social services is to prevent and eliminate social distress and difficulties. Providers are public social welfare institutions (social work centres, crisis centres functioning within social work centres) and NGOs. In the frame of social work centres there are 12 intervention services covering particular regions and offering continued assistance in case of family violence, and crisis centres for young people as a means of protection of the youth against violence. Crisis centres are intended to provide children encountering different forms of acute social difficulties with full-time care for a period of up to three weeks. In the case of family violence, the child can come to the centre alone, even without his/her parents' consent. During this period, a more permanent form of the child's protection and an integrated approach to his/her treatment should be sought. Aid for children is free of charge and shall be financed by the state. Crisis centres are concerned with children at risk, thus primarily offering protection and personal help to children, adolescents or their families in terms of one-day care or aid with the possibility of a short-term accommodation, counselling and arrangements for their return to home environment and family. In 2005, there were six such crisis centres functioning as independent units of the social work centres.

73. Apart from the above services, the Ministry of Labour, Family and Social Affairs is co-financing aid schemes intended for the children of the victims of violence. This, in 2006, the Ministry co-financed the following programmes:

- Zavod EMMA, Center za pomoč žrtvam nasilja (EMMA institute, support centre for victims of violence), SIT 5,703,447.00 (23.800,06 EUR)

- Zveza prijateljev mladine Slovenije, Nacionalna mreža TOM - telefonsko svetovanje (The Friends of Youth Federation of Slovenia, national network TOM - telephone counselling), SIT 6,634,835.00 (27.686,68 EUR)
- Društvo Center za pomoč mladim, Svetovalnica za mlade s podpornimi programi (consultation office with support programmes for the youth), SIT 16,543,335.00 (69.034,11 EUR)
- Frančiškanski družinski inštitut, Terapevtska pomoč pri čustvenem, fizičnem in spolnem nasilju (Franciscan family institute, Therapeutic support in emotional, physical and sexual violence), SIT 23,047,267.00 (96.174,54 EUR)
- Društvo Ženska svetovalnica, Psihosocialna pomoč ženskam, žrtvam nasilja (Society Consultation office for women, psychosocial assistance to women-victims of violence, SIT 5,703,447,00 SIT (59.987,30 EUR)
- Društvo za nenasilno komunikacijo (Society for non-violent communication) as follows: individual counselling work and support to the work of therapist; telephone information and counselling services for persons who have experienced violence; individual counselling and therapy for violence perpetrators, and telephone counselling and information, individual counselling for adolescents and children who have experienced violence, SIT 14,375,357.00 (59.987,30 EUR); and the programme of the Society against sexual abuse, i.e. the programme entitled "Integrated user support in the event of sexual abuse and other forms of sexual violence", in the amount of SIT 3,251,966.00 (13.570,21 EUR)

74. Victims of trafficking in human beings, including children, are covered by the project of care for victims of trafficking in human beings. In 2005/2006, the project was carried out by the Society "Ključ" and was co-financed by the Ministry of Labour, Family and Social Affairs, the Ministry of the Interior and the Ministry of Justice. The Society "Ključ" offered those in need aid in the form of personal and telephone counsels, short-term psychosocial support, help in re-establishing contacts with the family, contacting the relevant authorities in the country of origin where they returned, and in contacts with the Slovenian police. The mentioned forms of aid were provided in the Society's offices, crisis centres, in the facilities of the Centre for Foreigners of the Ministry of the Interior, as well as on the site. In June 2006, the Slovene Caritas joined the activities for solving the problem of trafficking in human beings by the project of care for victims of trafficking in human beings. They submitted their application to the tender launched by the Ministry of Labour, Family and Social Affairs, the Ministry of the Interior and the Ministry of Justice, and - having met the tender criteria - were selected to carry out the programme of care for the victims of trafficking in human beings. Apart from providing experts with long-standing experience, the Slovene Caritas has opened a safe house, the so-called safe place, where they offer all the necessary care, food, accommodation and professional assistance to the victims that turn up as a result of police intervention or on their own. Besides that, there are three locations available for emergency placements, where such short-term accommodations can be arranged. In the period from 22 May 2006 to 31 December 2006, there were no cases of children - victims of trafficking in human beings.

75. The counselling services, provided for violence victims by social work centres are free of charge. The same applies to the counselling services within the programmes of NGOs that do not provide accommodation.

76. In specific situations, and particularly when the child's healthy development is put at risk or when such a measure is required for the benefit of children, a social work centre may propose child protection measures, such as withdrawal of parental rights and entrusting the child into upbringing and care to another person or institution. Article 6 of the Marriage and Family Relations Act - official consolidated text/ZZZDR-UPB1 (Ur. l. RS No. 69/04 - officially consolidated text 1) lays down that the state shall ensure protection of minors always when their healthy development is put at risk and when this is required for some other benefit of the child. Should parents fail to meet their obligations arising from the parental right, the latter shall be restricted by measures of the competent social work centre.

77. The healthcare service too plays an important role in the care for children's healthy development as well as in the prevention, early detection and treatment of children at risk. The prevention and detection of violence against children falls within the scope of the activities of health care service on the primary level, such as postnatal visits to families with the newborns by a nurse from the community nursing service as well as preventive examinations in the pre-school and school period, which may be regarded as psychosocial support to the family, and as means of detection of the families and children at an increased risk of violence and of those already experiencing violence.

78. A system of organized regular and free preventive healthcare on the primary level, which is universally accessible to all children and adolescents up to 19 years of age, is available within the network of public healthcare service. The selected personal physician for this sensitive population is a specialist-paediatrician for children up to completed 6<sup>th</sup> year of age, and specialist in school medicine for schoolchildren and adolescents, which ensures a comprehensive as well as highly professional and quality approach to dealing with children.

79. Within the healthcare service, there are also pedopsychiatric departments and outpatient clinics (University Hospital of Paediatrics Ljubljana, Health Centre Maribor, Clinical Department for Mental Health Ljubljana), which deal with emergency situations in paedopsychiatry, including child abuse and posttraumatic stress disorder.

