

HATE CRIME IN SLOVENIA

NATIONAL REPORT



CounterHate



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HIGHLIGHTS



Only recently the government has put more focus on combating hate crime and hate speech through legislative changes and policies as well as public awareness-raising campaigns.



The lack of disaggregated data and statistics still hinders an in-depth research in this field, especially from the victim's perspective.



Consequently, the lack of research to fuel evidence-based policies was identified.



Hate crime remains underreported due to lack of trust in institutions and lack of adequate support services, the research shows.



On one side the society (also state institutions) is being tolerant towards perpetrators, while on the other side relativization of violence and victims is quite common.



The need for additional training for competent authorities in the field of victim-support was identified.



The existing research results point to the need for a country-wide victimisation study about experiences of physical violence and harassment.



Last but not least, there is a need for (more) country-wide awareness-raising campaigns.

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Introduction and methodology

Hate crime – with the exception of hate speech – has not received much attention until recently in Slovenia. The data and statistics available are quite poor, the public institutions mostly do not collect detailed data due to data protection reasons, which seem to be considered as a high priority. Also, until now no thorough comprehensive research on hate crime has been done in Slovenia, especially not putting the victims and their needs in focus. Even less so if we add another dimension – intersectionality and effects of multiple discrimination on the victims. The current government announced to make combating hate speech one of its priorities in the first half of 2023, and to form a special interdepartmental working group to combat hate speech, which will be led by a national coordinator from the Prime Minister's Office¹.

You hold in your hands a national report on hate crime in Slovenia which is the result of our desk and field research done within the Counter-Hate project². The main aim of the project is to improve the assistance to victims of hate crimes, by guaranteeing that legislation and policies establish a victim-centred and intersectional approach. Its main priority is to contribute to the effective and coherent application of EU criminal law, especially the effective application of the Victims' Directive in the national contexts.

We have conducted desk research on the national context in the period from June to December 2022. The aim was to examine whether Slovenia successfully transposed the Victim's Directive regarding the generic and specialised services (Art. 8 and 9), and to analyse whether those measures are well implemented in practice (by maintaining a victims centred and intersectional approach). We analysed the national legislation and policies, relevant public institutions' reports (such as the Advocate of the Principle of Equality, the Ombudsman, and the Supreme State Prosecutor's Office) and available case law. We also reviewed relevant existing research on the topic (which is scarce, however) as well as national and EU statistical data and resources, previous surveys and policy reports (per example reports of the Fundamental Rights Agency³).

In the next step, we carried out an online survey which targeted mainly representatives of civil society organisations (CSOs) that combat bias-motivated violence and promote civil rights. The same online survey was carried out in all the participating project partners' countries. In Slovenia, we invited 65 relevant CSOs to fill out the online survey in the period from 2 November to 12 December 2022. We received 53 responses in total, however only 28 of them filled out the entire survey (see Table 3 below). One of the issues we encountered was that the questionnaire was in certain parts too specific for the national context and some of the respondents did not find all questions relevant for their

¹ Lebingar, A. (2022), "*Nad sovražni govor medresorsko in s koordinatorjem*", Dnevnik, 9 November 2022.

² Counter-hate: Improving the assistance of victims of hate crimes through a victim-centred and intersectional approach. Available at: <https://www.mirovni-institut.si/en/projects/counter-hate-improving-the-assistance-of-victims-of-hate-crimes-through-a-victim-centred-and-intersectional-approach/>

³ ENCOURAGING HATE CRIME REPORTING — THE ROLE OF LAW ENFORCEMENT AND OTHER AUTHORITIES (2021). European Union Agency for Fundamental Rights. Luxembourg: Publications Office of the European Union.

organisation. Per example, 32 respondents said they work with victims, while 21 respondents said they do not work directly with victims. Consequently, in some parts of the survey they considered they do not have relevant experience to share. Nevertheless, we still find the online survey useful for the overall research and further project activities, such as workshops and training. We are also content with the number of responses, especially considering the size of Slovenia and a limited number of CSOs working (at least indirectly) in this field. Some of the issues that we identified through desk research and interviews are supported by the online survey results too (per example the lack of financial support and affordable or free quality legal aid for victims, or the lack of effective cooperation between public institutions and CSOs in combating hate crime).

The third phase of our research was done in November and December 2022. We conducted 20 interviews, 6 with victims of hate crime (or at least bias-motivated discrimination) and 14 with professionals dealing with victims of hate crime (or at least bias-motivated discrimination) within their work (see Table 1 and Table 2 below). Initially the aim was to interview 10 victims of hate crime, and 10 professionals working specifically on hate crime or with victims of hate crime. However, the task resulted to be more challenging than we assumed. We did approach more victims of hate crime, however some of them were not ready to talk about their experience in an interview, some did not agree to being audio-recorded, some agreed to the interview at first but then changed their minds afterwards. We were cautious when contacting victims and did not push further. Some of the interviewed professionals were victims of hate crime or bias-motivated discrimination too prior to becoming experts in the field they work in currently. Thus, some of the 14 interviewed professionals were at some point also victims.

For both clusters of interviews we first used our existing networks and contacts. Due to our continuous research and advocacy work in the fields of human rights, anti-discrimination, minorities, migration, gender equality etc.⁴ we have already been in contact with some victims of hate crime or bias-motivated discrimination as well as relevant professionals. First, we interviewed them. Then, some of them provided further contacts (a snow-ball method). At the same time we also formally addressed our request for interviews to some of the public institutions, however some of them (the courts and

⁴ See per example: Ladić, M., Bajt, V., Jalušič, V. and Kogovšek Šalamon, N. (2018). National Integration Evaluation Mechanism: Slovenia. Report for 2016. Ljubljana: Peace Institute.

Ladić, M., Bajt, V. and Jalušič, V. (2020). National Integration Evaluation Mechanism: Slovenia. Report for 2018. Ljubljana: Peace Institute.

Ladić, M., Thaler, I. and Bajt, V. (2022). National Integration Evaluation Mechanism: Slovenia. Report for 2020-2021. Ljubljana: Peace Institute.

MiCREATE. (2019). Reception communities. State of the art report. Migrant children and communities in a transforming Europe. Koper: ZRS Koper.

Bajt, V. (2021). The Virus of Fear: Nationalism and Pandemic Society. *Monitor ISH*, XXIII(2): 50-77.

Bajt, V., Leskošek, V. and Frelih, M. (2018). Chains of trust: Fear and informal care work in Slovenia. *Anthropological notebooks*, 24(1), 69-83.

Jalušič, V. and Bajt, V. (2020). A Paradigm Shift Framed by a Crisis: Recent Debates on Immigration and Integration in Six EU Countries. *Annales*, 30(4), 517-530.

Jalušič, V. and Bajt, V. (2021). What Are the Problems? Reception Communities in the EU Environment. In M. Sedmak, F. Hernández-Hernández, J. M. Sancho-Gil and B. Gornik (eds.), *Migrant Children's Integration and Education in Europe. Approaches, Methodologies and Policies* (p. 61-80). Barcelona: Octaedro.

social work centres especially) were reluctant and either did not respond at all or responded that they do not have relevant experience to share on the topic. We carefully followed media representation of this topic for years (and even more so since May 2022, when the Counter-Hate project started), thus we were aware of several cases (violent attacks) which happened in public space. We managed to interview some of these victims or professionals that supported them.

The report is addressed to representatives of public administration, academic and research centres, think-tanks, CSOs, as well as to all those dealing with hate crime and bias-motivated discrimination at any level. We do hope that the report will be met with interest and will provide a good basis for creating evidence-based policies, further research and deepening the knowledge about the topic.

Table 1: sociodemographic data professionals

<i>Interview</i>	<i>Gender</i>	<i>Age</i>	<i>Professional role (Psychologist, Social work, Lawyer, ...)</i>
P1	female	43	Legal expert (the equality body)
P2	female	41	State prosecutor
P3	male	—	Legal expert (state prosecutor's office)
P4	female	45	District Court representative
P5	male	53	Lawyer
P6	female	40	Lawyer
P7	male	52	Police
P8	female	31	Legal expert (CSO supporting members of LGBTIQ+ community)
P9	female	34	Social worker (CSO supporting victims of human trafficking)
P10	female	40	Sociologist/academic and counsellor (CSO providing support for victims of domestic and gender based violence)
P11	female	35	Social worker (CSO supporting the homeless)
P12	male	39	Cultural worker (LGBTIQ+ CSO)
P13	female	39	Activist (organisation supporting migrants, asylum seekers, refugees and other marginal groups)
P14	female	44	Police officer

Table 2: sociodemographic data victim

<i>Interview</i>	<i>Gender</i>	<i>Age</i>	<i>Grounds for discrimination or hate crime</i>
V1	male	48	Sexual orientation, political beliefs (LGBTIQ+ human rights activist)
V2	Nonbinary person (they)	37	Gender identity, gender expression, sexual orientation, political beliefs (LGBTIQ+ human rights activist)
V3	male	37	Race, socio-economic status (refugee)
V4	trans woman	42	Gender identity, gender expression, gender, sexual orientation, nationality, political beliefs (LGBTIQ+ human rights activist)
V5	female	27	Expression of religion (hijab), nationality, socio-economic status (refugee), gender
V6	male	40	Sexual orientation

Table 3: Survey data

<i>Universe: n° of organizations contacted</i>	65
<i>Number of total responses</i>	53
<i>Fully completed the survey</i>	28
<i>Responses rate (universe/total responses= Responses rate)</i>	39,4%
<i>Discrimination field in which survey respondents work</i>	Religion – 5 Race, ethnicity, and origin - 13 Sexual orientation and gender identity - 15 Disabilities - 14 Socio-economic status - 17 All types of discrimination / civil rights in general - 27 Other – 4 (domestic and gender based violence, mental health, inclusion of vulnerable groups, physical disabilities)
<i>Role of the respondent in the organisation</i>	President / director – 7 Head of department / program or project manager – 13 Expert – 25 Volunteer – 7 Administrator – 1

A. DISCRIMINATION AND HATE CRIME

NATIONAL CONTEXT

DISCRIMINATION AND HATE CRIME NATIONAL CONTEXT

A.1. National legal framework on hate crime and discrimination.

Protection against discrimination is one of the fundamental human rights enshrined in Art. 14 of the Constitution of the Republic of Slovenia, where *“everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance. All are equal before the law.”*⁵

The list of personal grounds is open-ended. The Constitution also prohibits incitement to inequality and intolerance in Art. 63. Moreover, Slovenia has ratified all the main international human rights instruments concerning discrimination. Under Art. 8 of the Constitution, they are directly applicable in the legal system of the Republic of Slovenia.

The main non-discrimination law is the 2016 Protection Against Discrimination Act (PADA)⁶, which provided legal basis for a new independent state authority, namely the Advocate of the Principle of Equality (The Advocate).⁷ The Advocate, among other main tasks, also gives recommendations to the legislator, especially stressing the need for clearer definitions, policy coherence and data collection (P1).

The non-discrimination legislation includes also the 2013 Employment Relationship Act⁸, the 2004 Vocational Rehabilitation and Employment of Disabled Persons Act⁹, the 2010 Act on Equal Opportunities for Persons with Disabilities¹⁰, and the 2007 Freedom of Religion Act.¹¹

According to PADA, discrimination is prohibited in all areas of social life, including the areas required by the Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC). All five grounds covered by the two directives are included: race or ethnicity, religion or belief, sexual orientation, age and disability. Additionally, the national legislation prohibits discrimination also on the grounds of gender, language, gender identity or gender expression, social standing, economic

⁵ Constitution of the Republic of Slovenia (*Ustava Republike Slovenije*), 23 December 1992, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=USTA1>.

⁶ Protection Against Discrimination Act (*Zakon o varstvu pred diskriminacijo*), 21 April 2016, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7273>.

⁷ Kogovšek Šalamon, N. (2022) “Country report Non-discrimination Transposition and implementation at national level of Council Directives 2000/43 and 2000/78 Slovenia.” Luxembourg: Publications Office of the European Union, p. 6.

⁸ Employment Relationship Act (*Zakon o delovnih razmerjih*), 5 March 2013, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944>.

⁹ Vocational Rehabilitation and Employment of Disabled Persons Act (*Zakon o zaposlitveni rehabilitaciji in zaposlovanju invalidov*), 21 May 2004, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3841>.

¹⁰ Act on Equal Opportunities for Persons with Disabilities (*Zakon o izenačevanju možnosti invalidov*), 16 November 2010, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4342>.

¹¹ Freedom of Religion Act (*Zakon o verski svobodi*), 2 February 2007, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4008>.

situation and education, and is generally open-ended (clause on ‘other personal characteristics’). Both, the PADA and the Employment Relationship Act prohibit direct and indirect discrimination, harassment, instructions to discriminate, and victimisation on the grounds of gender, race and ethnicity, religion or belief, sexual orientation, age and disability. The PADA also prohibits discrimination by association, discrimination by assumption and severe forms of discrimination.¹²

In the field of criminal law, discrimination is also prohibited in the Criminal Code (CC-1),¹³ which defines various crimes connected to violations of the principle of equality. Art. 131 (violations of equal rights) reads as follows: *“Whoever due to differences in respect of national affiliation, race, skin colour, religion, ethnic origin, gender, language, political or other beliefs, sexual orientation, financial situation, birth, genetic heritage, education, social position or any other circumstance deprives or restrains another person of any human right or liberty recognised by the international community or laid down by the Constitution or the statute, or grants another person a special privilege or advantage on the basis of such discrimination shall be punished by a fine or sentenced to imprisonment for not more than one year.”* The second paragraph also incriminates anyone who persecutes an individual or an organisation for standing up for equal rights.¹⁴

Art. 116 and 135.a of the CC-1 stipulate discriminatory motives as part of the legal definition of murder and torture; and Art. 197, 198 and 202 violations of equality in employment and social services. Art. 297 (prohibition of incitement to religious or ethnic hatred or hatred based on sexual orientation, sex, skin colour, origin, property status, education, social status, political or other opinion, disability or other personal characteristics) sanctions hate speech with imprisonment of up to two years. The same punishment is laid out for those who publicly spread ideas of the superiority of one race over another or cooperate with any racist activity, or deny, diminish the meaning of, approve of, ridicule or advocate for genocide, holocaust, crimes against humanity, war crimes, aggression or other criminal acts against humanity. If these acts are published in the public media, the editor or their deputy are also punished, except in the case of a live transmission in which it is not possible to prevent such acts. The CC-1 also stipulates two aggravated forms of these crimes: if they were committed in an official capacity or with coercion, threat etc. According to many legal practitioners, academics and CSOs a restrictive interpretation of an obligatory causal link with public disturbance has caused a significant impunity gap, with hate speech almost never being prosecuted in Slovenia.¹⁵

¹² Kogovšek Šalamon, N. (2022) “Country report Non-discrimination Transposition and implementation at national level of Council Directives 2000/43 and 2000/78 Slovenia.” Luxembourg: Publications Office of the European Union, p. 7.

¹³ Criminal Code (*Kazenski zakonik*; KZ-1), 20 May 2008, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5050>.

¹⁴ This crime has not yet been successfully prosecuted.

¹⁵ Završnik, A. and Zrimšek, V. (2017) “Sovražni govor po slovenski kaznovalni zakonodaji in sodni praksi: neustaven položaj,” *Časopis za kritiko znanosti*, 45(268), pp. 59–73.
Završnik, A. (2017) “Zakaj obsodb sovražnega govora v Sloveniji ni?: od okov implementacije do rigidnosti razlage,” in S. Splichal (ed.) *Zagovor javnosti: med svobodo izražanja in sovražnim govorom*. Ljubljana: Slovenska akademija znanosti in umetnosti, pp. 101–114.