80. In Slovenia, there are institutions for professional assistance, which link the areas of health, education and social care, such as counselling centres for children, adolescents and parents in Ljubljana, Maribor and Koper. The counselling centres offer professional assistance to individuals who have experienced a severe trauma, violence or sexual abuse.

## **V. PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

81. In 2004, the Government of the Republic of Slovenia adopted an Action plan of the inter-ministerial Working Group on combating trafficking in human beings 2004-2006 (Anti-Trafficking Action Plan), as well as amendments to the Action plan thereof, allocating over a 100 million SIT (more than 417.293,61 EUR) for those activities. By adopting the Anti-Trafficking Action Plan for the year 2007 at its 84<sup>th</sup> regular session on 27 July 2006, the

Government made a commitment to promote further implementation of certain existing projects as well as to develop new ones and allocate 26,300,000 SIT (109.747,96 EUR) for this purpose. Both action plans also comprise projects intended for children victims of trafficking in human beings, including the prevention, research and education in this area. ([http://www.vlada.si/delo\\_vlade/projekti/boj\\_trgovina\\_z\\_ljudmi](http://www.vlada.si/delo_vlade/projekti/boj_trgovina_z_ljudmi)).

82. In Slovenia, the project SAFE-SI has been launched within the framework of the Action plan on safer use of the Internet (1999-2004), which was financed by the European Commission (Directorate-General for Information Society and Media). The aim of the project is to establish a National Focal Point for raising awareness on the safe use of Internet for children and adolescents in Slovenia. The project carried out by the Faculty of Social Sciences and ARNES falls within the scope of public awareness campaigns targeted at parents, teachers and children. (<http://hotline.safe.si>). Since the safe use of Internet still remains a priority of the programmes of the European Commission, the European Telecommunication Council for the protection against harmful internet contents has already upgraded the programmes for safe use of Internet with a new programmes under the title "Safer Internet Plus 2005-2008". It is intended to promote a safer use of the Internet and new web technologies, particularly for children, as to fight against illegal and harmful content, unwanted by the final user. The scope of programme activities has been extended to new web technologies, including mobile and wideband content, web games, P2P exchange and all forms of real-time communication.

83. The Government of the Republic of Slovenia, at its 91<sup>st</sup> regular session on 5 October 2006, laid down the text of the Programme for Children and Adolescents 2006-2016 (programme appendix is a summary of the situation analysis of the status of children and youth in Slovenia), laying down the goals and strategies of the Republic of Slovenia in the area of protection against neglect, violence and abuse of children in the Republic of Slovenia in the period 2006-2016 under the chapter "Protection of children and youth against neglect, violence and abuse". A separate chapter is dedicated to mass media, information and the participation of children and youth.

84. Several programmes are carried out with the aim to prevent violence and ensure a more effective aid in the case of violence against children. The project entitled "We, the grownups, are here to help you" is carried out by the Ministry of Labour, Family and Social Affairs in cooperation with the Ministry of Education and Sports. On the one hand, the project consists of printed materials, while on the other, it operates through a newly set up anonymous and free blueline phone for children experiencing violence, the costs being covered by the Ministry of Labour, Family and Social Affairs. Within the framework of the project, the Ministry of Labour, Family and Social Affairs prepared an information leaflet on identifying violence and had it distributed among all primary school children in the country (180,000 copies). In the case of violence, children and adolescents can call to the free anonymous blueline phone 080-1552). Further, the Ministry of Labour, Family and Social Affairs is financing prevention programmes against abuse and trafficking in human beings ("CAT" and "Vijolica").

85. The police has been carrying out several projects regarding the prevention of violence against children, intended for preschool children and schoolchildren of junior primary school cycle, such as the project "The Police for Children" and "Collect Your Courage and Tell", the latter being intended for raising the awareness of primary- and secondary-school children, their parents and teachers.



86. Using an inter-subject, subject and comprehensive-education approach, the Ministry of Education and Sports carries out the programmes of education on human and children's rights. The aim is to enhance the knowledge of children and youth about human and children's rights and point out the role of school in this area. The education is intended for teachers as well. Pupils learn about human and children's rights through inter-subject integration within the subjects "*civic education and ethics*", "*geography*", "*religions and ethics*", "*history*" etc., and through subject integration within the subjects "*civic education and ethics*", "*civic culture*" etc. The integrated education approach foresees that schools' annual plans shall include activities and projects that systematically strengthen the knowledge of children and youth about human rights. Apart from that, there are several projects where pupils learn to respect human rights (e.g., within the framework of ASP-network of UNESCO schools, through the tendered research topics under the "Hidden Treasure" project, by participating in the "Healthy School" project). Education of teachers on the topic of human and children's rights is carried out through regular seminars organized by the Educational Research Institute and the National Education Institute of the Republic of Slovenia. Human rights are integrated into tenders in the area of education within target research programmes financed by the Ministry of Education and Sports. The Ministry of Education and Sports also participated in the preparation of didactic materials (posters on human rights), organized or co-organized a number of consultations including the topic of human rights, among these an assembly of Slovenian teachers of history in March 2006, which was dedicated to the teaching of human rights within the subject of history. Furthermore, an organizing committee, headed by the Minister, was established at the Ministry of Education to manage the project of "Teaching the human rights and history 2006-2007".

## **VI. INTERNATIONAL COOPERATION AND INTERNATIONAL DEVELOPMENT AND HUMANITARIAN ASSISTANCE**

### **International cooperation**

87. In 2005, the Republic of Slovenia hosted the Regional United Nations consultation on violence against children for Europe and Central Asia, which took place from 5 to 7 July 2005 in Ljubljana. Adopted at the meeting was the final document of the regional consultation Ljubljana conclusions - act now to stop violence against children. In the document the meeting participants agreed:

- To develop and implement strategies for the prevention of violence against children in all the spheres
- And therefore adopt appropriate legislative measures
- To attach great political importance to the prevention of violence against children, and to develop public information campaigns
- To strengthen all the capacities for the detection of violence and for helping children - victims of violence
- To aim at detecting and regularly monitoring the forms of violence, and to assess the effectiveness of the violence prevention measures adopted

- To make sure that the measures for the protection of victims are effective, timely and children-friendly
- To ensure education on children's rights
- To strengthen the international and cross-border cooperation for the prevention of violence against children and for the detection of perpetrators of criminal offences against children
- To enable children and youth to take a more active part in dealing with violence

Discussions at the Regional United Nations consultation on violence against children, which is the last of the nine consultations having taken in different parts of the world, represent the contribution of Europe and Central Asia to the elaboration of an in-depth global United Nations study on violence against children.

88. The foundation "Skupaj" (Together), the Ministry of Foreign Affairs and the Ministry of Work, Family and Social Affairs hosted the conference "*Prevention of violence against children and human security*" from 30 November to 2 December 2006 at Brdo pri Kranju. The aim of the conference was to present the UN study on violence against children.

### **International development and humanitarian assistance**

89. As Slovenia joins the group of developed countries, a more intensive participation in the international cooperation for development and (mutual) assistance becomes one of the strategic guidelines of the Slovenian foreign policy. Apart from ensuring public safety, this promotes the establishing of democratic governance, exercising of human rights and taking steps in the direction of sustainable economic, social and environmental development. The activities are also aimed at achieving fair globalization, which is a prerequisite for the reduction of disagreements and disproportions resulting from differences in the state of development. Slovenia, being a developed country and co-creator of the fundamental UN documents and other international conventions in this area, has committed itself to implementing the goals adopted by the international community.

90. In the years 2002 and 2003, Slovenia destined between 0.07 and 0.08 per cent of gross national income for international developmental cooperation, in the year 2004 this rate being 0.1 per cent of GNI, some of it for children - victims of armed conflicts. Presently, 0.11 per cent, of GDP is intended for this purpose. At the EU Council session in June 2005, the Republic of Slovenia committed itself to dedicating at least 0.17 per cent of .GDP for development cooperation (ODA) until 2010, and 0.33 per cent till 2015. Thus, it will achieve the set target and gradually start increasing the percentage of GDP for the official development aid (ODA).

### **International treaties**

91. In the area of international legal aid in criminal matters the Republic of Slovenia is bound by the following multilateral treaties:

- (a) Convention on the Transfer of Sentenced Persons (Ur. l. RS No. 44/93);
- (b) European Convention on Extradition and both Additional Protocols (Ur. l. RS No.79/94);
- (c) European Convention on Mutual Assistance in Criminal Matters with the Additional Protocol (Ur. l. RS 25/99, 13/01).

The Republic of Slovenia is further bound by the following conventions containing provisions on the international legal aid in criminal matters:

- (a) European Convention on the Suppression of Terrorism, of 27 January 1977 (Ur. l. RS No. 96/00);
- (b) Council of Europe Convention on laundering, tracing, seizure and confiscation of proceeds of crime, of 8 November 1990 (Ur. l. RS No. 41/97);
- (c) Convention on combating bribery of foreign public officials in international business transactions, of 17 December 1997 (Ur. l. RS - No. 1/01);
- (d) Criminal Law Convention on Corruption, of 27 January 1999 (Ur. l. RS No. 26/00);
- (e) United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 19 December 1988 (Ur. l. SFRJ (Official Gazette of the Social Federative Republic of Yugoslavia) - International Treaties, No. 14/90) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6 July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93)).

92. In the area of international legal aid in civil matters the Republic of Slovenia is bound by the following multilateral treaties:

- (a) Hague Convention on Civil Procedure, of 1 March 1954 (Ur. l. SFRJ - Appendix No. 6/62) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6 July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93));
- (b) Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (Ur. l. SFRJ - Appendix No. 10/62) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and

Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6 July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93));

(c) Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions, of 5 October 1961 (Ur. l. SFRJ - Appendix No. 10/61) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6 July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93));

(d) Convention on the Law Applicable to Traffic Accidents, of 4 May 1971 (Ur. l. SFRJ - Appendix No. 26/76) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6. July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93));

(e) Convention on the Law Applicable to Products Liability, of 2 October 1973 (Ur. l. SFRJ - Appendix No. 8/77) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6. July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l. RS No. 7/93));

(f) Convention on International Access to Justice, of 25 October 1980 (Ur. l. SFRJ - Appendix No. 4/48) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6. July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l., RS - No. 7/93));

(g) Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed on 10 June 1958 (Ur. l. SFRJ - International Treaties, No. 11/81) to which Slovenia succeeded with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, Ur. l. RS, 1/91-I, and the Act notifying succession to United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency, (Ur. l. RS, Nos. 9/92, 3/93, 9/93, 5/99) which was deposit with the Secretary-General of the United Nations on 6. July 1992 who confirmed the succession as of 25 June 1991 (Notice of the Ministry of Foreign Affairs (Ur. l. RS No. 7/93));

(h) European Convention on Information on Foreign Law, of 7 June 1968 (Ur. l. RS - No. 20/98);

(i) The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (Ur. l. RS No. 23/93).

International legal assistance in civil and criminal matters is also regulated by several bilateral agreements with individual countries.

93. Other international treaties that bind the Republic of Slovenia:

(a) ILO Minimum Age Convention, (1973) No 138 (Ur. l. SFRJ - International Treaties No 14/82) to which Slovenia succeeded with the Act notifying succession to UNESCO Conventions, International Multilateral Air Traffic Agreements, ILO Conventions, IMO Conventions, Customs Conventions and certain other international multilateral agreements (Ur. l. RS No. 54/92) (Ur. l. SFRJ - International Treaties, No. 11/81); came into force on 14 November 1992 by succession;

(b) Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Ur.l. RS No. 21/01));

(c) European Convention on Cybercrime (Ur. l. RS No. 62/04));

(d) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Ur. l. RS No. 42/04).