The interpretation stated that incidents trialled under this provision could be a criminal offence only when conducted in a manner that, given concrete circumstances, threatened or disturbed public order or peace. In 2019 the Supreme Court of the Republic of Slovenia departed from the established interpretation of the above-mentioned Art. 297(1) of the CC-1.¹⁶ It found that this criminal offence had two alternative forms, namely conducts likely to threaten or disturb public order and peace, and conducts involving threats, abuses or insults. The Court further clarified that the relevant provisions protected public peace and order, but also human dignity, and are aimed at preventing discrimination against less privileged and vulnerable groups, based on stereotypes. In the Court's opinion, both forms bore equal weight, were equal in intensity, and one form did not subsume the other.¹⁷

In general, the CC-1 does not provide for a definition of bias-motivated aggravated criminal offences (*hate crimes*). However, under Art. 49(2) of the CC-1, courts have to take into consideration aggravating and mitigating circumstances in the determination of penalties. The motive of the offence is explicitly included in the list of circumstances to consider.

However, in November 2022, the Government of the Republic of Slovenia adopted a proposal for an amendment to the CC-1, which introduces hate crime as a mandatory aggravating circumstance that should be taken into account when determining the sentence.¹⁸ Accordingly, if the personal circumstances of the victim would be a predisposing factor for any criminal offence in the CC-1, the perpetrator will be punished more severely. The circumstances (the offence being committed on account of the victim's national, racial, religious or ethnic origin, sex, colour, descent, property, education, social status, political or other opinion, disability, sexual orientation or any other personal circumstance) are mentioned by way of example and are the same as in Art. 297 of the CC-1, which reproduces Art. 14 of the ECHR and Art. 14 and 63 of the Slovenian Constitution.

In the opinion of the Legislative and Legal Service of the Slovenian Parliament, and the Supreme State Prosecutor's Office the amendment is redundant. The motive for the offence is already established in the CC-1 as a circumstance influencing the severity of the sentence, and therefore, in their view, no specific provision is needed to take account of

Kogovšek Šalamon, N. (2018) "Sovražni govor: vloga prava in pravosodja," in A. Teršek (ed.) *Svoboda izražanja, mediji in demokracija v postfaktični družbi: filozofske, teoretične in praktične refleksije*. Ljubljana: Lexpera GV Založba, pp. 91–102.

¹⁶ The relevant provision reads as follows: "Whoever publicly provokes or stirs up hatred, violence or intolerance based on national, ethnic, racial or religious affiliation, sex, skin colour, origin, financial condition, education, social status, political or other belief, disability, sexual orientation or any other personal circumstance, and the conduct is carried out in a manner likely to endanger or disturb public order and peace, or with the use of threats, abuses or insults, shall be punished by imprisonment of up to two years."

¹⁷ Supreme Court of the Republic of Slovenia (*Vrhovno sodišče Republike Slovenije*), Judgement no. I Ips 65803/2012, 4 July 2019.

¹⁸ "Vlada sprejela predlog novele Kazenskega zakonika 22. 11. 2022" (2022) *gov.si*. Available at: <https://www.gov.si/novice/2022-11-22-vlada-sprejela-predlog-novele-kazenskega-zakonika/> (Accessed: January 12, 2023).

discriminatory motive.¹⁹ The Supreme State Prosecutor's Office additionally pointed out that the proposed paragraph is too open-ended, in particular in the part where it adds "or any other personal circumstances". It is also too broad in that, by listing circumstances such as financial status, education, social status and political or other beliefs (which do not constitute a biological, ethnic, religious or other characteristic of the individual's environment that can normally not be changed in the course of life), it leaves the door open to overly broad interpretations of these circumstances.²⁰

The Minister of Justice responded to these concerns by saying that while it may be true that the provision is unnecessary from a normative point of view, it also sends an important message about the reprehensibility of hate crimes.²¹ The proposed amendment is in line with the analysis of the Human Rights Centre at the Human Rights Ombudsman, which suggested that possible legislative changes should be considered to regulate hate crimes better, as some of the analysed cases (i. e. cases involving physical violence with discriminatory motives) were dealt with under Art. 297, although it would probably be more appropriate to treat them as hate crimes. The analysis also highlighted that the European Commission noted that Slovenia is one of the few Member States whose criminal law does not set out special provisions regarding discriminatory motives on the part of the perpetrator.²²

In 2018, a special working group on hate speech was set up at the Supreme State Prosecutor's Office of the Republic of Slovenia to deal with the legal issues raised in the application of the criminalisation of the offence under Art. 297 of the CC-1.²³ This working group developed a definition of a "criminal offence with an element of hate", which is a crime committed on the grounds of nationality, race, religious belief or ethnic origin, gender, skin colour, origin, social status, disability or sexual orientation of the person against whom it is committed.²⁴ In March 2021, the working group was succeeded by **the Working group on criminal offences committed with a hate motive** (*Delovna skupina za kazniva dejanja, storjena s sovražnim motivom*) which remains responsible for hate speech issues, but its mandate is extended to all criminal offences committed with a hate motive.²⁵

¹⁹ Z., M. (2023) "Odbor za pravosodje podprl strožje kaznovanje zločinov iz sovraštva," RTVMMC. Available at: <https://www.rtvlo.si/slovenija/odbor-za-pravosodje-podprl-strojze-kaznovanje-zlocinov-iz-sovrastva/653948> (Accessed: January 12, 2023).

²⁰ Draft amendment of the Criminal Code with explanatory text, 21 November 2022.

²¹ Z., M. (2023) "Odbor za pravosodje podprl strožje kaznovanje zločinov iz sovraštva," RTVMMC. Available at: <https://www.rtvlo.si/slovenija/odbor-za-pravosodje-podprl-strojze-kaznovanje-zlocinov-iz-sovrastva/653948> (Accessed: January 12, 2023).

²² Center za človekove pravice (2021) "Kazenskopравни pregon sovražnega govora v Sloveniji po 297. členu Kazenskega zakonika (KZ-1): Analiza tožilske prakse pregona kaznivega dejanja javnega spodbujanja sovraštva, nasilja in nestrpnosti v obdobju 2008-2018". Ljubljana: Varuh človekovih pravic.

²³ Vrhovno državno tožilstvo (2019) Annual report 2018. Available at: https://www.dt-rs.si/files/documents/Porocilo_2018.pdf, p. 175.

²⁴ Center za človekove pravice (2021) "Kazenskopравни pregon sovražnega govora v Sloveniji po 297. členu Kazenskega zakonika (KZ-1): Analiza tožilske prakse pregona kaznivega dejanja javnega spodbujanja sovraštva, nasilja in nestrpnosti v obdobju 2008-2018". Ljubljana: Varuh človekovih pravic, p. 95.

²⁵ Vrhovno državno tožilstvo Republike Slovenije (2022) "Skupno poročilo o delu državnih tožilstev za leto 2021", p. 170.

On the level of misdemeanours, Art. 20 of the Protection of Public Order Act sets out the punishment for incitement to ethnic, racial, gender, religious or political intolerance or intolerance related to sexual orientation.

Art. 8 of the Media Act²⁶ prohibits *“the dissemination of programme content to incite national, racial, religious, sexual or other inequality, violence and war, and to provoke national, racial, religious, sexual or other hatred and intolerance”*. Art. 9 of the Audiovisual Media Services Act²⁷ prohibits *“instigation to national, racial, religious, sexual or other inequality, violence and war, and incitement to national, racial, religious, sexual or other hatred and intolerance through audiovisual media services”*.

It is the opinion of the Supreme State Prosecutor’s Office that other such mechanisms, that are sometimes more appropriate than criminal prosecution (e.g. civil liability of the authors for “hate speech”, as well as liability of website operators and administrators for comments made on posts) are underused. There is also a need for more appropriate and clearer regulation of misdemeanours sanctioning milder infringements of so-called hate speech, which would set a clear threshold for the extent to which freedom of expression is constitutionally guaranteed.²⁸

Transposition of the Victims’ Directive

Slovenia was late in transposing the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (Victims’ Directive). While the deadline was in November 2015, Slovenia adopted two relevant pieces of legislation only in 2019. On 26 March 2019, the Act Amending the Criminal Procedure Act was adopted.²⁹ With the amendment, new rights that were previously not available to victims were introduced. The amendment extended the definition of a victim/injured party, so that it includes certain family members of a victim who died due to the criminal offence.

The amended legislation does not expressly refer to victims of hate crime. However, the Criminal Procedure Act (CPA)³⁰ now includes a definition of a victim with special protection needs: *“a victim, whose personal or property right were significantly violated by a crime, because of his or her personal characteristics or vulnerability, because of the nature, gravity or circumstances of the crime or because of the behaviour of the accused or injured person in the pre-criminal or criminal proceedings”* (Art. 144 of CPA). The authorities are also obliged to take into consideration the victims’ vulnerability (Art. 18.a

²⁶ Media Act (*Zakon o medijih*), 25 April 2001, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608>

²⁷ Audiovisual Media Services Act (*Zakon o avdiovizualnih medijskih storitvah*), 19. October 2011, available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6225>

²⁸ Vrhovno državno tožilstvo Republike Slovenije (2022) *“Skupno poročilo o delu državnih tožilstev za leto 2021”*, p. 170.

²⁹ The Act amending the Criminal procedure act (*Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku*, ZKP-N), 26 March 2019.

³⁰ Criminal Procedure Act (*Zakon o kazenskem postopku*), 29. September 1994, available at: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362>

of the CPA). In accordance with this provision, the police, state prosecutors, courts and other state authorities, experts, expert witnesses, court and other interpreters and mediators have to treat the victims carefully and considerately, with regard to their age, health, vulnerability or other similar circumstances.

In 2019, the Social Assistance Act was amended to transpose the requirements set out in Arts. 8 and 9 of the Victims' Directive.³¹ These amendments provide for the introduction and functioning of generic support services in Slovenia. These are determined as a new set of social assistance services (*socialno varstvene storitve*), and aimed at eliminating social hardship and problems and include support to victims of criminal offences. This social assistance service includes professional support and professional counselling to the person to whom any harm was directly caused by a crime. Again, as this is considered generic support to victims of crime, these legal provisions or services do not address victims of hate crime specifically.

A.2. Statistics and data regarding bias-motivated crimes.

Data on bias-motivated crimes are relatively limited in scope and no specific hate crime monitoring mechanism is in place. Records of crime are kept according to the criminal offences set out in the CC-1,³² and as there is no general incrimination of hate crime, there are shortcomings in existence of and access to data, as well as in perception of the scale of the issue. Several interviewees (P1, P2, P7, P12), and amongst them employees of state authorities, were convinced that hate crime is underreported in Slovenia.

The Police is the institution able to produce some data on offences involving ethnically, racially or religiously motivated intolerance, but not other bias-motivated offences. The available data is also not disaggregated by antisemitic, Islamophobic or anti-Roma motivation for the incidents.³³ In recording data, the police are afraid of potential abuse, since a lot of people have access to police records: *"Because someone could have access to some sensitive information, be it health, be it sexual orientation, which could then be used not for the purpose of dealing with a criminal offence but for something else."* (P7).

In 2022, the police dealt with 18 (26 in 2021) suspicions of criminal offences motivated by ethnic/racial intolerance, and lodged 16 (21 in 2021) criminal complaints with the competent state prosecutor. In 2022, they also investigated one (three in 2021) alleged criminal offence motivated by religious intolerance, and did not lodge any criminal complaints, while in 2021 they lodged criminal complaints in two cases.³⁴ Disaggregated

³¹ Social Assistance Act (*Zakon o socialnem varstvu*), 4 November 1992, available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO869>

³² Vučko, K., Šori, I. (2021) Franet National contribution to the FRA Fundamental Rights Report 2021 Slovenia. Ljubljana: Peace Institute, p. 9.

³³ Vučko, K., Šori, I. (2022) Franet National contribution to the Fundamental Rights Report 2022, Slovenia. Ljubljana: Peace Institute, pp. 14-15. Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fundamental_rights_report_2022-_slovenia_.pdf

³⁴ Vučko, K., Šori, I. (2023) Franet National contribution to the Fundamental Rights Report 2023, Slovenia. Ljubljana: Peace Institute.

by type of criminal offence, in 2021 police dealt with one offence under Art. 131 of the CC-1 (violations of equal rights).³⁵ In 2021 as well, the police dealt with 88 offences under Art. 297 of the CC-1 (public incitement of violence, hatred and intolerance), filing criminal charges in 39 cases and closing 49 cases with a final report.³⁶ In the period from 2016 to 2021 the highest number of suspects for the offence under Art. 297 of the CC-1 were aged between 54 and 64.

Regarding bias-motivated minor offences, at the beginning of 2022, the Uniformed Police Directorate of the General Police Directorate prepared an Analysis of Offences of Inciting Intolerance under the above-mentioned Art. 20 of the Protection of Public Order Act.³⁷ The analysis covers offences committed with the intent to arouse national, racial, sexual, ethnic, religious, political or sexual orientation intolerance. In 2021 the police took action in 61 cases of minor offences under Art. 20 of the Protection of Public Order Act, whereas the highest number in the last six years was in 2020 (during the Covid-19 pandemic). Most of the offences were committed in the context of fights and altercations. The highest number of offenders is between the ages of 34 and 44, followed by the age groups of 44-54 and over 64. In each year from 2016–2021, most of the offenders were male (in 2021, there were 42 male offenders and 17 women). Almost all of the offenders were Slovenian citizens.

The interviewed police representative (P7) explained that *“most of the crimes are related to the most typical prejudices in Slovenia. These are inter-ethnic, inter-national conflicts, but it would be too distorted to say conflicts... attacks, intolerance... they are still mostly inter-ethnic. But of course more and more often other personal grounds are relevant, per example sexual orientation”*. Overall, the police are noticing an increase in reports of hate crimes and intolerance. (P7)

The Supreme State Prosecutor's Office of the Republic of Slovenia keeps a register only of the offence committed, and does not record the motive which led the offender to commit the offence, except where the motive is a qualifying circumstance and is a statutory element of the offence. Consequently comprehensive data on the personal circumstances of victims and the motive for committing the crime is not available. In July 2020 the State Prosecutor General issued an order stipulating that the relevant prosecutors' case files falling under the above-mentioned 'crimes with an element of hate' be additionally marked with a general label (“SOV”).³⁸ It is important to note, the definition represents a guiding tool when marking case files, and does not affect legal classification of a criminal offence. Barring, case files could not be marked by the personal feature targeted by the bias-motivated crime (e.g. membership of a specific group such as Roma), most likely due to

³⁵ Information on criminal offences under Article 131 of the Criminal Code were prepared according to the final document provided, which means that the data cover the cases of the listed offences for which the police have issued a closure document (criminal charge or report) in 2021.

³⁶ The Advocate for the Principle of Equality (2022) “*Redno letno poročilo za leto 2021*”, available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-za-leto-2021-%E2%80%933-privedel.pdf>, p. 91.

³⁷ General Police Directorate (2022) “Analysis of Offences of Inciting Intolerance under the above-mentioned Article 20 of the Protection of Public Order Act”, no. 223-15/2022/2 (2111-05), 7. 3. 2022.

³⁸ “SOV” is short for “sovražstvo” which means hate in Slovenian.

personal data protection reasons. The label is used for all offences, not just offences under Arts. 131 and 297 CC-1.

In 2022, there were 12 prosecution case files labelled with “SOV”, where two of the cases were crimes of Public incitement of violence, hatred and intolerance from Art. 297 of the CC-1 and other cases involved other criminal acts.³⁹ In 2021, there were 25 “SOV” labelled cases, and among the legal qualifications, the criminal acts under Art. 297 of the CC-1 and Art. 135 (threat) of the CC-1 prevailed.⁴⁰

In 2022, the state prosecution received 37 criminal charges for the criminal act of public incitement of violence, hatred and intolerance from Art. 297 of the CC-1 (73 in 2021), 41 criminal charges were dismissed (68 in 2021), and in three cases the prosecution filed either an indictment or a request for issuing a criminal order (3 in 2021). They were successful in court in five cases, where in four cases the accused were found guilty, and one judgement on the basis of a criminal order was issued by the courts.⁴¹ In 2021, they were successful in two cases, where a judgement on the basis of a criminal order was issued by the courts, whereas in one case the accused was found not guilty.⁴²

The state prosecution explains that in 2021 a jump in incidents of crime of public incitement of hatred, violence or intolerance (Art. 297 of the CC-1) and related crimes came as a consequence of the situation related to the epidemic of COVID-19. With the increase in the number of users of online tools, most often incidents occurred on social networks, where perpetrators are not directly exposed. Furthermore, the occurrence of this type of crime has continued to be affected by increased disrespectful communication from political representatives, which has helped to increase intolerance in the society. The intensification of measures to contain the epidemic and, on the other hand, its impact on other (adapted) life and decision-making in the economy and society has been reflected in lower tolerance in words and actions.⁴³

Slovenian judiciary does not collect data on the motives of criminal offences. First-instance court decisions are not publically available and may be accessed through a freedom of information request. Some higher court decisions can be accessed through an online database, but often with significant delay.