**Annex**

**I. ARTICLES FROM THE CRIMINAL CODE AND  
THE CRIMINAL PROCEDURE ACT**

**CRIMINAL CODE<sup>1</sup> (KZ)<sup>2</sup>**

**Sexual assault on a person, younger than fifteen years**

**Article 183**

(1) Whoever has sexual intercourse or performs any other sexual act with a person of the opposite or same sex who has not attained the age of fifteen years and there is also an obvious disproportion between the maturity of the perpetrator and a victim,

shall be punished by imprisonment of one up to eight years.

(2) Whoever commits an act from the preceding paragraph with a person who has not attained the age of ten years or with a frail person who has not attained the age of fifteen years or by using force or threatening with imminent attack on life or body,

shall be punished by imprisonment of at least three years.

(3) A teacher, educator, guardian, adoptive parent, parent, priest, medical doctor or any other person who through the abuse of his position, has sexual intercourse or performs any sexual act with a person who has not attained the age of fifteen years and which is entrusted to him to teach, up bring, protect or care for,

shall be punished by imprisonment of one up to ten years.

(4) Whoever, under circumstances under the first, second or third paragraphs, violates in any other manner the sexual integrity of a person, that has not attained the age of fifteen years,

shall be punished by imprisonment of up to five years.

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<sup>1</sup> Official Gazette of the Republic of Slovenia, Nos. 63/94, 70/94 - correction, 23/99, 40/2004 and 95/2004 - officially consolidated text 1. The official title of this Code since 23 April 1999 is only "Criminal Code", until then it was the "Criminal Code of the Republic of Slovenia". Criminal Code is in Slovene "Kazenski zakonik".

<sup>2</sup> The official acronym of this Code in Slovene language is KZ.

### **Violation of sexual integrity by abuse of position**

#### **Article 184**

(1) Whoever, by abusing his position, induces his subordinate or dependent person of the same or different sex to have sexual intercourse with him or to perform or submit to any other sexual act,

shall be punished by imprisonment of up to five years.

(2) A teacher, educator, guardian, adoptive parent, parent or any other person who through the abuse of his position has sexual intercourse or performs any other sexual act with a person above the age of fifteen whom he is entrusted to teach, educate, protect or care for,

shall be punished by imprisonment of one up to eight years.

### **Abuse of prostitution**

#### **Article 185**

(1) Whoever participates for exploitative purposes in the prostitution of another person or instructs, obtains or encourages another person to engage in prostitution with force, threat or deception,

shall be punished by imprisonment of three months up to five years.

(2) If an offence from the preceding paragraph is committed against a juvenile, against more than one person or as part of a criminal association,

the perpetrator shall be punished by imprisonment of one up to ten years.

### **Presentation, manufacture, possession and distribution of pornographic materials**

#### **Article 187**

(1) Whoever sells, presents or publicly exhibits or enables in another manner to a person under 14 years of age documents, pictures, audiovisual or other items of a pornographic nature, or shows them a pornographic performance,

shall be punished by a fine or imprisonment up to two years.

(2) Whoever abuses a minor in order to produce pictures or audiovisual or other items of a pornographic nature, or uses them in a pornographic performance,

shall be punished by imprisonment of six months up to five years.

(3) Whoever produces, disseminates, sells, imports, exports or offers in another manner pornographic material depicting minors or possesses such material with the intention of producing, disseminating, selling, importing, exporting it or supplying it in any other manner, shall be subject to the same punishment.

(4) If an offence from the second or third paragraphs of this Article was committed within a criminal association for the commission of such criminal offences,

the perpetrator shall be punished by imprisonment of one up to eight years.

(5) Pornographic material from the second, third and fourth paragraphs of this Article shall be confiscated or its use adequately disabled.

### **Illegal transplant of parts of human body**

#### **Article 191**

(1) A doctor who, in not conforming to his code of professional conduct, removes a part of the human body from or transplants a part of the body to a patient and thereby causes a substantial impairment of the patient's health,

shall be punished by imprisonment of six months up to five years.

(2) A doctor who, for the purpose of performing a transplant, removes a part from the body of a patient prior to the death of that patient being established in the proper manner shall be punished to the same extent.

(3) A doctor who, for the purpose of performing a transplant, removes a part from the body of a patient or who transplants a part of the body of a patient without having obtained prior consent from the donor or the recipient of the part of the body or from their legal representatives,

shall be punished by imprisonment up to three years.

(4) The same punishment shall be imposed on anyone who without justification and for payment serves as an agent for providing transplants of parts of the body of a living or a deceased person.

### **Neglect and maltreatment of juveniles**

#### **Article 201**

(1) A parent, adoptive parent, guardian or other person who seriously breaches his obligation of support and education by neglecting a juvenile whom he is obliged to take care of,

shall be punished by imprisonment of up to two years.

(2) A parent, adoptive parent, guardian or other person who forces a juvenile to work excessively or to perform work unsuitable to his age, or who out of greed inures a minor to begging or other conducts prejudicial to his proper development or who maltreats him or who inflicts suffering on him,

shall be punished by imprisonment of up to three years.



## **Placing in a slavery condition**

### **Article 387**

(1) Whoever, in violation of the rules of the international law, places another person into slavery or a similar condition, or keeps another person in such a condition, buys, sells or delivers another person to a third party, or brokers the buying, selling or delivery of such person, or induces another person to sell his freedom or the freedom of the person he supports or cares after,

shall be punished by imprisonment of one up to ten years.

(2) Whoever transports persons held in the condition of slavery or in similar condition from one state to another,

shall be punished by imprisonment of six months up to five years.

(3) Whoever commits the offence referred to in the first or the second paragraphs of this Article against a minor,

shall be punished by imprisonment of at least three years.

## **Trafficking in persons**

### **Article 387.a**

(1) Whoever purchases another person, takes possession of it, accommodates it, transports it, sells it, delivers it or disposes with it in any other way, or acts as a broker in such operations, for the purpose of prostitution or other forms of sexual exploitation, forced labour, enslavement, servitude or trafficking in organs, human tissues or blood,

shall be punished by imprisonment of one up to ten years.