A professional at the equality body is convinced that: *“Discriminatory motives are still not sufficiently taken into account, and this is also evident in the data collection. We always have an issue with this disaggregated data with all the authorities involved in law*

³⁹ Vučko, K., Šori, I. (2023) Franet National contribution to the Fundamental Rights Report 2023, Slovenia. Ljubljana: Peace Institute.

⁴⁰ Vrhovno državno tožilstvo Republike Slovenije (2022), Skupno poročilo o delu državnih tožilstev za leto 2021, p. 170. Ljubljana: April 2022.

⁴¹ Vučko, K., Šori, I. (2023) Franet National contribution to the Fundamental Rights Report 2023, Slovenia. Ljubljana: Peace Institute.

⁴² The Advocate for the Principle of Equality (2022) “Redno letno poročilo za leto 2021”, available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-za-leto-2021-%E2%80%93-prvi-del.pdf>, p. 94.

⁴³ Vrhovno državno tožilstvo Republike Slovenije (2022), Skupno poročilo o delu državnih tožilstev za leto 2021, pp. 168–183. Ljubljana: April 2022.

enforcement, police, prosecutors and courts, and it is basically seen that they are not so attentive to it.”(P1)

There are also some **civil society organisations (CSOs)** offering services to victims that keep records of their beneficiaries. Thus – through their online platforms⁴⁴ – Legebitra documented six (P8) and TransAkcija three hate crimes in the year 2021.⁴⁵ In 2022 until the beginning of December, Legebitra recorded 13 reports of bias-motivated crimes (P8). Interviewed professionals from CSOs also believe the grey area of criminality with hate crime is wide. Discussing the number of people who report a hate crime, one of them noted *“I think that a very small percentage of people come to us; /.../ there are many things that could in fact be reported, that should be reported also to encourage case law, but people don't want to, because they will only end up with problems”* (P12).

A.3. Social perceptions towards and prejudices against minorities

“Sometimes I take it on myself, I feel like my life is terrible. But it's not, it's just that I heard about a 16-year-old who's almost on the street, or someone else whose parents are doing an exorcism to him, or an older trans woman who's being beaten in the village, even the cops are beating her! Terrible stories! And then you say to yourself 'it's really a disaster to be trans'” (V4)

According to the Advocate's yearly report, the most frequently alleged personal ground of discrimination in cases completed in 2021 was **disability** (10.8 %), followed by the total number of cases with personal grounds of **nationality, race and ethnic origin** (8.3 %), **gender** (6.3 %), **age** (6.1 %), **citizenship** of another Member State or a third country (3.5 %), property status (3.3 %), **sexual orientation, gender identity or gender expression** (3.3 %), **religion** or belief (2.4 %) and education (1.5 %). The Advocate also considered 5 cases of alleged personal ground of **language** and 4 cases of alleged personal ground of **social situation**. In 2021, the Advocate additionally kept records of the alleged personal grounds of health status (5.1 %), parenthood and pregnancy (4.4 %) and place of residence (2.6 %), which are not explicitly listed in the law and which the Advocate regarded as “other” personal grounds.⁴⁶

In Slovenia, the practice of measuring discrimination is extremely scarce, and Bajt⁴⁷ is the first to undertake an in-depth field investigation of discrimination in several areas of life in accordance with a precisely outlined combination of different data collection methods. Research shows that despite existing legal grounds for its prevention, the extent of

⁴⁴ See per example <https://nprav.si/> (accessed 19 January 2022).

⁴⁵ ILGA Europe (2022) ANNUAL REVIEW OF THE HUMAN RIGHTS SITUATION OF LESBIAN, GAY, BISEXUAL, TRANS, AND INTERSEX PEOPLE IN SLOVENIA COVERING THE PERIOD OF JANUARY TO DECEMBER 2021, available at: <https://www.ilga-europe.org/files/uploads/2022/06/SLOVENIA.pdf>

⁴⁶ The Advocate for the Principle of Equality (2022) “Redno letno poročilo za leto 2021”, available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-za-leto-2021-%E2%80%93-prvi-del.pdf>, p. 41.

⁴⁷ Bajt, V. (2022) “Ethnic Discrimination: Research and Measurement Strategies” (Etnična diskriminacija: strategije raziskovanja in merjenja). Ljubljana: Mirovni inštitut.

discrimination is problematic. The book stems from the need to collect such data in a way which 'measures' (ethnic) discrimination beyond official statistics.

The society in Slovenia is still very homogenous, only 8.5 % of the population are foreign nationals.⁴⁸ According to the last census in 2002,⁴⁹ Slovenian population consisted of 83 % ethnic Slovenians. Members of the Italian and Hungarian minorities enjoy the status of indigenous minorities, the Roma have the status of a special ethnic community, whereas other ethnic groups do not enjoy any special status.⁵⁰

Xenophobia seems to be one of the most present phobias in Slovenian society. One of our interviewees shared events she experiences daily: *"One lady started shouting: 'why are you here, go to your country, leave Slovenia, leave child benefits, leave the money, you are here for the money...' She was shouting so much on the street that the children were scared. I said: 'I'm not here for money, I'm here because of the war (in Syria).' 'Anyway, go home!' she said."* (V5)

Discrimination based on the personal circumstances of nationality, citizenship, skin colour and religion is a problem that is present in Slovenia especially in the housing market, administrative procedures, access to services (per example banks), employment and the workplace, and in healthcare. The data show that discrimination is most often experienced by persons who are treated as foreigners by the existing legislation and the majority population, and it is especially strongly present in relation to applicants for international protection and refugees, who also report experiences of **ethnic or racial profiling by the police**.⁵¹ One of the interviewees (P13) said: *"You go to work in the morning and you arrive two hours late because on the way to work the police stop you three times checking if your bicycle is stolen."*

As shown by the existing research⁵² and our interviews, **the racism in the housing market** is by far the most obvious and persistent. One interviewee (V5) said: *"When they hear we are not Slovenians, they always say 'no'. Already on the phone."* And another one (P13): *"The darker the person is, the harder it is to get an apartment. [...] One guy already went to see 20 rooms! He speaks Slovenian, has a regular job, he has been here for seven years, does not drink, does not smoke, does not party... he is such a good boy and even cute. And he does not get a room because he is African. Because he is black."* Those rare landlords who are renting out to the migrants without any retentions, sometimes experience negative incidents with the police and consequently back-off too.

⁴⁸ Statistični urad Republike Slovenije: <https://www.stat.si/StatWeb/News/Index/10636> (data for 1 July 2022).

⁴⁹ Statistični urad Republike Slovenije (2002) "Popis 2002, Slovenija", available at: <https://www.stat.si/popis2002/gradivo/2-169.pdf>

⁵⁰ Kogovšek Šalomon, N. (2022) "Country report Non-discrimination Transposition and implementation at national level of Council Directives 2000/43 and 2000/78 Slovenia." Luxembourg: Publications Office of the European Union, p. 5.

⁵¹ Bajt, V. (2021) Reducing and eliminating discrimination on the basis of ethnicity, 'race', nationality and/or religion (*Zmanjševanje in odpravljanje diskriminacije na podlagi etničnosti, 'rase', nacionalnosti in/ali vere, Zaključno poročilo*). Ljubljana: Mirovni inštitut.

⁵² Ladić, M., Thaler, I. and Bajt, V. (2022) National Integration Evaluation Mechanism: Slovenia. Report for 2020-2021. Ljubljana: Peace Institute.

The attitude towards **the Roma** population also shows discriminatory practices, regardless of the fact that legally and formally the Roma community has been guaranteed conditions for an equal life. There is still a lot of discrimination in the field of employment and education, which was especially highlighted during the covid-19 epidemic with distance learning. The situation of Roma children worsened and the exclusion of the Roma community at all levels was demonstrated. Data from the field confirm a very similar situation for migrant children and **migrant communities**.⁵³ See Appendix 1 for stories of our interviewees.

Schools should be a safe environment for all students, however a study 'LGBT youth – let's break the silence in schools!' found that one in four **LGBTIQ+** young people in Slovenia witnessed anti-LGBT remarks in school and that in most cases teachers either did not intervene or did so inefficiently.⁵⁴ Peer discrimination in the classroom is one form, while institutional discrimination in schools, carried out by school staff or even heads, is another form of discrimination experienced by some of our interviewees.

The positive change we have seen lately is perhaps the media representation. The media used to always emphasise the ethnic origin of Roma perpetrators of misdemeanours or crimes. While this might lately improve, the overall anti-gypsyism is still much present in Slovenian society: *"If some Roma steals pate in a store, then my child is also to blame. This is wrong. [...] if we talk about the negative side, we should talk about the positive side too. After all, the Roma community is like any other."* (P14)

Religion or better said expression of religion is very frequently grounds for discrimination especially for veiled Muslim women: *"I was on the bus and I sat next to a woman, and she got out, she ran away... Yes, they don't want to sit next to me on the bus either. I don't know, because I have a headscarf, they know I'm not Slovenian and they run away... Not all of them, of course, but yes, people behave differently when they see me."* (V5)

Homophobia is strongly present in Slovenian society, especially in the rural areas. Those members of **LGBTIQ+** community that are not "obviously" gay perhaps do not report on direct attacks often, however transgender persons, especially those who do not "pass", are facing verbal or physical attacks or at least bias-motivated discrimination and hate speech on a daily basis: *"Every time you go out you receive bad looks. [...] For the first time in, I don't know how long, someone smiled at me. Oh my god! That's when I understood the power of makeup, the power of "passing". [...] When people know you are trans their behaviour changes. It seems to me that you lose the status of a human being."* (V4)

Employment is one of the fields in which discrimination towards certain groups is obvious. Our interviewees reported on problems faced by Roma, transgender persons, and veiled

⁵³ Bajt, V. (2021) Reducing and eliminating discrimination on the basis of ethnicity, 'race', nationality and/or religion (*Zmanjševanje in odpravljanje diskriminacije na podlagi etničnosti, 'rase', nacionalnosti in/ali vere, Zaključno poročilo*). Ljubljana: Mirovni inštitut.

⁵⁴ ILGA Europe (2022) ANNUAL REVIEW OF THE HUMAN RIGHTS SITUATION OF LESBIAN, GAY, BISEXUAL, TRANS, AND INTERSEX PEOPLE IN SLOVENIA COVERING THE PERIOD OF JANUARY TO DECEMBER 2021, available at: <https://www.ilga-europe.org/files/uploads/2022/06/SLOVENIA.pdf>

Muslim women, while, ironically, the same group of people that face the most discrimination in all other spheres of life, can easily find employment (though only difficult, physical work): *“migrants... whether you have a university degree or something, everyone ends up working in warehouses, delivery, factories, and kitchens. These are the four and you get jobs there, there is no discrimination there, because those are such hard jobs for so little money that employers don't have that many other workers to choose from anyway.”* (P13) The same conclusion was made in a recent study, in which the majority (67.6%) of those surveyed believed that immigrants take jobs that others (Slovenians) do not want. Thus, immigrants on the labour market do not represent competition to the majority population.⁵⁵

Several interviewees, victims as well as professionals, emphasised that in Slovenia the minorities most often experience **discrimination from public institutions and when accessing services**: *“This “people's” racism manifests itself mainly in the fact that you don't get an apartment. Much less on the street... Racism in our country and discrimination comes from the institutions, from the police, from the banks, from the administrative units and the social work centres.”* (P13)

Through the 20 interviews we conducted, we recorded numerous experiences of discrimination and mistreatment of our interviewees or their clients, members, beneficiaries or friends. Due to space limitation we could not include all of them. However, in order not to lose those valuable testimonies which show why so many people do not trust state institutions, and consequently why so many people do not report hate crime, we added an Appendix 1 to this report.

⁵⁵ Medvešek, M., Bešter, R., Pirc, J. (2022) Mnenja večinskega prebivalstva Slovenije o priseljevanju, priseljencih in integraciji. Ljubljana: Inštitut za narodnostna vprašanja, p. 94.

B. OVERVIEW OF VICTIMS OF HATE CRIMES

OVERVIEW OF VICTIMS OF HATE CRIMES

B.1. Profile of the most vulnerable groups

It is extremely unjust to select the most vulnerable groups. However, there are various risk factors that can increase the vulnerability of potential hate crime victims. Also, certain personal conditions make it more difficult to access information, victim assistance and support services. Based on our desk, online and field research, we identified the following groups as the most vulnerable and most at risk of experiencing hate crime in Slovenia (not necessarily in this order):

- LGBTIO+ (especially transgender persons);
- migrants and refugees (the darker the skin colour the worse the discrimination);
- veiled Muslim women;
- migrant women victims of (domestic/gender based/sexual) violence, and migrant women victims of trafficking;
- Roma (especially young girls who often face discrimination or violence also inside their community);
- homeless persons (especially women);
- persons with disabilities;⁵⁶
- sex workers (especially migrants, transgender, racialized minorities);

As further elaborated in the next chapter, persons at the intersection of various identified groups are even more at risk of experiencing hate crime or at least bias-motivated discrimination: *“But the more of these personal circumstances you have, the more content you have to hide, and the less chance you have to hide or normalise it all. As a result, it will come out somewhere, whether you want it or not.”* (V2)

Legal status or residency permit of a potential victim is certainly not one of the first aspects – if at all – to be considered. But in practice, (absence of or a precarious) legal status might be the crucial factor for the victim not to report hate crime: *“An immigrant victim of (gender based) violence is completely dependent on her husband and when she leaves him, she is threatened with deportation from the country. [...] If she comes to some social worker who doesn’t understand this, such a woman remains completely unprotected. And the system as such is blind to these intersections.”* (P10)

Some of those victims who are also worried about their legal status or how that might influence the state authority’s decision on their legal status, are **asylum seekers**. See Appendix 1 for a story of our interviewee.

Integration in Slovenia is far from being a two-way process and migrants bear most of the burden and simply try to “blend in”. However, for some that is impossible due to, per example, their **skin colour**. Racialized minorities are for sure one of the groups most at risk of experiencing discrimination or violence, including from the police. A lawyer described a case of one of her clients, a black man who was on a stroll with his child: *“Someone called the police on him and said he had kidnapped a child. We got this phone recording...*

⁵⁶ Unfortunately, we were not able to conduct an interview with any victim of hate crime or bias-motivated discrimination on this ground. Thus, this field is not adequately covered by the report.