(2) If an offence from the preceding paragraph was committed against a minor or with force, threat, deception, kidnapping or abuse of a subordinate or dependent position, or with intention of forcing towards pregnancy or artificial insemination,

the perpetrator shall be punished by imprisonment of at least three years.

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

## **Limitation of criminal prosecution**

### **Article 111**

(1) Except where otherwise provided in the present Code, criminal prosecution is barred from taking place:

- (1) Twenty-five years from the committing of a criminal offence for which a prison sentence of twenty years may be imposed under the statute;
- (2) Fifteen years from the committing of a criminal offence for which a prison sentence exceeding ten years may be imposed under the statute;
- (3) Ten years from the committing of a criminal offence for which a prison sentence exceeding five years may be imposed under the statute;
- (4) Five years from the committing of a criminal offence for which a prison sentence exceeding three years may be imposed under the statute;
- (5) Three years from the committing of a criminal offence for which a prison sentence exceeding one year may be imposed under the statute;
- (6) Two years from the committing of a criminal offence for which a prison sentence of up to one year or a fine may be imposed under the statute.

(2) If more than one sentence is prescribed for a criminal offence, the time limit referring to the most severe sentence shall apply to the offence in question.

(3) In cases involving criminal offences against sexual integrity, marriage, family and youth committed against minors, and notwithstanding the provisions of the first paragraph of this Article, the period of statute of limitation for criminal prosecution may not elapse until five years have elapsed from the day the injured party attains maturity.<sup>3</sup>

## **The running and interruption of the statute of limitation of criminal prosecution**

### **Article 112**

(1) The running of the period of the statute of limitation of criminal prosecution shall start on the day the criminal offence was committed.

(2) The period of the statute of limitation shall be suspended for the time when the prosecution may not be initiated or continued under the statute.

(3) The period of the statute of limitation shall be interrupted by any procedural act performed for criminal prosecution of the perpetrator for committing a criminal offence.

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<sup>3</sup> Attains the age of 18 years.

- (4) The period of the statute of limitation shall also be interrupted when the perpetrator commits a further criminal offence of the same or greater gravity when such a period still runs.
- (5) After each interruption a period of the statute of limitation shall start anew.
- (6) Criminal prosecution shall be absolutely barred by reason of statute of limitation when twice as much period as required by the statute for [the application of] the statute of limitation to the criminal prosecution has run.

### **Criminal attempt**

#### **Article 22**

- (1) Anybody who intentionally initiated a criminal offence but did not complete it shall be punished for the criminal attempt, provided that such an attempt involved a criminal offence for which the sentence of three years' imprisonment or a heavier sentence may be imposed under the statute; attempts involving any other criminal offence shall be punishable only when so expressly stipulated by the statute.
- (2) The perpetrator shall be punished for the criminal attempt within the limits prescribed for a criminal offence or by a reduction [of punishment].

### **3. Participation in criminal offence**

#### **Complicity**

#### **Article 25**

If two or more persons are engaged jointly in the committing of a criminal offence by collaborating in the execution thereof or by the performance of any act representing a decisive part of the committing of the offence in question, each of these persons shall be punished according to the limits set down in the statutes for the offence in question.

#### **Criminal solicitation**

#### **Article 26**

- (1) Anybody who intentionally solicits another person to commit a criminal offence shall be punished as if he himself had committed it.
- (2) Anybody who intentionally solicits another person to commit a criminal offence, for which the punishment of three years' imprisonment or a higher punishment may be imposed under the statute, shall be punished for the criminal attempt even if the committing of such an offence had never been attempted.

## **Criminal support**

### **Article 27**

(1) Any person who intentionally supports another person in the committing of a criminal offence shall be punished as if he himself had committed it or his sentence shall be reduced, as the case may be.

(2) Support in the committing of a criminal offence shall be deemed to be constituted, in the main, by the following: counselling or instructing the perpetrator on how to carry out the offence; providing the perpetrator with instruments of crime; the removal of obstacles for the committing of crime; a priori promises to conceal the crime or any traces thereof; concealment of the perpetrator, instruments of crime or objects gained through the committing of crime.

### **Punishability of those soliciting or supporting a criminal attempt**

#### **Article 28**

If the perpetration of a criminal offence falls short of the intended consequence, those soliciting or supporting the criminal attempt shall be punished according to the prescriptions that apply to the criminal attempt.

### **Limits of criminal liability and punishability of accomplices**

#### **Article 29**

(1) The accomplice in crime shall be liable within the limits of his intent or negligence, while those soliciting and supporting are liable within the limits of their respective intents.

(2) If the accomplice, the person soliciting or the person supporting the criminal attempt has voluntarily prevented the intended criminal offence from being accomplished, his sentence may be withdrawn.

(3) Personal relations, attributes and circumstances on the basis of which criminal liability is excluded or sentence is withdrawn, reduced or extended, shall be taken into consideration only with respect to the accomplice, the person soliciting or the person supporting the criminal attempt in whom such relations, attributes and circumstances inhere.

## **Chapter Thirteen**

### **APPLICABILITY OF THE CRIMINAL CODE**

#### **Applicability of a criminal statute of the Republic of Slovenia to anyone committing a criminal offence in the territory of the Republic of Slovenia**

##### **Article 120**

(1) The criminal statute of the Republic of Slovenia shall apply to anyone who commits a criminal offence in the territory of the Republic of Slovenia.

(2) The criminal statute of the Republic of Slovenia shall also apply to anyone who commits a criminal offence on a domestic vessel regardless of its location at the time of the committing of the offence.

(3) The criminal statute of the Republic of Slovenia shall apply to anyone who commits a criminal offence either on a domestic civil aircraft in flight or on a domestic military aircraft irrespective of its location at the time of the committing of the criminal offence.

#### **Article 122**

The criminal statute of the Republic of Slovenia shall be applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad other than those specified in the preceding article and who has been apprehended in or extradited to the Republic of Slovenia.