He said 'one black guy with a yellow kid, looks like those guys waiting in the van outside the elementary school'. The police came, they stopped the car, the policeman [...] knocked him to the ground, tied his hands behind his back... And the child was next to him and watched all this." (P6)

Some victims of hate crime or bias-motivated discrimination are forced to face their perpetrators on daily basis, if those live in the same building, per example: *"When I get home I'm like, 'Okay, it's okay, I managed to get in and lock the door behind me.' And I don't know what floor he's on, I just know he's not on the same floor as us. But I really don't feel right if I know that the door is unlocked. I don't know if he is so crazy that he would come looking for us or not, but I am definitely very uncomfortable with what is happening."* (V2) Our interviewee, a non-binary person and a human rights activist, had enough of these neighbour's attacks and reported him. But often **LGBTIQ+** victims don't (dare to) do that or even worse, they feel guilty: *"It took me years to get from this position of 'Please don't kill me, please let me live here...' to a position where I actually recognize that I'm discriminated against because I'm trans or because I'm a woman."* (V4) Often members of **LGBTIQ+** community experience a lot of hateful violence within the family environment. *"And what they pointed out was that this had worse consequences for them than, say, a hate crime that they experienced on the street by the perpetrators, whom they did not know."* (P10)

Another extremely vulnerable group, especially at risk of domestic, gender-based or sexual violence, are **teenage Romani girls**. Slovenia is facing a considerable problem of early marriages⁵⁷ and the institutions are raising their hands here. *"You meet with the social work centre and the school, which say that the 13-year-old is ready for marriage, that they can't do anything because 'it's their culture'."* (P10)

Another group, which is essentially not vulnerable, but is at high risk of experiencing hate crime, are **publicly exposed human rights activists**. The more they are present in the media the more they are attacked: *"It was verbal on the street, from someone calling you 'fag', insults, humiliation, to throwing objects, discrimination on the bus e.g. that someone spread out on the seats when I was about to sit down and said 'you're not going to sit here, you faggot, go away'. [...] They threw a note '... raus'⁵⁸ into my mailbox, which meant that they knew where I lived. [...] It had consequences on my mental health."* (V1)

Another interviewee, a non-binary person, said: *"almost every (media) article I've been in, has had hateful comments calling for me to be killed..."* (V2).

⁵⁷ Urad Vlade Republike Slovenije za narodnosti (2021) "Priročnik o prepoznavanju zgodnjih in prisilnih porok v romski skupnosti in o ukrepanju v teh primerih", available at: https://www.gov.si/assets/vladne-sluzbe/UN/SIFOROMA-4/Urad-za-narodnosti_Nacionalna-platforma-za-Rome_prirocnik_165x240mm.pdf

⁵⁸ *Raus* in German, meaning "get out".

B.2. Presence and impact of intersectionality

Multiple discrimination is defined as one of the severe forms of discrimination.⁵⁹ Kuhar was one of the first to carry out qualitative research on multiple and intersectional discrimination in Slovenia, and to publish a book on the topic. Discrimination is often a result of co-effects of several factors, which create a new “*content of discrimination*”. One-dimensional approach to intersectional discrimination is always limited. Multiple or intersectional discrimination “*is additionally complicated from a legal point of view, since most legal instruments are focused on one-dimensional forms of discrimination – discrimination based on one personal circumstance*”.⁶⁰

Our research confirms this, in a sense that interviewed victims and professionals working in CSOs pointed out intersectionality as an important risk factor, and they were able to share numerous examples. While, on the other hand, interviewed professionals working in public institutions and lawyers said that in those cases they have dealt with, the ground for hate crime or discrimination was always just one personal circumstance.

When discussing the crossroads of multiple discriminations in police or judicial procedures and how that affects the victim, one of interviewees said: “*the law enforcement authorities pay almost no attention to it. Moreover, in my experience, and also from what I hear from others, there is even considerable discrimination done.*” (P10)

Transgender persons are at high risk of experiencing hate crime or bias-motivated discrimination. Being **transgender and a migrant** in Slovenia, one faces unimaginable situations. Our interviewee, a foreign citizen, living in Slovenia for over 10 years, went through the transition in Slovenia but had to arrange the legal gender recognition in her country of origin. In the course of these processes, she got divorced, her residency permit in Slovenia expired, she couldn't work anymore but also had no right to social welfare, and she was without documents for two years. “*I basically lost all my rights. I found myself with zero, zero income! [...] I turned to my parents for help because they have money, but they didn't understand my situation. [...] I called them and said 'next in line is sex work, I have nothing else to try', but they said if I do that, they really won't help me. And then we didn't talk for a year.*” (V4) Adding one more personal circumstance, **parenthood**, to the intersection of other vulnerabilities, our interviewee found herself in dire straits: “*that if I do sex work I won't see the children anymore. [...] she (ex wife) somehow turned it against me and [...] I was afraid that I would lose my children and I felt terrible.*” (V4)

Sex workers in general, let alone at the same time being a migrant or a transgender or of different skin colour, are extremely vulnerable to discrimination, exploitation and violence. Several interviewees said that this is also the group that is often treated completely inappropriately by the police and other state institutions. “*Prostitution in particular... there is a lot of hostility towards these women and a lack of understanding*

⁵⁹ Advocate for the Principle of Equality (2022) “*Redno letno poročilo za leto 2021*”, available at: <https://zagovornik.si/wp-content/uploads/2022/08/Redno-letno-porocilo-za-leto-2021-%E2%80%93-prvi-del.pdf>, p. 37.

⁶⁰ Kuhar, R. (2009) *At the Crossroads of Discrimination. Multiple and Intersectional Discrimination*. Ljubljana: Mirovni inštitut. Available at: <https://www.mirovni-institut.si/wp-content/uploads/2014/08/Na-kriziscih-diskriminacije.pdf>, pp. 10-11.

that these women can be victims of sexual violence. So a woman engaged in prostitution [...] in institutions, gets a cold shower. I know a few cases where they reported sexual violence and the police [...] didn't even treat it as sexual violence.”(P10)

B.3. Outstanding personal consequences and needs of victims of hate-based violence

“These events have left a mark on me. I think, indelibly.” (V1)

Like any other serious crime, hate crime constitutes a blatant violation of human rights (per example, the right to life, the integrity of the person or the prohibition of torture and inhuman or degrading treatment) and represents a grave attack on human dignity. There can be commonalities to victim needs but victims of hate crime often do not experience victimisation in the same way as victims of ordinary crimes. They are victimised for who they are or are perceived to be.

These findings were echoed in the interviews conducted with victims and professionals, where most of the interviewees first and foremost highlighted the lasting psychological effects of the hate crime as a violent and discriminative act that attacked their very being. *“Someone hates you and that's why they did it, it's not just some robbery, but your social being is humiliated.”*(P12)

A general sense of security in society is gone or severely affected. Victims avoid certain places, become wary whilst outside, their outlook on the world changes. *“This experience is traumatic because it really changes you deeply. In the sense that you never go carefree out in public again. You always expect something to happen.”*(V1)

An LGBTIQ+ interviewee who was attacked by a group of young men explained the profound consequences: *“They are always suspicious. They always catch your eye, they always make you feel uncomfortable. They always make you nervous. Whenever such groups are around, I masculinise my behaviour – I always go into this aggressive mode, in the sense of ‘leave me alone’.”*(V1) He also noted that after the attack he always watches what he wears, whether he is wearing obvious signs of community. Even more: *“If I go out with my partner, there is never – after these events – any more neutral, relaxed hand-holding or kissing or paying each other attention. [...] every time you give each other a kiss, you look around [...]. We don't give up these gestures, but they are never neutral, spontaneous gestures anymore, they are always like expressions of activism, even though they are not – they shouldn't be expressions of activism.”*(V1)

There are of course different survival strategies, also depending on the attacked personal ground. A victim of anti-LGBTIQ+ hate crime highlighted: *“After the attack I had one pepper spray on me for years and I went to buy one stick. [...] and we went to a self-defence course. But the mechanism is also hiding and this mimicry of hiding your whole symbolic world that shows you as an LGBT person, and then living a double life. But this also has consequences on people's mental health.”* (V1) Similarly, another victim explained: *“I don't walk around Ljubljana without pepper spray, I started carrying it right from that moment. [...] I don't feel safe. I've lost that feeling that it's a safe place or that*

nobody will do anything to me. [...] I admire young people who are so relaxed, I just can't do it anymore. That's what I'm left with, this fear..."(V6)

Amongst their needs, after the attack, victims and professionals mentioned **the need to be heard, to be taken seriously** as the most important: *"So that when I experience violence, I don't have to prove that it was violence, that it wasn't just an opinion, that it was homophobic violence [...] In short, that they take you, that they take your case, that they take what happened seriously and don't relativize it."*(V1)

Several interviewees mentioned **the need for psychiatric or psychological support**, *"because dealing with this attack is a whole process – which I can't quite describe now, but it goes from fear to anger, from feelings of guilt to self-accusation."*(V1) Many victims face states and emotions they did not know before, such as insomnia, fears, anxiety, paranoia: *"I couldn't sleep for about two months. [...] We were very paranoid. [...] it was bad, I was afraid of many things."*(V2) *"At some point, it can get very complicated with your mental health and actively offering help is something that I think is absolutely necessary."*(V1) *"I had these psychotic episodes, this anxiety that everyone was watching me, that right now someone was going to come and bother me, and I had a hard time with that, getting over it."*(V6)

The fear for one's personal safety also affects reporting of crime and the interviews conducted show that very often victims do not find safety and relief with the police: *"Absolutely no [trust]! If we see the police we usually back off because we don't want anything to do with them."*(V4) *"This sense of security is missing. To give people a sense of security, that nothing will happen to them as they continue [participating in] the procedure and that they will be protected. [...] There is far too little awareness here on the part of the state authorities of how traumatic an experience it can be, that one is in shock and that they need a little more support, especially by instilling a sense of security."*(P12) See Appendix 1 for more stories.

Very often, victims of hate crime or bias-motivated discrimination **cannot afford the costs for the legal representative** in the proceedings: *"There is no financial support specifically intended for victims... We have free legal aid, but we know that this is not the same as if you can afford well-known expensive lawyers... On the other hand, we have perpetrators of violence who come with exactly such lawyers."*(P10)

Other needs most often mentioned were **more comprehensive and tailored information** (V1, V5, P6, P10, P13), and **the need for better access to general and psychiatric health services** (P9, V4, V6, P10), which is a long lasting and growing issue in Slovenia. *"Victims have to seek some psychotherapeutic, psychological help all by themselves. [...] And, of course, this intersection of inequality is very much present here. It is also a question of what they can afford. An hour of psychotherapy costs between 50 and 100 EUR."*(P10)

One of the professionals also mentioned an issue which corresponds to the special focus we shall put into analysing the available support services in the report below: *"It seems to me that victims feel that those who would help them are not strong enough. They need to feel that the organisation that is going to help them is going to stand behind them 100 %*

and that it is stronger than the perpetrator. That this is something big and powerful. That, I feel, is missing. That feeling that the whole world is behind you, that nothing can happen to you, that you can really trust.” (P6)

C. ACTIONS AGAINST HATE CRIMES AND DISCRIMINATION

ACTIONS AGAINST HATE CRIMES AND DISCRIMINATION

C.1. Reporting procedures. Strengths and weaknesses

In accordance with Art. 146(1) of the CPA, anyone can report a criminal offence which is prosecutable *ex officio*. The report can be made at the competent state prosecutor's office or the police. Although the law primarily designates the prosecutor's office as the competent authority to receive reports, the majority of criminal offences are reported to the police. Upon receiving the report, the police must then immediately forward the report to the competent state prosecutor (Art. 147(3) CPA). The report can be made at any police station or police department, which is usually organised and on duty 24 hours a day. A report can be made at any time (24 hours a day) by calling 113 or other publicly published telephone numbers of police units and on the police website. The report can be filed in writing and electronically. Anonymous reports via telephone or website are also available. On its website, the police has separate links for the anonymous online report of different types of crimes, among others extreme violence, under which incitement to intolerance and hatred is included.⁶¹

With the 2019 transposition of the Victims' Directive, the responsibilities of the police and state prosecutors towards victims of crime are much more clearly defined.⁶² This includes a set of rights when making a complaint. Namely, the police must, upon first contact, provide the victims with relevant information, including on free medical, psychological and other assistance and support; protective and other measures for ensuring personal security; right to be represented by a lawyer and to legal aid; and right to be accompanied by a person of trust during the pre-trial and trial procedure. The authorities must also provide the victim with a written receipt that they made a criminal report and a contact person of the competent authority with whom they can communicate in their case (for a full list of rights, see Appendix 2). Namely, the competent authority must inform the victim of this right in pre-trial or criminal proceedings and record this in an appropriate manner in such a way that the police, the competent state prosecutor or a judge may be informed thereof. Information on the status of pre-trial or criminal proceedings can be provided via websites (Art. 65.a(3) CPA). The police offer the victims the possibility to check the stage of the pre-trial proceedings via a website.⁶³ By entering personal information, contact details and the date of the report, the victim can access information on the course, stage and conclusion of the relevant pre-trial procedure.

In line with the Victims' Directive, the objective is to empower the victims by providing appropriate information, support and protection so that they are able to participate in criminal proceedings.

⁶¹ Policija, Anonimne e-prijave, available at: www.policija.si/kontakti/estoritve/anonimna-e-prijava.

⁶² The Act amending the Criminal Procedure Act (Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku, ZKP-N), 26 March 2019.

⁶³ Policija, Obveščanje oškodovancev kaznivih dejanj, available at: https://www.policija.si/apps/obvescanje_oskodovancev/form.php

Yet, underreporting of bias-motivated violence and harassment is a widespread issue across the European Union, and Slovenia is no exception. This is the reality for immigrants and descendants of immigrants, Roma and Travellers, Jews, Muslims and LGBTIQ+ people across the EU.⁶⁴ The issue of underreporting was mentioned by several interviewees (P5, P7 P13, V4). As findings of our research show, the issue of underreporting, which fundamentally contributes to inadequately addressing hate crime, reflects long-standing wider societal issues of prejudice and structural discrimination.

Fear was mentioned by the interviewees as the main reason that prevents victims from contacting the authorities: fear of the perpetrator, fear and lack of trust towards the police, fear of being punished themselves, fear of the reaction from their families, colleagues and the wider community, stigma.

“The most slippery area is certainly sexual violence, which is very difficult to talk about. And shame and stigma are a very strong factor. Fear of what official procedures entail, fear of economic weakness – victims are often economically weak; fear that they will not be able to cope with these procedures, that they will not be able to afford a lawyer, protection, etc. And fear because they do not know their rights. [...] For those who have children, this fear is very much linked to the fact that they will lose their children. It’s a very strong fear.” (P10)

In cases of intersectionality, these deterrents multiply and make it even harder for the victim to decide to report a crime. As the interviewed lawyer explained: *“They are afraid. For this very reason. Because of their sexual orientation, their nationality, etc. My client was also afraid to report. I asked him why and he said because he had sex with men. I told him that it is not a crime here, you can have them voluntarily, but nobody can force you to do it. But he said he didn’t know if that counts because he was black.” (P6)*

The law provides for several measures to protect the victims already at the reporting stage. One such mechanism is the **individual assessment of victims to identify specific protection needs**. The police must make an individual assessment that is used as a basis for the decision if and to what extent the victim would benefit from special protection measures as provided by the law (Art. 143.č of the CPA). The individual assessment should examine in particular the personal characteristics of the injured person, the nature, gravity and circumstances of the crime, the conduct of the accused person and the injured person in pre-trial or criminal proceedings and outside them, and should take into account the opinion of the injured person, in particular if the injured person expressly refuses in advance the possibility of special protection. Particular consideration must be given to the age and potential disability of the injured person and to the **circumstances of the criminal offences committed as a result of prejudice, discrimination, exploitation or hatred**, criminal offences involving the elements of violence or criminal offences against sexual integrity, and criminal offences involving the elements of terrorism, trafficking in human beings and crimes committed within the context of a criminal association. It is considered that minor

⁶⁴ FRA (2021) Encouraging hate crime reporting - The role of law enforcement and other authorities. Available at: <https://fra.europa.eu/en/publication/2021/hate-crime-reporting>

victims always need special protection. The police make the assessment by asking the victim a set of questions based on a form, which was prepared by a working group, established by the Ministry of Justice in 2019 to develop measures for the effective implementation of the new provisions of the CPA transposing the Victims' Directive.⁶⁵ An individual assessment is updated if its elements change significantly. The police prepare and update the individual assessment until a criminal complaint is filed or until they send a report to the state prosecutor. The state prosecutor's office prepares and updates the individual assessment during the course of pre-trial and criminal proceedings, or if the injured party has filed a criminal complaint with the state prosecutor's office. However, one interviewee (P3) mentioned that the state prosecutor's office does not prepare or update the individual assessments, but rather examine the individual assessment prepared by the police and assess whether there are any further steps to be taken or any further instructions should be given to the police to complete the assessment.