#### **Applicability of criminal statute of the Republic of Slovenia to foreign citizens for criminal offences committed abroad**

#### **Article 123**

(1) The criminal statute of the Republic of Slovenia shall apply to any foreign citizen who has, in a foreign country; committed a criminal offence against the Republic of Slovenia or any of its citizens and who has been apprehended in the territory of the Republic of Slovenia or has been extradited to it, even though the offences in question are not covered by Article 121 of the present Code.

(2) The criminal statute of the Republic of Slovenia shall also be applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against it or any of its citizens and has been apprehended in the Republic of Slovenia and is not extradited to foreign country. In such cases, the court shall not impose a harsher punishment on the perpetrator than the punishment prescribed by the statute of the country in which the offence was committed.

#### **Confiscation of Objects**

#### **Article 69**

(1) Objects used or intended for use or gained through the committing of a criminal offence may be confiscated if they belong to the perpetrator.

(2) Objects under the preceding paragraph may be confiscated even when they do not belong to the perpetrator if that is required for reasons of general security or morality and if the rights of other persons to claim damages from the perpetrator are not thereby affected.

(3) Compulsory confiscation of objects may be provided for by the statute even if the objects in question do not belong to the perpetrator.

## **Chapter Seven**

### **CONFISCATION OF PECUNIARY GAIN ACQUIRED BY A CRIMINAL OFFENCE**

#### **Grounds for confiscation of pecuniary gain**

##### **Article 95**

- (1) Nobody shall retain the pecuniary gain acquired through or owing to the committing of a criminal offence.
- (2) The pecuniary gain shall be confiscated by a court decision, with which it was established according to the conditions laid down in the present Code, that the criminal offence was committed.

#### **Method of confiscation of pecuniary gain**

##### **Article 96**

- (1) Money, valuables and any other pecuniary gains acquired by the perpetrator through or owing to the committing of a criminal offence shall be confiscated. If the confiscation cannot be carried out, the perpetrator shall be obliged to pay a sum of money equivalent to the property. When appropriate, the court may allow the money to be paid by instalments, whereby the period of payment may not be longer than two years.
- (2) Property gained through or owing to the committing of a criminal offence shall also be confiscated from persons to whom it has been transferred free of charge or for a sum of money that does not correspond to its actual value if such persons knew or could have known that this property had been gained illegally. If the property has been transferred to close relatives, a spouse, an adoptive parent or an adopted child, it shall be confiscated unless such persons demonstrate that the full price had been paid for the property in question.

#### **Protection of the injured party**

##### **Article 97**

- (1) If the injured party has been awarded his claim for damages by the Criminal court, the latter shall order the confiscation of property only insofar as such property exceeds the adjudicated claim of the injured party.
- (2) The injured party which has been committed by the criminal court to bringing its claim for the recovery of damages in a civil action may satisfy its claim from the value of the confiscated property, provided that it brings a civil claim within six months from the judgment directing it to bring a civil action and under the further condition that it claims settlement from the value of the confiscated property within three months from the judgment awarding its claim.
- (3) Any injured party which has not brought its claim for compensation in the form of damages in the course of the criminal proceedings may satisfy its claim from the value of the

confiscated property, provided that it brings a civil action for the adjudication of its claim within six months from the day it became aware of the ruling confiscating the property and with the further proviso that it claims settlement from the value of the confiscated property within three months from the judgment awarding its claim.

### **Confiscation of pecuniary gain from legal person**

#### **Article 98**

Any pecuniary gain acquired by a legal person through or owing to the committing of a criminal offence shall be confiscated. The pecuniary gain that persons under Article 96 of the present Code have transferred to a legal person free of charge or for a payment, which does not correspond to its actual value, shall also be confiscated.

## **THE CRIMINAL PROCEDURE ACT**

### **Chapter Twenty-Eight**

#### **PROCEEDINGS FOR THE APPLICATION OF SECURITY MEASURES, CONFISCATION OF MATERIAL BENEFITS AND REVOKING OF SUSPENDED SENTENCE**

#### **Article 498**

- (1) Objects which pursuant to criminal statute may or must be confiscated shall be confiscated even when criminal proceedings do not end in a verdict of guilty if there is a danger that they might be used for a criminal offence or where so required by the interests of public safety or by moral considerations.
- (2) A special ruling thereon shall be issued by the authority before which proceedings were conducted at the time when proceedings ended or were discontinued.
- (3) The court shall render the ruling on the confiscation of objects from the first paragraph of this Article even where a provision to that effect is not contained in the judgement by which the defendant was found guilty.
- (4) A certified copy of the decision on the confiscation of objects shall be served on the owner if his identity is known.
- (5) The owner of the objects shall be entitled to appeal against the decision referred to in the second and third paragraphs of this Article if he considers that statutory grounds for confiscation do not exist. If the ruling from the second paragraph of this Article was not rendered by the court, the appeal shall be decided by the panel (sixth paragraph of Article 25) of the court which would have had the jurisdiction to adjudicate in first instance.

#### **Article 502**

- (1) When the confiscation of proceeds is taken into consideration in the criminal procedure and there is a danger that the accused alone or through other persons should use these proceeds

for a further criminal activity or to conceal, alienate, destroy or otherwise dispose of it in order to prevent or render substantially difficult their confiscation after the completed criminal procedure, the court shall order, on a motion of the public prosecutor, a provisional securing of the request for the confiscation of proceeds.

(2) The court may also order such provisional securing in the pre-trial procedure if there are reasonable grounds for suspicion that a criminal offence has been committed by means of which or for which the proceeds were acquired or such proceeds were acquired for another person or transferred to another person.

(3) The securing referred to in the preceding paragraphs may be ordered against the accused or suspect, against the recipient of the proceeds or against another person to whom they were transferred provided they can be confiscated as laid down in the provisions of the Criminal Code.

### **Article 502.a**

(1) The provisional securing of the request for the confiscation of proceeds shall be ordered by a ruling issued by the investigating judge in the pre-trial procedure and during the investigation. After charge sheet is filed, the ruling out of the main hearing shall be issued by the presiding judge, while at the main hearing it shall be issued by the panel.

(2) The ruling referred to in the preceding paragraph shall be served on the public prosecutor, suspect or accused, and the person against whom the provisional securing was ordered (participants). The ruling shall be submitted to the competent authority or person to execute it. The ruling shall be served on the suspect or accused and person against whom the provisional securing is ordered simultaneously with its enforcement or after it, however, without undue delay.

(3) The authority rendering the ruling shall enable the suspect or accused and the person against whom the provisional securing was ordered to get acquainted with all the files of the case.

(4) If the provisional securing is not ordered, the ruling shall only be served on the public prosecutor who may lodge an appeal against the ruling.

(5) The suspect or accused or the person against whom the provisional securing is ordered may raise an objection against the ruling referred to in the first paragraph of this Article within eight days from the date of service of the ruling, and shall propose that the court should hold a hearing. The court shall serve the objection on other participants and shall fix a time limit for reply. The objection shall not stay the execution of the ruling.

(6) The court shall decide on the hearing with regard to the circumstances of the case, taking into account the indications in the objection. If the court does not schedule a hearing, it shall decide the objection on the basis of the documents and other material submitted and shall state the grounds for its decision in the ruling on the objection (eighth paragraph of this Article).

(7) In the objection and at the hearing, the objector and other participants must be enabled to make a statement about the proposed and ordered measures, to present their positions, statements and motions concerning all the issues of provisional securing.



(8) When the participants of the hearing make a statement about all the issues and produce evidence if necessary to decide on the objection, the court shall decide on the objection. By the ruling on the objection, the court shall dismiss the objection by applying Article 375 *mutatis mutandis*, declare the objection admissible and repeal or amend the ruling ordering the provisional securing, or reject the objection.

(9) The participants shall have a right to make an appeal against the ruling referred to in preceding paragraph. An appeal shall not stay the execution of the ruling.

#### **Article 502.b**

(1) In the ruling ordering provisional securing, the court shall specify the property which is the subject to the provisional securing, the manner of securing (first paragraph of Article 272 and first paragraph of Article 273 of the Execution of Judgements in Civil Matters and Insurances of Claims Act) and the duration of the measure. The ruling shall include an explanation.

(2) In determining the term of duration of a measure, the court must consider the stage of criminal proceedings, type, nature and seriousness of the criminal offence, complexity of the case, and the volume and significance of the property being subject to the provisional securing.

(3) In the pre-trial procedure and after the issue of the ruling on the introduction of investigation, the provisional securing may take three months. After the charge sheet has been filed, the duration of the provisional securing shall not be longer than six months.

(4) The period referred to in the preceding paragraph may be extended by the same periods. The total duration of the provisional securing prior to the introduction of the investigation or, if an investigation was not introduced, prior to the filing of the charge sheet, shall not be longer than one year. In the investigation, the total duration of provisional securing shall not be longer than two years. After the filing of the charge sheet until the pronouncement of the judgment by the court of first instance, the total duration of provisional securing shall not exceed three years.

(5) Until the execution of the final court decision on the confiscation of proceeds, the total provisional securing may not last longer than ten years.

#### **Article 502.c**

(1) The court may, by a ruling, extend the provisional securing ordered by a ruling from the first paragraph of Article 502.a of this Act upon a reasoned motion of the public prosecutor, taking into consideration the criteria referred to in the first paragraph of Article 502 of this Act and the time limits referred to in the fourth and fifth paragraph of Article 502.b of this Act. Prior to its decision on the motion, the court shall submit the motion to other participants to make a statement about it and set a reasonable time limit for reply.

(2) On a reasoned motion of the public prosecutor, the suspect or accused or the person against whom a provisional securing was ordered and taking into consideration the criteria referred to in the first paragraph of Article 502 of this Act, the court may order a new manner of securing and repeal the former ruling on provisional securing. Prior to its decision on the motion, the court

shall submit the motion to other participants to make a statement about it and set a reasonable time limit for reply. The decision repealing the measure shall be executed after the execution of the decision by which the new manner of provisional securing is ordered.

(3) The court shall abolish provisional securing on a motion of participants. The court may also abolish the provisional securing *ex officio* due to the expiry of the time limit or if the public prosecutor dismisses crime report or states that he will not institute the criminal prosecution or that he abandons it. The public prosecutor shall notify the court of his decision.

(4) If the court considers that the provisional securing is no longer necessary, it shall invite the public prosecutor to make a statement about it within a specified time limit. If the public prosecutor does not make a statement within the time limit or if he does not oppose the abolition of provisional securing, the court shall abolish the provisional securing.

#### **Article 502.č**

The court must take a decision on the motion for ordering, extension, amendment or abolition of provisional securing particularly speedily. If provisional securing was ordered, the authorities in the pre-trial procedure must proceed in with particular speed, and the criminal procedure shall be considered preferential.

#### **Article 502.d**

In the procedure for provisional securing of the confiscation of proceeds, the provisions of the Execution of Judgements in Civil Matters and Insurance of Claims Act concerning the method of securing (first paragraph of Article 272 and first paragraph of Article 273), exemptions and limitations of securing, proving of risk (second, third and fourth paragraphs of Article 270 and second and third paragraphs of Article 272), effects of the decision (article 268) and compensation for damage (Article 279) shall be applied *mutatis mutandis*.

### **Chapter Thirty**

#### **PROCEDURES FOR INTERNATIONAL LEGAL AID AND THE EXECUTION OF INTERNATIONAL AGREEMENTS ON MATTERS OF CRIMINAL LAW**

#### **Article 514**

International aid in criminal matters shall be administered pursuant to the provisions of this Act, unless provided otherwise by international agreements.

#### **Article 515**

(1) Petitions of domestic courts for legal aid in criminal matters shall be transmitted to foreign bodies through diplomatic channels. Foreign petitions for legal aid from domestic courts shall be transmitted in the same manner.