Victims also have the **right to be accompanied by a person of trust (confidant)**, both during the pre-trial and criminal procedure (trial). Before the transposition of the Victims' Directive into national legislation, this right was only granted to minor victims, or victims of violence. Now, this right can also be exercised by other victims if the severity or the nature of the offence, the victim's personal circumstances or the level of endangerment so required (Art. 65(4) CPA). This could in practice be very important for victims of hate crime. However, this right may be restricted, if the accompaniment is against the interests of the procedure or the victim.

The importance of this right was also stressed by interviewees, per example: *"You can come to the police station to report with a counsel, with a lawyer, even with a person of trust, you can come with a representative of a CSO /.../ And (this person) helps you. You are, of course, the initiator of the complaint, and you participate in it, but in that segment where it is absolutely necessary, so that you are not (overly) exposed. In short, there is this mechanism, a counsel who /.../ leads or monitors this process and helps you, offers you assistance as a victim, and this is something that the police must and do accept."* (P7)

Despite these mechanisms and improved treatment and attitudes towards victims (in general) the implementation of the Victims' Directive should inspire, interviewed victims continue to report a lack of trust in the police (see Appendix 1 and Appendix 3 for stories). Several interviewed victims and practitioners mentioned also unresponsiveness of the police, per example: *"We went to the police, we reported it, we told the name of the perpetrator, because we found out who it was and they made a nice note of it and there has been no word about the case since. That was six months ago, nothing, nothing."* (P13)

Not only regarding processing of the reports, one victim reported unresponsiveness of the police to their emergency call in a life-threatening situation: *"It seemed like an eternity to me, because when I went to look back under the calls, I saw that after two minutes I had*

⁶⁵ Mirovni inštitut (2021) ARVID - Advancing Access to Rights under Victims' Directive for Persons with Disabilities, National Report for Slovenia. Ljubljana: Mirovni inštitut.

called the police again and said, "They're going to kill me, please come. This is a homophobic attack." [...] The police didn't show up for 35 minutes or something like that. We called over one patrol as it was just passing by. A colleague waved and these two policemen came and then they treated it as vandalism." (V6)

Victims reported that sometimes only media pressure or the commitment of an individual police officer moved the case forward (albeit too late): *"At the police, the matter only moved on after the media pressure was very high. And the involvement of, at that time, the district police officer, I think he was in charge of the area. He and another colleague of his put very, very strong pressure on their bosses that the matter needs to be cleared up. So they then came back after a few days to collect evidence. Of course, by then the evidence was gone." (V6)*

Although all victims should receive equal treatment and rights, regardless of whether they report the crime themselves or are accompanied by a counsel or a representative of a CSO, some interviewees mentioned **the importance of established communication and cooperation between the police and minority communities or the organisations that represent them**: *"When I was present, the treatment from the authorities was quite correct. But I believe that it is different if someone comes with a lawyer than if they come alone. It was positive that we worked with the police, because that way we have people we can turn to. [...] When I am there when a report is made, I definitely point out that it is a hate crime. We then correct this in the official note of the report if it is not clear enough." (P8)*

Similarly, one of the professionals, offering general support to members of Roma communities and the homeless (P11) explained their strategy: *"Much of it is arranged by us over the phone. We know which policemen, which investigators etc. are OK. We try very hard to make sure that the person interrogating a woman is a woman and not a man."*

In the field of combating human trafficking, public authorities have been working in close cooperation with CSOs for years. One of the professionals explained: *"We work well together. It is important to us that we have the right contact person at the General Police Directorate to whom we can always turn. And also that a person who is a victim of human trafficking is always interviewed by criminal investigators who also work in this field – that the person is trained. And we also always monitor the victim, to assess if they need a break, a coffee, a toilet, if it is too much, to stop, to take a break. So I would consider this cooperation to be fine. That is why we also encourage other organisations, who may not have such good relations with the local police stations, to report their suspicions directly to us and then we pass it on. With the prosecution, if it is trafficking in human beings, there is a specialised public prosecutor's office involved, and we also attend training together with these prosecutors." (P9)*

These experiences represent promising practices that could be taken into account in future efforts to enhance the rights of victims of hate crimes, during the reporting process and in later stages of the proceedings. Special training of a number of police officers who would primarily deal with complaints made by victims of hate crime could also be a step in a

positive direction, as was mentioned by one of the interviewed practitioners: *“On the other hand, (in the case of) sexual orientation, it can be a problem (if the victim) comes and encounters a police officer who has no sensitivity for these things [...] there are solutions here... notifying the police station in advance. At the police station there are (officers who are) more trained in a certain field, in short we have a set of certain solutions, which (can be) presented to the interested public.”* (P7)

See Appendix 3 for more stories.

C.1.1. Identifying hate and bias-motivated crime in the practice of Slovenian police and state prosecution

Slovenian law does not mention victims of hate crime specifically. Addressing hate crime entails on the one hand victims and witnesses coming forward and reporting an incident and on the other the ability of national law enforcement systems to identify and record hate crime correctly.⁶⁶ FRA research shows that many Member States still have no system in place that assists and compels police officers to identify and record bias motivation, and Slovenia is no exception. As will be shown below, field research confirmed that also in Slovenia reported hate crimes may be wrongly categorised, bias motivation may not be investigated and a hate crime may not be prosecuted as bias motivated. According to FRA, the consequences are that victims may be left without appropriate support, protection and justice; hate crime laws cannot be given effect in court; and even reported hate crimes are not accurately represented in official statistics.⁶⁷

A professional from the police explained that when dealing with crime, the police and prosecutors always focus on what will have the best chance of success in the criminal proceedings, the best chance of proving the case in court. Therefore, if the hate motive or the prejudice turns out to be more difficult to prove, it may be that the police and the state prosecution will not specifically include this part in their prosecution. *“Police officers have a policy of starting from the more serious offence to the less serious offence, i.e. they start with the criminal offence first [as opposed to a minor offence]. The biggest problem here is motive (intention).”* (P7)

“But intention is a very subjective circumstance. Even if he did it, to avoid responsibility he [the perpetrator] will say: ‘No no, I did it in affect’, ‘he upset me’, ‘you know, I said it as a swear word, I had no intention of doing it’. Here again, we encourage police officers to look at [the perpetrator’s] previous actions. We look at the fact that, if the perpetrator has repeatedly targeted this vulnerable group and has a number of similar offences, then we are going to say that, despite denying this motive, his previous actions or some other circumstances show that this was unquestionably his motive, and if not, then we have considerably more difficulty in proving intention. Let alone when it is just a verbal offence, and I have now said that for the case of violence. But if it is undignified behaviour, he

⁶⁶ FRA (2021) Encouraging hate crime reporting - The role of law enforcement and other authorities <https://fra.europa.eu/en/publication/2021/hate-crime-reporting>, p. 53.

⁶⁷ FRA (2021) Encouraging hate crime reporting - The role of law enforcement and other authorities <https://fra.europa.eu/en/publication/2021/hate-crime-reporting>, p. 53.

didn't hit him, but he scolded him, he called him names, I don't know what else, here we are usually bumping into the right to a certain freedom of expression, freedom of opinion, freedom of viewpoint, where [the perpetrator] says: 'I just don't like gypsies, can I say that?' And then here we are looking for what his motive is, what his other words were, what he was calling for." (P7)

On the other hand, some interviewees (P8, P12) cited the problem of relativization by the law enforcement authorities (police), where it is necessary to insist that the matter is explicitly on the record. So the problem is that victims feel that they are not taken seriously by the authorities unless media pressure is created. The same happened in the case described by V6, where the first two police officers on the scene treated an apparent homophobic attack as mere vandalism and did not follow the procedure carefully, did not call the police investigators, did not secure the evidence, etc. Despite the fact that, after media pressure, the criminal investigators got involved and the police's subsequent handling of the case was entirely appropriate, key evidence was lost and the perpetrators were not identified.

A prosecutor told us how the general lack of emphasis on hate motives for crimes is reflected in the practice of prosecutors: *"Sometimes we cannot even know from the very beginning that it is a hate crime. Because, per example, the police do not deal with that part of it, or because, per example, it is not apparent from the circumstances of the case itself. If you imagine a Slovenian and, say, a South African citizen are fighting in the street and the police just treat it as a fight in which there were injuries, but there is no record of, or we do not always look for the reason why the fight took place. The law does not oblige us to look for that cause, for that purpose, it basically provides or wants us to prove it only for specific offences. Let's say for injuring persons, but not things. We do not always have to prove that intent, or even always have to look for it. So perhaps there is already the problem that we do not always know when it is a hate crime."* (P3)

But, when there is indication about a hate motive, the prosecution may instruct the police to delve into this issue more thoroughly. *"If some relevant evidence is gathered, this can also be used later in court to prove an aggravating circumstance, which then has an impact on the sanction."* (P3)

The representative of the police explained an issue frequently encountered in the criminal procedure: *"Usually, in the first phase, victims are willing to share with the police and expect to be treated in this way. However, these personal circumstances... it often turns out later on that they do not want to expose it anymore because of the labelling of society, because of the exposure in criminal proceedings and proceedings for minor offences, because of the questionings from the police officers and from the surrounding society, maybe also the confrontation with the perpetrator. In short, we often have cases where the victims then do not want to communicate these personal circumstances anymore, or to participate at all in prosecuting this criminal behaviour. Now, because we are dealing with a very personal circumstance here, this prosecution ex officio is much more vulnerable, I would say, or the potential for success is lesser, if we do not have a victim, the one who*

directly expresses why this personal ground was so very important in a particular act of violence. The perpetrator will not communicate it, but the victim will, [...] And if these personal circumstances are not communicated by the victim it will be very difficult for the police officer to do it instead of the victim.” (P7)

This issue of victims feeling uncomfortable with sharing their personal grounds, feeling unsafe and choosing to abolish pursuing justice and/or redress within the criminal justice system echoes the above-presented experiences of the interviewed victims (in chapter C.1.). Their experience and conduct must be understood through the context of structural discrimination and an unwelcoming environment. This shows that even by significant improvements within the criminal justice system – which is very much needed – major steps will have to be taken to address deep-rooted structural discrimination and prejudice in Slovenian society.

C.2. Judicial process. Strengths and weaknesses

“Hate crime victims are those most afraid to go to trial, because these are traumatic experiences.”
(P12)

For many victims, uneasiness and fear of the public authorities and the proceedings does not cease with the procedure continuing in the next phase, in front of the courts. *“People are afraid. They are afraid of the courts, they are afraid to go to the police... Those who are victims of systematic violence are especially afraid. They are afraid that it will be even worse afterwards. [...] They feel uncomfortable. I am sure of it. [at the court] you are inside behind the podium ... you are exposed ... There is no effort to make [the space] victim-friendly ... and lawyers of the opposite party can ask whatever they want.”* (P6)

According to the CPA, the victims have: the right to information (on their rights and available support services); right to make a complaint; right to information about their case; right to accompaniment by a person of trust; mandatory legal representation for minor victims; right to translation and interpretation; right to be informed of the release or escape of the suspect or accused person from pretrial house detention or from detention; individual assessment of victims to identify specific protection needs. For more details see Appendix 2.

Both, the state prosecutors and the courts are also obliged to treat the victims carefully and considerately, with regard to their age, health, vulnerability or other similar circumstances. They too, have the responsibility to inform the victims of their rights, in accordance with the personal characteristics and vulnerability of the victims, their special needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings (Art. 65.a CPA). During investigation, victims have the right to draw attention to all the facts and to propose evidence that is relevant for the establishment of the criminal offence, the tracing of the perpetrator of the criminal offence and the establishment of their property claims (Art. 59(1) CPA). At the main hearing, they have the right to propose evidence, ask questions to the defendant, witnesses and experts,

give comments and explanations regarding their testimonies, and make other statements and proposals (Art. 59(2) CPA). They also have the right to inspect the file and the material evidence. They may be denied the right to inspect the file until they have been interrogated as witnesses (Art. 59(3) CPA).

The law provides for the protection of victims during court proceedings. Possible protection measures during court proceedings are:

- recording the hearing of a witness or injured party – a person under the age of 15 (84(1) CPA),
- interrogation with the help of an expert and in adapted premises (Art. 240 CPA),
- protection of personal data of witnesses and interrogations using technical means, per example by providing a protective wall (Art. 240.a CPA),
- hearing by videoconference (Art. 244.a (1) CPA),
- exclusion of the public at the main hearing (Art. 295 CPA),
- the direct examination of persons under the age of 15 who were victims of sex offences, neglect and maltreatment of a child, human trafficking and enslavement is not allowed at the main hearing. In these cases, the court must decide to read the record of the previous hearing of those persons. If necessary, the court shall do the same with respect to other minor victims and to the victim with special protection needs (Art. 331 CPA).

Victims also have the right to be accompanied by a person of trust, at least in cases where the severity or the nature of the offence, the victim's personal circumstances or the level of endangerment so requires (Art. 65 CPA); and to be enabled to avoid unwanted contact with the suspect or the accused, unless the contact is indispensable for the successful conduct of pre-trial or trial procedure. There is also the possibility to use the mechanisms in accordance with the Witness Protection Act.

To ensure their personal security, the victim may request to be informed of the release or escape of the suspect or accused person from pretrial house detention or from detention. They have to be informed of this right by the competent authority during the first contact in pre-trial or criminal proceedings, which shall be duly recorded. But such information may be refused if the suspect or accused person could be threatened as a result. The victim should be informed by either the police, the court or the prison (Art. 65.a(4) CPA). However, the interviewed lawyer (P6) expressed doubt that this right is systematically implemented in practice as their clients reported that they were not informed of the perpetrator's release.

Another lawyer (P5) shared his experience on preventing secondary victimisation of victims of crime in practice: *"It depends on how much effort is made by the stakeholders in the process, to what lengths the victim's attorney goes, and the judge [...] Yes, [in my case the victim was interviewed] only once [...] in such a way that the victim and the accused could not meet, or that the accused was in custody at the time and participated by video conference so that he was not physically present. [...] Of course [it adds to the feeling of security], because the victim doesn't feel the perpetrator in the room. Because the*

perpetrator can just (this is my opinion) with a gesture, a movement, trigger memories and the victim will be afraid of him.”(P5)

It is also important *“that they (the victims) are interviewed immediately, in an appropriate manner, and that this interview is used as much as possible throughout the process. It would be best if their interrogation was recorded so that other people can watch the recordings during the proceedings. And, if necessary, to be questioned further only on any matter that turns out to be important. Not one and the same thing. [...] And not to feel like they are the perpetrators in these proceedings, because they are being nagged with questions and repeated proceedings, five years later.”(P5)*

This was echoed by one of the victims of a hate crime (V6): *“we don't even want to remember. Even though [the memories] are somewhere, it is difficult to recall them because we don't want them, because we have repressed them, because they were unpleasant and that is quite normal. It's just that in court they expect you to remember it like it was yesterday. 'It was a traumatic experience, you must remember that!'”* He also mentioned that, in practice, providing for avoidance of contact of the victim with the perpetrator is not always possible due to the inadequate facilities, especially in some of the smaller courts.

A number of professionals mentioned the issue of ‘keeping’ the victim in the proceedings. A police representative – referring to hate crime victims – explained: *“when the victim goes back into their environment, and when they think a little bit and so on, we see that they change. The one who is really persistent, who seeks help, some administrative help, or the help of an attorney, the one who persists for a longer period of time, the success, the potential is greater. The one who faces it alone, who is not quite sure, who is afraid of the label, afraid of the perpetrator, and so on, often stops cooperating with the police, or no longer provides the circumstances necessary to prove the perpetrator committed a crime”(P7)*

A CSO representative that mainly supports victims of domestic violence mentioned the same issue: *“We see a lot of secondary victimisation and excursion from court procedures, non-cooperation of victims ... After they have already made a report, it is quite common and not surprising. They give up.”(P10)*

Generally, interviewees’ encounters with (different kinds of) judicial procedures were various. One of them noted *“As far as I remember, all the procedures were correct. I have no feeling of discomfort.”(V1)* On the other hand, some interviewees shared stories of even horrific cases of discrimination in judicial proceedings, such as: *“These judgments in the courts ... these expert opinions. How many times do we have an expert write that it was not sexual violence, but that a Romani girl is physically mature at the age of 13, because she is of Romani origin and they mature earlier!?”(P11)*

One of the interviewees mentioned also the issue of vicious defence attorneys who in their disrespectful, even hateful and cruel questioning of the victims of violence are not stopped by the judges: *“These are insults, inappropriate questions, belittling ... I had this girl, who*

I have been working with for many years, and the lawyer asked her in court at the main hearing, because he wanted to show that she was mentally less developed, because she had been diagnosed with dyslexia [...] he asked her questions like to tell him how to make goulash, to tell him the recipe for goulash. Totally inappropriate question and basically insulting because even if she really didn't know ... he wanted to show through that, that she was mentally less developed. The judge didn't stop it.”(P10)

Widespread societal discrimination towards migrants and foreigners is also reflected in court. A representative of a CSO that supports migrants and refugees therefore noted *“Once you are a victim of discrimination, you are a victim of a justice system that is equally discriminatory.”*(P13) This is an area where – in light of a growing number of foreigners in Slovenian prisons – more research is desperately needed.

In proceedings involving LGBTIQ+ a lawyer also mentioned unpleasant encounters with lay judges, who *“are crazy embarrassed. I get distracted by these things when they show a clip, a photo on a big screen, and I get distracted by the reaction. Per example, lay judges... that look of disgust you see on their face when they change their facial expression. That is not right, you have to prepare for it and you have to expect what you are going to see and you have to react as if you are looking at sunflowers. You must not show that you are disgusted, that it is against your convictions.”*On the other hand, he has never felt that professional judges have anything against gays, lesbians, prostitutes, whoever. *“They talk to them normally and accept it as normal.”*(P5)

A non-binary victim had a positive experience in court: *“I have an OK experience as an individual, as a non-binary person. That was very fine, I was still using mixed pronouns at the time, and there was no problem about that in court, and even the minutes were written with an underscore for us, because the lawyer also made it very clear that we were the three people out of the fifteen who were non-binary. So, from that point of view, I, as a trans person, had an okay experience in court, basically taking into account how we want to express ourselves, how we express ourselves.”*(V2)

In judicial proceedings, interviewees (P3, P10, P13) also mentioned the problem of the outcome of the procedure, which is many times not what the victim imagined or wanted. Also, Slovenia still deals with the issue of very long procedures, where the actual judgement may be given several years after the crime has happened.

C.3. Civil society's actions and initiatives

C.3.1. General mapping of anti-discrimination organisations

We could divide relevant CSOs in two main groups:

A) CSOs focusing on a specific group of people (per example, people with physical disabilities, people with intellectual disabilities, people with mental health issues, LGBTIQ+ community, specifically transgender community, migrants, asylum seekers and

refugees, specific minorities such as Roma, victims of violence and also perpetrators, etc.), which usually (not always) also provide support services to these groups;

B) CSOs fighting for human rights and against discrimination in general, mainly working in research and advocacy, taking on a watch-dog role towards the decision-makers, which usually do not work directly with and do not provide direct services to specific groups.

There are a number of CSOs offering different types of support to members of marginalised communities and victims of crimes. They mainly receive financial support from the government, but they do not all receive continuous support through social programmes, and must often yearly or bi-yearly apply for project funding. In some fields, such as human trafficking or domestic violence, the state already recognized the need for victim support services and, in a way, “outsourced” this to CSOs through stable funding. As shown by our research, this is needed in many other fields as well, however the state does not (yet) provide for it.

CSOs’ support is most developed for victims of specific crimes, such as human trafficking, exploitation, forced prostitution, forced marriage (Društvo Ključ), anti-LGBTIQ+ (Legebitra, ŠKUC, Parada ponosa, etc.) or specifically anti-transgender (TransAkcija), xenophobic or racist attacks (Infokolpa, Ambasada Rog, Delavska svetovalnica, PIC - Pravni center za varstvo človekovih pravic in okolja, etc.), or for victims of domestic/gender-based/sexual violence (Društvo SOS telefon, Društvo za nenasilno komunikacijo, Zavod EMMA, Društvo beli obroč, etc.), or homeless (Kralji ulice) etc. There is no CSO that would offer support to victims of hate crime in general or to victims of hate crime specifically.

C.3.2. Support services to victims

As explained above, hate crime victims are eligible for support under general victim support provisions in the CPA (Art. 65.a). Victims have the right to free medical, psychological and other assistance and support provided by social work centres and other organisations. In addition to the health services provided by the public health system, the victim of the crime has the right to obtain professional support and expert advice from the competent social work centre, as provided for in Art. 65.a.(1)(1) of the CPA.

Interviewed victims of hate crime received the support from CSOs, which offer psychosocial, legal or (rarely) financial assistance. Some CSOs have branch offices in major cities, such as Maribor, Koper, but often the services are only present in the capital, Ljubljana. Work is carried out by employees and volunteers, and financed by the state, the EU and by private funds. Victim support networks, which connect public authorities and CSOs are especially dedicated to victims of domestic violence and of human trafficking and other forms of abuse (forced prostitution, forced marriage). There are no specialised services for victims of hate crime, but there are some CSOs that specifically address this issue, though mainly amongst LGBTIQ+ support CSOs. However, CSOs that are supporting and representing persons from individual marginalised groups generally do not have experience in providing support to victims of crime. For example, previous research

regarding victim support to persons with disabilities showed that CSOs would need to strengthen their knowledge of the criminal justice system and would need additional staff (lawyers, psychologists), additional funding and additional office space to be able to provide victim support services.⁶⁸

The majority of our interviewees emphasised the victim's need for support on one side, and the lack of appropriate support or, in some cases, the preciousness of available support, on the other side: *"It is very important that they are accompanied, and this is often a CSO that provides them with some security, with a trusted person in the procedures... we also refer them to CSOs (for support)... and we see that procedures go better if they have someone by their side."* (P10)

More cooperation between state institutions and CSOs would be beneficial for everyone, especially the victims: *"At least from these two angles, so the first one is this aspect of the victim. So if we cooperated with an organisation that specifically knows this problem or specifically deals with it, we could certainly provide a higher standard of support for this victim. On the other hand, we too could perhaps have a broader understanding of the context of a criminal act that was committed out of hatred."* (P3)

The support victims need often goes beyond the usual 8-16h working hours of institutions or even CSOs, thus informal groups and volunteers are indispensable: *"We were with him a lot, and we said that we were going to the police with him, so that he felt that we were with him in this. In my opinion, every (victim) needs some kind of support from the community... to feel that they are not alone in this."* (P13)

Certain specific forms of needed support that the victims pointed out in our interviews have, until now, been completely overlooked by the authorities as well as CSOs: *"We were thinking about where to go, where we would be least likely to be found. So, some communities that are wounded, may be afraid to be in their space that has been attacked, so it's good to have some informal or formal network of allied organisations or spaces where you can meet safely and plan your next steps safely or where you are healing in some way. This is very important, but it is not addressed at all..."* (V2).

Another gap in the existing support system was identified: *"We do not have housing units that are not safe houses and could be a temporary solution for victims of violence so that they don't necessarily go to safe houses. This could be some kind of systemic solution, that the social work centres or the state have some empty apartments, or social housing, intended precisely to be empty, for solutions of acute situations."* (P10)

Social work centres

Based on the transposition of the Victims Directive, social work centres as a state institution became responsible for providing support to victims of crime. According to the Community of Social Work Centres of Slovenia this support entails professional support

⁶⁸ Mirovni inštitut (2021), ARVID - Advancing Access to Rights under Victims' Directive for Persons with Disabilities, National Report for Slovenia, Ljubljana: Mirovni inštitut.

and expert advice. The professional support includes identification of the beneficiary's hardship, information and guidance. Professional support and counselling are provided to enable the victim of the crime to make appropriate psychological, social and financial improvements to the situation resulting from the crime.⁶⁹ Regardless of whether victims report a crime, they have the right to support under the law governing social protection (Art. 14.a Social Assistance Act).⁷⁰

Unfortunately, in the interviews with victims and professionals we have not encountered an instance in which victims of hate crimes would receive support from social work centres in regards to the hate crime itself. It seemed none of the victims knew they could have asked for support by social work centres.

"The social work centres conduct counselling interviews, write opinions for the courts, which is some additional help, but here it is all about the CSOs or the victims themselves. [...] they get very little of this kind of information in government institutions." (P10)

"They have so much work that they don't have time for (victims). [...] they cannot provide the support victims actually need. They also refer them to CSOs in such cases." (P5)

"This is mainly offered by CSOs and somewhat by social work centres, but social work centres are cruder when it comes to providing information, 'this can be done according to the regulations'... The victims, however, need more of a consultative conversation, so that they can share what they want, their feelings, that someone listens to them... what a 24-hour line (SOS telephone) offers, per example, or some support groups in CSOs." (P10)

See Appendix 1 and Appendix 3 for more stories.

Victim Support Service, District Court in Ljubljana

In October 2019 the District Court in Ljubljana established a special victim support service as an additional mechanism to improve the realisation of victims' rights, *"because the new Victims Directive gave the injured party a special place in the law, so that victims had to be treated in a much more individual and comprehensive way."* (P4)

Mainly they are tasked with supporting victims of crimes with elements of violence in the area of marriage, family and children, and crimes against sexual integrity. They do not refuse to support victims of other crimes, because they also have certain rights and they inform them of the procedure.

Their aim is in helping victims, judges and court staff to communicate with victims and develop measures to protect them. The goal is to prevent or mitigate secondary victimisation, discomfort, fear and other unpleasant emotions that victims face in criminal proceedings. The service explains the procedure of the court hearing to the victim when he/she contacts the service and provides information and assistance as provided by the

⁶⁹ SCSD, "Socialnovarstvene storitve", available at:

<https://www.scsd.si/centri-za-socialno-delo/delovna-podrocja-csd/socialno-varstvene-storitve/>

⁷⁰ Social Assistance Act (Zakon o socialnem varstvu), 4 November 1992, available at:

<http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO869>

Victims Directive and the CPA. They explain the nature of the proceedings, victims' rights, possibly refer the victim to relevant CSOs, enquire about the victim's well-being in terms of threat, contact with the offender, explain the possibilities of pursuing compensation, a restraining order, free legal aid, and provide any other information that the victim may need. Furthermore, they communicate to the General Penitentiary Office if the victim would like to be informed of the escape or release of the convicted offender. And they provide information regarding the status of the proceedings. They are there to help once criminal proceedings are underway, but they may provide some guidance already before. It seems they work in a very open and non-formalised way. The support is individualised and provided in an accessible language and way.

As explained in an interview, they provide comprehensive information in a brochure, but do understand that often victims nevertheless do not understand the provided information, so they explain through phone or on-site consultations: *"We tell them that if they need anything they can contact us. We contact them by phone about three times, because the first time they are reluctant. It is a pain to be reminded of the court and the crime. Then they read a little bit, they don't understand one quarter and they call, they start asking questions. And with every contact they open up more and more, and ask more and more. And why do we matter, so to speak? So that the victim does not start to avoid the process. Because they know that they will have to come to the court, otherwise they can be forced, there may be sanctions."* (P4)

A concrete example of their support services: *"a judge decides to hear one victim in a case and informs our service by letter: 'I intend to hear from this victim on this date. Please consult with the victim.' /.../ 'We conduct an interview by telephone. We ask how they feel and if they have received an invitation for an interview. These victims are very special, because we must not overlook that they are not victims of any kind of crime, but of crimes that infringe on the most intimate human sphere. They are very reserved, they do not relax. Many people deny the crime. But when we say a little more, we are the support service of the court for the victim, to help them, to make the process easier for them. Easier for what? To make it easier for them to disclose what has happened to them. Because the fact is that they have to go to court. They don't decide whether they come or not – they have to come."* (P4)

The victim support service may also suggest special safeguards for the most vulnerable victims (such as videoconference interview, avoiding the accused in the hallway etc.), but it is the decision of the judge if they will implement them. The service can also come to a court hearing as a person of trust, supporting the victim. The latter option is also welcomed by representatives of CSOs (P9), who are the initial support service of a victim (per example a victim of human trafficking etc.), but could be compelled to act as a witness in a concrete criminal procedure. They explain that their beneficiaries often completely lack any social network and cannot look for a person of trust elsewhere.

The above represents an example of a good practice, and reportedly it is being implemented also at other district courts in Slovenia.

C.3.3. Awareness-raising campaigns

Awareness-raising campaigns are a permanent need. Times are changing and new approaches, methods and technologies can be used, however, as one interviewee (P1) said: *"It should absolutely be renewed all the time, because it is not something that you do once and capture all the population, put a check mark and say 'we will never do this again, because it is not necessary'. This is periodic work that needs to be renewed all the time."*

All our interviewees agreed that more efforts need to be put in awareness-raising and sensibilization of the general public as well as (or especially) professionals working in institutions and services where they come across marginalised and vulnerable groups of people. The state prosecutor said: *"You know, criminal law is the 'ultima ratio' - the last resort. We should have taken care of it in other ways before."* (P2)

Other interviewees emphasised on the need to include more sensibilization and awareness-raising already in schools, to incorporate it in the education system, especially for law students, medical students, future police officers, social work students etc. Some of our interviewees are personally involved in campaigns and various CSOs awareness-raising and educational activities. Victims are often sharing their personal stories through a method of living library - and this is exactly the method that has proven to be one of the most efficient, especially with younger generations. At the same time this empowers victims, some of them said.

Very often schools are the ones reaching out to CSOs, especially in cases of some specific social events (such as, per example, the so-called "migration crisis" in 2015-2016) or in cases when they detect specific issues in their schools. However, some CSOs report their negative experience with school directors who do not approve of certain topics to be discussed, such as per example LGBTIQ+: *"...when the principal says 'we don't need this', while the teacher says: 'I don't know about this, tell me as much as possible, how should I talk to the children about this.'" (V4)*

The role of media of course is huge, especially taking into account their reach, and it is not rare that sensibilized journalists cooperate with CSOs in awareness-raising campaigns. On some occasions state institutions take on an active role as well, though not as often as they could or should. Towards the end of 2022, the Government of the Republic of Slovenia announced to form a special interdepartmental working group to combat hate speech, and that combating hate speech will be one of priorities in 2023.⁷¹ In December 2022 the Government Office for Digital Transformation launched "Bite your hostile tongue!" (*Ugrizni se v sovražni jezik!*) campaign against online hate speech with short videos of Slovenian athletes who for various reasons often encounter hate speech.⁷² The campaign was obviously well-intentioned and tried to reach and address the public through including people who are respected and liked by the community, but unfortunately it was structured in a way that reproduced stereotypes. Consequently the message of the campaign was

⁷¹ Lebinger, A. (2022), "Nad sovražni govor medresorsko in s koordinatorjem", Dnevnik, 9 November 2022.

⁷² Slovenia, the Government Office for Digital Transformation (*Služba Vlade Republike Slovenije za digitalno preobrazbo*) (2022), "»Ugrizni se v sovražni jezik!«, kampanja proti sovražnemu govoru na spletu", press release, 7 December 2022.

blurred and the contribution to awareness-raising on the concept of hate speech among the general population is questionable.

Most campaigns are done on a national level, rarely on a local level. However, representative of the Police (P7), emphasised on the importance of local communities and the issue of reluctance of local authorities to act when first signs of intolerance or hatred are detected in a certain (especially smaller) local environment: *“per example, a same-sex couple moves to a very traditional environment, they start warning in a village, and if the local community, does not react to this, [...] then these issues very quickly turn into risks, punctured tires, graffiti... [...] We also had cases when certain representatives of vulnerable groups had to move out of certain buildings and so on. [...] When things are ignored for long, such cases occur. [...] that is why it is important for police officers to recognize early indicators of hostility, before there is a risk or escalation, to address the local authorities, local communities [...] because if not, we are dealing with violence.”* (P7)

Awareness-raising of the general public should go hand-in-hand with specific training for professionals: *“The hostility that emerges in public opinion towards the victims, also permeates the institutions. We still find many people in the institutions who doubt the statements of the victims, who are sceptical about this violence against women that we talk about... I had one training [...] and there were certain police representatives who have problems with the fact that we are talking about violence against women, who still doubt that a man who has murdered his wife, that he is the only one to blame, because women cause problems too.... And such beliefs, when a victim of violence who is still alive comes and on the other side she gets a police officer or a criminal investigator who looks at her with scepticism and doubts what she is saying, of course that is a very big blow for the victim.”* (P10)

C.3.4. Training activities

Adequate training for professionals encountering victims within their scope of work can have a direct positive impact: *“We see cases that end well and these are people who have a high level of sensitivity, who have gone through training, etc. But we have very few of these people in Slovenia”* (P10).