(2) In emergency cases and on condition of reciprocity, requests for legal assistance may be sent through the ministry responsible for internal affairs, or in instances of criminal offences of money laundering or criminal offences connected to the criminal offence of money laundering, also to the body responsible for the prevention of money laundering.

(3) If reciprocity applies or if so determined by an international treaty, international legal aid in criminal matters may be exchanged directly between the domestic and foreign bodies participating in the pre-trial procedure and criminal proceedings. In this, modern technical facilities, in particular computer networks and devices for the transmission of picture, voice and electronic impulses, may be used.

#### **Article 516**

(1) The ministry responsible for foreign affairs shall send petitions for legal aid received from foreign bodies to the ministry responsible for justice, which shall forward them for consideration to the circuit court in whose territory resides the person who should be served with a document, or interrogated, or confronted, or in whose territory another investigative act should be conducted.

(2) In instances referred to in the second paragraph of Article 515 of this Act, petitions shall be transmitted to the court by the ministry responsible for internal affairs.

(3) The permissibility and the manner of performance of an act requested by a foreign body shall be decided by the court pursuant to domestic regulations.

(4) If a petition relates to a criminal offence for which no extradition is provided by domestic regulations, the court shall consult the ministry responsible for justice as to whether to grant the request or not.

#### **Article 517**

(1) Domestic courts may grant the request of a foreign body for execution of a judgement of conviction passed by a foreign court if so provided by the international agreement or if reciprocity exists.

(2) In the instance referred to in the preceding paragraph the domestic court shall execute punishment imposed by a final judgement of a foreign court by imposing sanction in accordance with the criminal law of the Republic of Slovenia.

(3) The court of jurisdiction shall pass judgement in the panel of judges referred to in the sixth paragraph of Article 25 of this Act. The public prosecutor and defence counsel shall be notified of the session of the panel.

(4) Territorial jurisdiction of the court shall be determined according to the last permanent residence of the convicted person in the Republic of Slovenia; if a convicted person had no permanent residence in the Republic of Slovenia territorial jurisdiction shall be determined according to his place of birth. If the convicted person neither had permanent residence nor was born in the Republic of Slovenia, the supreme court shall assign the conduct of proceedings to one of the courts of subject-matter jurisdiction.

(5) In the operative part of the judgement referred to in the third paragraph of this Article, the court shall enter in full the operative part of the judgement of the foreign court and the name of the foreign court and shall pronounce sanction. In the statement of grounds the court shall state the grounds for the sanction which it has passed.

(6) An appeal may be lodged against the judgement by the public prosecutor, the convicted person and his defence counsel.

(7) If an alien sentenced by a domestic court, or a person authorised under a contract, files with the court of first instance petition for the convicted person to serve the sentence in his country, the court shall be entitled to grant petition if so provided by the international agreement or if reciprocity exists.

### **Article 518**

In the case of criminal offences of counterfeiting money and putting it into circulation, illicit production, processing and sale of narcotics and poisons, white slavery, production and dissemination of pornographic material or some other criminal offence for which centralisation of data has been provided under international agreements, the body which conducts criminal proceedings shall immediately send to the ministry responsible for internal affairs data about the criminal offence and its perpetrator, and the court of first instance shall in addition send the final judgement. Whenever the criminal offence of money laundering, or criminal offences connected to money laundering is involved, the data shall be sent without delay to the body responsible for the prevention of money laundering.

### **Article 519**

(1) If an alien who permanently resides in a foreign country commits a criminal offence in the territory of the Republic of Slovenia, all files for criminal prosecution and adjudication may, beside conditions specified in Article 522 of this Act, be surrendered to the foreign country if it does not oppose this.

(2) Before the ruling on investigation has been rendered, the decision on the surrender of files shall lie with the competent public prosecutor. During the investigation the surrender shall be decided by the investigating judge upon motion of the public prosecutor, and until the opening of the main hearing it shall be decided by the panel (sixth paragraph of Article 25) who shall also handle matters from the jurisdiction of the district court.

(3) The bodies from the preceding paragraph shall, in considering the surrendering of criminal files, also take into account the hitherto and future costs of criminal proceedings from inception to end.

(4) The surrender of criminal files may be allowed where criminal offences punishable by up to ten years imprisonment are involved, as well as in case of criminal offence against safety of public transport.

(5) The surrender of criminal files shall not be allowed if the injured party is a citizen of the Republic of Slovenia who opposes it, except where his indemnification claim has been secured.

(6) The surrendering of criminal files shall not be permitted in instances where confiscation, or a provisional securing of the request for confiscation of money or property of unlawful origin referred to in Article 252 of the Criminal Code, or an illegally given or accepted bribe referred to in Articles 162, 168, 247, 248, 267, 268 and 269 of the Criminal Code was ordered, save where the court issued the aforesaid orders on the initiative of a foreign country. In these instances, and in instances where a provisional securing of the request for confiscation of proceeds was ordered in conjunction with other criminal offences, the bodies referred to in the second paragraph of this Article may only surrender criminal file to another country if, prior to surrendering it, they satisfy themselves that the country in question has an appropriate legislation in connection with the confiscation of proceeds and surrendering of criminal files to another country, and if they take into consideration the value of the provisionally secured proceeds.

(7) If the accused is in remand the foreign country shall be requested through the shortest possible channels to report within fifteen days if it assumes prosecution.

### Article 520

(1) The request of a foreign country that the Republic of Slovenia should assume prosecution of a citizen of the Republic of Slovenia, or a person with permanent residence in the Republic of Slovenia, for a criminal offence committed abroad shall be transmitted, together with the files, to the competent public prosecutor in whose territory that person has permanent residence.

(2) Indemnification claims filed with the competent body of a foreign country shall be treated as if they have been filed with the court of jurisdiction.

(3) Information about the refusal to assume criminal prosecution and the final decision thereon shall be sent to the foreign country which requested that the Republic of Slovenia assume prosecution.

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