It seems that in certain fields which have been recognized as priority by the state institutions, such as human trafficking, there is much more cooperation between state institutions and CSOs, and professionals from public institutions and CSOs even attend joint training: *“If it is trafficking in human beings, there is a specialised public prosecutor's office involved, and we also attend trainings together with these prosecutors.”* (P9) Also: *“In the framework of this working group at the Supreme State Prosecutor's Office [...] at least once a year there is at least one training related to this topic.”* (P3)

The prosecutor stressed that more adequate training is needed to increase the hate crime recognition rate: *“(police officers) who are the first to come into contact with a victim can*

detect it earlier. If the prosecutor does not see the person, if he does not have direct contact with him, such a case may slip by the wayside. [...] In this sense, police officers, social workers, persons who come into contact with victims should be trained. That they are taught to ask 'what do you think is the background, why this happened'." (P2)

On a systemic level, the police is aware that the one who takes the report and has an in-depth conversation with the victim, has to be extremely qualified and careful about the sensitivity of the procedure, *"to keep the victim from withdrawing, from starting to change his or her statement, from being subjected to repeated attacks, or to stalking, to pressure from the perpetrator". (P7)* But in practice they are more or less successful: *"because we also hear from CSOs that in this case we did something completely wrong and so on, but at a systemic level we are trying to train people and to provide the circumstances and the space where this could be done." (P7)*

Through our research, we identified a lack of victim-centred training for professionals (especially the police, lawyers, prosecutors and judges), more specifically training on how to treat victims of hate crime: *"Regarding our emotional response to the state of this individual, there is no training. For (prosecutors), other professional questions are somehow more foreseen, related more only to ius, law." (P3)*

Another person said: *"Not at all for the judiciary, prosecutors, lawyers... They are very closed... Some already have a problem with understanding the position of a woman as a vulnerable group, let alone adding a foreigner, migrant, LGBTIQ+, etc. Ok, maybe the police do the most work in this area. They have awareness trainings for the LGBTIQ+ community, they are working on it... But I don't know about judges or prosecutors... I'm afraid that far, far too little." (P10)*

A lawyer shared his opinion on what kind of training lawyers would need and why: *"To teach (lawyers) how to approach, how to talk to victims, how to help them, to let them talk, give them time to talk and in what way. You have to build trust with this person, otherwise they won't tell you anything. And if they don't tell you anything, you can't help them. But if they trust you, they will tell you a lot, and you can even find out that they are victims of other crimes too." (P5)*

In practice, it seems as if the police are actually quite active when it comes to training their staff: *"We have multipliers along the lines of work, who conduct and organise training. So that we have a continuity of training and a network of multipliers, more qualified police officers, criminalists who deal with hate crimes, let's say, or at least sensitive crimes. [...] We are not only talking about hate now, but also domestic violence, sexual violence, children, young people and so on. So usually multipliers are trained to deal with such sensitive crimes, because they always arise, this is one such basic concept, from how the victim perceived it and not how the perpetrator intended to do it." (P7)*

On one side, our interviewees said that the Police might be the most cooperative public institution (relevant to hate crime victims), however, on the other side, they also shared

numerous negative experiences with the police (see Appendix 1). Thus, obviously, more training is still needed.

C.4. Practitioners' and victims' views on the legal and political framework on hate crimes and victims' rights

To effectively safeguard their human rights and actively engage in a judicial procedure, most of the people need significant support by legal practitioners, guidance by the state institutions, financial aid (since procedures are often expensive), good information and additional support in cases of language or other barriers. All of this is even more so true for most frequent victims of hate crimes, who are members of marginalised communities, often facing structural discrimination in society and lack of effective social networks which could support them in access to justice. Some experiences of victims of hate and bias-motivated crime, as well as other structurally marginalised victims in Slovenia will be presented below.

Access to information

There is no specialised information sheet for hate crime victims, they receive general information for victims of crime.

Some representatives of public authorities are definitely aware of the sensitivity and complexity of effectively informing the victims that come to report a crime: *"we have agreed with our colleagues who do this, to inform all victims who report any crime, not just hate crime, in a clear but perhaps a little more modest way. So that they do not get too much information at once and are bombarded with what most people would forget in half or three quarters of an instant. Instead, to give them the essential information, directions on where to go for help and so on."* (P3) They also provide a leaflet which contains all the information about victims' rights provided for by the law. *"That's basically where all these rights are covered. And then later, when they have calmed down, they can read something themselves. We are always available by phone anyway. They can call us, ask questions and so on."* (P3) To some extent, the authorities also explain how the procedure will continue: *"We don't present every option, because if we go to present every option it means we can sit there for an hour, but yes, we do tell the person the bulk of the process."* (P3)

But not all of the interviewees experienced this approach in practice: *"There should be some general things said about how the procedure will be carried out – to make that clear, what the options are, and also to offer options for psychosocial support. They give you a copy of the criminal report, say 'you can call if there are any questions, etc.' It's not like it's really holistic support."* (P8)

On the other hand, victims can be relatively well informed of their rights, but the question remains whether they understood what that actually means in practice – how to exercise their rights.

"The victim is already very well informed of all their rights by the police. And even in court they are careful about their rights, so that they do not meet the perpetrator. It is

much more so, and the only question is how much the victims actually understand all these rights that are presented to them. Because when they are presented with all their rights in court, everybody says 'yes, I understand, just because they are afraid to say that they do not understand, or because the judge is some kind of authority and you cannot say no'. Many times when I talk to them, I find out what they didn't understand and then I tell them in a language they understand. In such a way that they understand what these rights are."(P5)

"We can say that (that they have a right), but it means nothing to them. They need to be told 'this social work centre... this and that' in this respect. 'You have to make an appointment, you have to call, that's the contact,' etc. It's not enough to just present a right, but you have to say a bit more so that they can do it."(P5)

"We refer victims, we present them with the option of a safe house or help at a social work centre, but we are not the providers of this psychological or professional help. So it would be difficult to say whether this is meeting the needs of the victim at the moment. It does, of course, meet these legal conditions, but on the other hand, of course, the question is to what extent victims can really help themselves with this in concrete terms."(P3)

Commenting generally on access to information, a representative of a CSO supporting LGBTQI+ persons felt the situation is improving. *"It depends from person to person. There is now more and more access on the internet to this information. per example, Legebitra, I think, has a proper website on rights and that sort of thing, where these things are listed up there. I find that it is getting better and better, but I find, especially with young people, that they are not quite sure how and what. But it seems to me that it is getting better. On the other hand nobody knows about (official) support services."*(P12)

Others felt a lot more could be done in regard to access to information (P8). It must be mentioned that some public institutions have been doing a lot recently to make information about judicial proceedings and rights more accessible. The Supreme Court launched the project "At court" (*Na sodišču*) which also includes explanations about the criminal procedure,⁷³ the Supreme Prosecutor's Office lists and explains criminal procedure on their website (in Slovenian and English language)⁷⁴ etc.

Legal representation and legal aid

In accordance with the CPA, victims of crime in general have the right to be represented by a counsel in criminal proceedings and to legal aid, provided that they meet the conditions prescribed by the law governing free legal aid. Only for minors who are victims of criminal offences against sexual integrity, marriage, family and children, enslavement and trafficking in human beings the law stipulates mandatory representation throughout the criminal proceedings to ensure their rights and protect their integrity. If they do not have a counsel, the court appoints a counsel among attorneys *ex officio* (Art. 65(3) of the CPA).

⁷³ Available at: <https://nasodiscu.si/kazenski-postopek#kako-zaceti-postopek-ce-ste-oskodovanec>

⁷⁴ Available at: <https://www.dt-rs.si/kazenski-postopek>

However, the above-described experiences already show the need for professional legal representation for all victims, which was further underlined by several of our interviewees. *“So they (the victims) are really left very much to themselves, to their own ingenuity, to their own resources. Because, let’s say, a victim of crime will only be able to get really good support in the process if they have a lawyer, and they pay him fairly. That lawyer will also look after their interests at all times.”* (P1)

The lawyer is like a buffer and can stop or manoeuvre hard questioning from the perpetrator’s lawyer, he or she can make sure that *“when involved, even in the investigation, when they are being questioned, that they are asked the right questions, not to be told how to answer or to be put in a position to make a decision. The questions should be open-ended, so that the victim is given the opportunity to tell what happened to them. Not with inappropriate questions that already have half the answer inside or that imply something. Here we must be careful to protect them.”* (P5)

The lawyer is also like a bridge that ‘translates’ the client’s interests into action in the judicial procedure, in the courtroom. Often, victims (as well as other lay participants in the procedure) are stressed out in court, the judges state their legal rights very quickly, and consequently it is very difficult for the victims to understand. *“We lawyers then explain it to them and look after their rights. Like in civil proceedings, if my client says to me that he does not hear well, they prepare a monitor for my client, so that if he does not hear, he reads the minutes. Or that they need more light, we adjust. But it is not for the court to make a specific environment for each client, but you are the one who can point it out and then it is implemented.”* (P5)

One of the interviewed victims (V1) highlighted his reliance on his lawyer, which made a significant contribution towards the feeling of safety and trust in the procedure. He had a lot of confidence in the lawyer, because the lawyer was part of the community and other members of the community already had good experience with her. It meant a lot to the interviewee that the lawyer was present all the time in the procedure, and the victim therefore did not have to be, they prepared for the hearing together, went through the scenario of what could happen. Commenting on the confrontation with the perpetrators in the courtroom, he noted that it was awkward for him that the perpetrators were in the room during the interrogation, they were in the same room. *“I suppose it could have been arranged that they were not there. But I basically wanted to see who did it to me. I was a bit Hannah Arendt, I wanted to see the ‘evil’ in their eyes – which of course I did not. They were just ordinary young people who had gone down some strange paths. I think it was therapeutic for me to see them.”* (V1)

Access to case file is also easier in instances where victims have official legal representation or at least are supported by CSO experts with procedural experience. In any case access to case file can be limited for the victim due to the interests of the procedure.

The importance of victim support by a professional legal representative is especially evident in this **case study**, shared with us by an interviewed lawyer (P5), which shows significant issues faced by the most vulnerable victims in criminal procedures, and shows why victims of hate crime often refrain from reporting or refrain from exposing their personal characteristics. In this case, the victim was a victim of sexual violence. The lawyer was appointed by the investigating judge, who specifically contacted the lawyer in question, knowing he had experience with such cases. Furthermore, the victim was gay, a person of colour and with mental disabilities. The interviewee mentioned that the defendant's attorney built their defence on the victim's sexual orientation and blame-shifting.

"Here, too, during the proceedings, the defence tried to build a defence precisely on my client's sexual orientation, which had nothing to do with all the exploitation. It doesn't matter what his sexual orientation is, it doesn't matter whether he is gay or not, but the defence constantly tried to base the defence on the fact that he is gay and that he wanted it. In court, I, as his attorney, ensured that he was only questioned once and that he was not subjected to repeated secondary victimisation. I made sure that – because there were so many offences, when it came to his sexual orientation, his state of health and his personal circumstances – the trial was closed to the public. I did not make any statements to the press. We tried to get him through the process in a way that he would not feel like he was the perpetrator, even though he did. And he was always afraid of the consequences, what the consequences would be if the perpetrator was convicted. Because of the other people who were still free and were in that circle. In fact, I was surprised at what was happening in Ljubljana and in other places. And there was, in fact, human trafficking. At that time I also got him involved in CSOs, especially in Društvo Ključ"

The interviewee also mentioned that the defence attorneys harm the victims with their motions for evidence: *"What I found most inhumane was that at that time the defence lawyer insisted on looking at the photographs and the footage. We all said that we had watched them, that we knew what they were like, that we recognised him because he was the only black person. [...] And we, the five-member trial chamber, had to watch the videos of these orgies, sexual intercourse and photographs – because the lawyer wanted it."*

The lawyer of the perpetrator even started a civil action against the victim, because of some of the victim's statements at the police.

"But it was really distressing. And for him in particular. I tried to protect him as much as possible."

Access to compensation

In terms of redress, the Slovenian criminal procedure offers the option for victims to file a compensation claim in the criminal procedure itself (*premoženjskopravni zahtevek*; Arts. 100-111 CPA), but the court will only decide on it if that would not prolong the criminal procedure (per example, if it is evident the offender stole 500 EUR from the victim, the court will decide the victim should be compensated for 500 EUR). If the victim claims compensation for non-pecuniary damage or if an evidentiary procedure is needed to establish the amount of compensation, the criminal court will direct the victim to file a civil action and claim compensation in civil court.

In practice, this system is problematic because it prolongs the procedure for the victim, it brings additional financial strain (court taxes, legal representation), it forces the victim to engage in the evidentiary procedure once again, etc. Also, there are no such protective mechanisms that exist in criminal procedures. Many victims therefore give up.

Some of the interviewees claimed referral to civil court is systemic (P1, P3, P5). *“They practically never succeed in this, in the criminal proceedings, they are always referred to litigation, which means that they have to bring a special action before a court of general jurisdiction, that is, not before a criminal court, and then basically prove all of this again in those proceedings. Of course, they can help themselves with a conviction, they can somehow prove one element of liability for damages, but that can take, again, at least two years to get there, and that seems to me to be an awfully heavy burden for the victims. So I see a lot of room for improvement here, both at the level of the system and at the level of the legislation.”* (P1)

The interviewed lawyer said that most of the victims do not decide to continue their case in civil court. *“Most of them don’t decide because they cannot tell the same story again, because they are afraid of coming into contact with the perpetrator again, etc.”* (P5)

“I don’t think most of [the victims] go into it. They probably find the criminal proceedings so exhausting that they cannot imagine going to the civil one afterwards. In civil, you really need a lawyer. Because in criminal, it’s the state apparatus anyway, the prosecution is in charge, you’re just there as a party. But in civil you need a lawyer because one party is going against the other and they are equal... the perpetrator can also hire a lawyer...” (P6)

There was an idea to address this issue: *“For certain types of crimes, there should be some case law, about how much compensation at least is due. And if I and my client claim 60,000 EUR in damages, there should be a practice that in such a case he gets 10,000, but the criminal judge should award 10,000 euros in damages, and for the difference he should refer to litigation – not for everything. Because the criminal judge already has the expert opinion, which needs to be just a little bit broadened for civil liability, in addition to criminal liability. And all the experts who work in criminal cases also work in civil cases, and it is not difficult for them to broaden this further in order to establish the basis for compensation. It would be possible. How it would be done would require a change in the law, but it could be done. [...] At least they would get some satisfaction. Let’s say you sue*

for 5,000, the judge gives you 1,000, at least something to give you the feeling that you have been compensated, that you have actually been treated as an injured party. By contrast, if you think you're entitled to more, go to court and prove it.” (P5)

It should also be prescribed in the law that the victim is entitled to be represented by the same legal representative, whose services they received in the criminal procedure (at least in cases where victims are entitled to legal representation, covered by the state). *“Because he knows everything and does not need to explain it all again to someone else.” (P5)*

In some strictly defined cases, the victims may claim redress for a violent crime directly from the state itself (conditions are defined in the Crime Victim Compensation Act). A special fund exists for this. But, only Slovenian citizens and citizens of EU states are eligible, which seems discriminatory.

Restorative justice

Restorative justice is an underdeveloped field in Slovenia, and it is not designated as a priority approach.⁷⁵ Alternatives to criminal prosecution were mainly introduced with a view to relieve the courts of the burden of cases and allow them to deal with other, usually more complex cases more quickly and efficiently. These alternatives, defined by the CPA, are: suspension of prosecution, settlement, penalty order and plea bargain. Penalty order and plea bargain are concluded with a conviction, whereas suspension of prosecution and settlement are not.

Settlement procedure aims at reaching a settlement agreement between the victim and the perpetrator. It is regulated by Art. 161a of the CPA, which gives the public prosecutor the discretion to decide whether to refer to the criminal indictment or the indictment to the settlement procedure or not. There is a list of cases which are eligible (offences punishable by a fine or imprisonment for a term not exceeding three years and some others), and they must consider the type and nature of the offence and also the personal characteristics of the offender. If a settlement agreement is reached, the prosecutor will dismiss the case. The dispute is resolved outside the judicial institutions, with the help of a conciliator, who is usually not a lawyer by training. The implementation of the agreement should lead to satisfaction for both parties, as the dispute is resolved, and often the agreement also removes the causes that led to the dispute, which is particularly typical in long-lasting family and neighbourhood disputes where the victim also contributed to the dispute.⁷⁶

Cases of hate crime and bias-motivated violence mainly do not meet the legally prescribed conditions for a referral to a settlement procedure. As it was raised by the interviewed representative of a CSO in the field of domestic and gender based violence, referring

⁷⁵ Završnik, A. (2008) “Conceptual problems of restorative justice - a new paradigm of a contemporary response to crime, available at: https://www.policija.si/images/stories/Publications/JCIC/PDF/2008/02/JCIC2008-02_AlesZavršnik_ConceptualProblemsOfRestorativeJustice.pdf

⁷⁶ Zupanc, M. (2021) Nepravilnosti pri izvedbi postopka poravnavanja. Pravosodni bilten, 2/2021, p. 215. Available at: [http://sodnapraksa.si/search.php?q=pravo&database\[SOSC\]=SOSC&_submit=i%C5%A1%C4%8Di&order=changeDate&direction=desc&rowsPerPage=20&page=0&moreLikeThis=1&id=art_51610](http://sodnapraksa.si/search.php?q=pravo&database[SOSC]=SOSC&_submit=i%C5%A1%C4%8Di&order=changeDate&direction=desc&rowsPerPage=20&page=0&moreLikeThis=1&id=art_51610)

victims of hate crime into settlement procedures poses a significant ethical dilemma: *“If the prosecutor's office so assesses, it will submit the case to the settlement procedure. Which, of course, is completely inappropriate in cases of violence. And there, of course, it happens that the victims give in because they are under pressure, because they are afraid... Such an agreement, when it comes to broken power relations, when it comes to fear on one side, is certainly never in the victim's best interest.”* (P10) However, the interviewed professional knew of cases when this was done.

The interviewed representative of the equality body agreed that in serious cases settlement procedure is not appropriate – also from the viewpoint of general prevention: *“If some more serious action is needed, also as a general preference, to send a message to other potential offenders: Look, if you do this you will end up in jail or pay such a large fine’ [...] That is to say, the more physical the matter, the more concrete damage it causes to the body itself or to the physical integrity of the individual, the less appropriate it seems to me then to use these alternative forms of prosecution.”* (P1)

But on the other hand, the interviewee also stated that this possibility should not be automatically dismissed, if the victim agrees and the gravity of the crime so allows: *“I will say that if the victim feels that this is appropriate and that the gravity of the crime is not so serious that, in order to protect the public interest, it is necessary to go to criminal proceedings, to court, etc., then my question is, why not?”* (P1)

In addition to the settlement procedure, the prosecution can also use suspension of prosecution. This mechanism can also be used only for offences punishable by a fine or imprisonment for a term not exceeding three years (and, in special circumstances, also some other offences). The state prosecutor may suspend criminal prosecution, if the victim agrees and if the suspect is willing to act in accordance with the state prosecutor's instructions and perform certain tasks to reduce or remove the harmful consequences of the criminal offence (Art. 161 CPA): *“Yes, within the law, we can impose a task on the perpetrator to attend a psychological workshop [...] I think it is about learning social skills to prevent violent behaviour against others. That's basically what we refer them to most of the time.”* (P3)

D. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

"The security problem arises if all the mechanisms that should be triggered in the event of hostilities fail." (P7)

D.1. Conclusions

The research confirmed the assumption we have already made when designing the Counter-Hate project, that **the criminal justice system as such is not victim-centred**. The transposition of the Victims' Directive only took place in 2019. While the law on criminal procedure now defines the victims' rights more comprehensively, the shift in the perception by all stakeholders has not yet fully taken place.

One of the interviewed professionals captured this well: *"The problem is that the criminal justice system is designed to revolve completely around the accused, that the victims of crimes are more on the side-lines here due to the nature of the criminal procedure. This does not mean that they do not have formal rights, of course they do... [...] Of course, the question is how it all works in practice. I think that there will still be a lot of effort necessary that such a parallel system will really be established, that the victims will really have at least a feeling, if not actually, of some support in this area. Because as said, the system that has been created, which has been functioning for decades focused on the accused, is then difficult to completely change on the basis of one legislative measure (Victim's Directive), so that it gives the same support to the victims of crimes."*(P1)

Once the prescribed rights of all victims of crime are fully respected, the position of hate crime victims will also consequently improve. However, as our research has shown, **authorities often do not recognise that a crime was hate or bias-motivated** and subsequently do not prosecute it accordingly. Furthermore, victims of hate crime are **particularly vulnerable and often suffer from stereotype-fuelled secondary victimisation** during the proceedings.

This leads to another conclusion we can draw from our research: that **much more focused training is needed for all professionals** (those working in public institutions as well as those working in CSOs) encountering victims of hate crime within the scope of their work. And especially, much **more focus should be put on an intersectional approach**. As the research proves, this has multiplicative negative effects on victims of hate crime or bias-motivated discrimination, however the institutions very often completely overlook this.

A successful criminal trial can be extremely important for victims who come from marginalised groups, so it is really important that all authorities are properly trained and cannot afford to make mistakes. *"We believe that being a witness in a criminal trial is also part of recovery. [...] But then, when there is no closure, when people are acquitted, well, people don't trust the system anyway, or they have had bad experiences in the past with*

social work centres, with the police, because maybe these authorities didn't protect them, and then they lose trust in the system again.”(P9)

Another assumption that was confirmed through our research, is **the lack of trust in public institutions**. All of the victims pointed this out, as well as professionals working in CSOs. As an idea on how to change that, one of the victims said:

“I think that some bodies like the Advocate for the Principle of Equality should have field workers, who would be counsellors, who would be there with people, and through that some links would be strengthened, so that people would actually start to trust the institutions. I think that all the institutions that offer the possibility of reporting any kind of violence or human rights violation should stop staying in their rich rooms and go out among the people. [...] I know that the type of person who works in these institutions is completely inaccessible to vulnerable minorities, to whom bad things happen on a daily basis, and will remain so until these institutions are deinstitutionalised in some way.”(V2)

D.2. Recommendations

Identification and prosecution of hate crime

- Political will for combating structural discrimination at all levels, and publicly condemning hate crime (which should result in less hate crime).
- Increase capacity of law enforcement and the criminal justice system to identify and prosecute hate crimes and bias-motivated violence.
- Duly record and investigate each indication of bias as motive or cause for the offence.
- Hate and bias motive should be systematically considered as aggravating circumstances at sentencing. To raise awareness, at the proclamation of a judgement, the courts should speak publicly about hate and bias motives as grounds for a more severe punishment.
- To establish specialised police and prosecution units that investigate hate crime.

Personal safety and dignity of hate crime victims, protection from secondary and repeat victimisation

- Hate crime victims should be properly identified as such. Their vulnerability should be recognised, individual assessment should always be made and appropriate measures should be adopted.
- Hate crime victims must always be allowed the presence of a person of trust - at all stages of the proceedings.
- Courts and other criminal justice authorities should enable victims of hate crime to avoid unwanted contact with the perpetrator and to use the possibilities of remote hearing and the use of a screen and other technical means to prevent direct contact.

- Hearings of hate crime victims should be recorded by technical means of audio or audio-visual recording, similar as is provided for minor victims. Hate crime victims should be protected from repeating their testimony over and over again.
- Hearings of hate crime victims should be conducted with particular care in order to avoid possible detrimental consequences to their wellbeing. Harassment, bias-based questioning and bias-based blame-shifting should be prevented.
- Victims of hate crime should always be informed of the perpetrator's release or escape from pretrial house detention or from detention.
- All discriminatory practices from criminal justice stakeholders should be disciplined in accordance with relevant mechanisms for cases of professional misconduct.
- Analyse potential legislative, organisational or other changes that could improve victims' safety or sense of safety outside the criminal justice process itself.

Legal representation

- Extending mandatory representation in criminal proceedings to victims of hate crime.
- Drawing up a special list of lawyers who have received training on hate and bias motivated crime and the needs of hate crime victims, and who would primarily represent them.

Access to compensation

- Access to compensation should be facilitated. The practice of systematic referral of victims to litigation for non-pecuniary damage should be addressed and additional measures should be adopted.
- Consider developing a lump-sum system - a system of lump-sum amounts for most common types of non-pecuniary types of damages that are awarded in criminal proceedings, with referral to litigation for any exceeding claims.
- The discriminatory provision of the Crime Victim Compensation Act, under which only Slovenian and EU nationals are eligible, should be abolished.

Training

- Law enforcement should develop and implement a comprehensive training for all uniformed police officers, in which bias, discrimination and hate crime would be addressed, with the aim of increasing awareness for enhanced reporting process, better identification and recording of hate crime, as well as addressing biased views and discriminatory behaviours in the police force itself.
- Specialisation: Law enforcement should develop elaborate training for a number of expert police officers and criminal investigators, who will be equipped with specific knowledge to primarily deal with complaints and investigate hate crime, to provide a more uniform response and equal protection of rights for victims of hate crime.

- Joint interdisciplinary training as well as regular interdisciplinary expert meetings/ mutual exchange should be organised for police, state prosecution, judiciary, lawyers, social workers and CSOs.

Enhanced hate crime victim support

- To develop dedicated victim-centred “hate crime protocols” based on the intersectional approach covering all relevant processes (instructions on interviewing victims, assessing victims’ needs, referring the victim to specialised support organisations etc.).
- Capacity building of victim protection services, including through training (see also above → **Training**)
- Cooperation and referral between social work centres and CSOs should be ensured (see also below → **Cooperation with and inclusion of civil society**)
- Support should be provided throughout the country, not just in major urban centres.
- For support within criminal proceedings, the Victim Support Service at District Courts in Ljubljana and Maribor should be extended also to other Slovenian district courts.
- Policy structures which include also local level and foresee an active role of the local authorities and local communities in the victim support system (bottom-up approach).

Cooperation with and inclusion of civil society

- Organisations that provide support, counselling and advocacy for marginalised groups should be included in the victim support system. It should be possible for them to cooperate with criminal justice authorities.
- The state should provide sufficient and stable funding to strengthen the capacity of these organisations, including to accompany victims in all stages of the proceedings.
- To establish multi-agency partnerships between law enforcement bodies, equality bodies, local authorities, social work centres, CSOs and victim support organisations.
- Police should reach out to CSOs to establish and/or strengthen cooperation in the field of support to victims of hate crime and bias-motivated violence. Promising practices of police cooperation and community outreach in the field of LGBTIQ+, Roma and trafficking in human beings should be strengthened and extended to other marginalised groups that are vulnerable to hate crime.
- CSOs have valuable knowledge on the needs of hate crime victims. They should be included in the design and delivery of training for criminal justice stakeholders.

Data collection

- Public authorities of the criminal justice system should rethink and improve their data collection system in a way that would address the issue of bias-motivated

violence and hate crime and enable better analysis to create evidence-based policies.

Research

- The need for a country-wide victimisation study on experiences of physical violence and harassment should be addressed.

Awareness-raising

- There should be regular awareness raising campaigns on hate and bias motivated crimes for the general public; campaigns should be designed in cooperation with CSOs representing marginalised groups.
- Specific information materials (victims' rights, reporting procedures, support services, contact information) for victims of hate crime should be developed and widely disseminated.

Appendix 1: Experiences of victims of hate crime or bias-motivated discrimination with discrimination from public institutions and when accessing services

Through our field research, we recorded numerous experiences of discrimination and mistreatment of our interviewees or their clients, members, beneficiaries or friends – in various state or public institutions or when accessing services. Since this was not the main focus of the national report, and since we were limited with space, we decided to add an Appendix 1 (and Appendix 3), in which readers can read many of those valuable testimonies we heard. Not all of them. The list would simply be too long. We selected stories from different interviewees relating to different institutions. These stories show why so many people do not trust state institutions, and consequently, why victims often do not report hate crime.

“We would need support for victims of administrative units, victims of police, victims of banks, victims of the asylum system... that is what we need.” (P13)

One interviewee working with different marginalised groups shared negative experiences with various institutions: *“(social workers) find it difficult to shake hands with the homeless. This also happens when being admitted to medical institutions... When we accompany a Roma woman to a gynaecologist or a personal physician, the doctors have many reservations about physical touch. It seems to me that there are improvements, but it is still very much present. [...] a person from the institution is talking about the person who is sitting next to me. They talk as if this person is not there... [...] it is a lot of prejudice.”* (P11)

Another interviewee, a covered Muslim woman, a refugee from Syria said: *“Administrative unit, when I get near this lady who works there... she's always so angry, even if I say “good day”, she responds: “be quiet please, I didn't tell you to start talking”. Yes, very badly, as if she is the president and I am nothing.”* (V5)

Another interviewee shared a negative experience with the social work centre: *“When the social work centre found out that she had married a migrant, they wanted to take the child from her. [...] we had to drag the lawyer into this so that the child was not taken from her. Before, they weren't interested in the fact that she was a single mother, a bit incompetent, but that didn't interest them before. [...] then the meetings, seven female inspectors... I went with her, they barked at her like dogs, terrible.”* (P13)

“The reaction of the institutions has always been, I can say as a rule, relativization. First of all, it was necessary to prove that it was related to homosexuality, because it was always first “It's nothing like that”, that is, insults, yes, freedom of speech, violation of public order and peace, and always – especially with the police – it was necessary to explicitly insist that this is not a violation of public order and peace, that this is violence motivated by hatred, and that therefore they should apply the criminal provisions, and not the misdemeanour ones. It was always necessary to insist explicitly and there was always resistance on the other side. Except when the event escalated so much that the public reaction was so strong... [...] And this happened with (this specific) attack. Because the reaction of the entire public, the political public, the cultural public, the activist public, and the media was so unified, unanimous and so intense, because we had a press conference the next day, because people came to sign this sheet, because the highest bodies of the

political public responded, the director of the police called personally on the phone. It was immediately clear that there would be no need to convince anyone that this was homophobic violence.”(V1)

Many complaints were made on the account of the police:

“At eight in the morning, the police knock on the door: “you must come with us”. [...] she didn't know what was going on and neither did he. He was handcuffed and taken to court (to get the letter). Why? They told him because he didn't have an address. “If you came to my address!” He reported this address to the police and they came looking for him, saying that they had to take him to serve the letter because he did not have an address. And that causes such trauma to people.” (P13)

“They were called to come to the administrative unit for an interview and the two of them got there. The police were waiting for them there and they handcuffed him and put him in the police car and took him somewhere, unknown where. This was in the morning and we could not find out where he was until evening. The wife had a hysterical attack. And nothing, they just took him (to the court) to serve the letter, but they kept him a little longer somewhere, he sat somewhere for 10 hours, and then they served him, and then they released him. Oh, the scariest part of this story: The wife had very severe mental problems years ago but was fine for many years. This incident when she panicked because she didn't know where her husband was being taken and thought, that he would be deported, with that, her psychological problems opened up again, and two weeks later she committed suicide.” (P13)

“In most cases I know of where LGBT people have called the police for help because something happened to them, the end result has been that they have been punished” (V2)

“She called the police and the police took her away. The guy stayed at home. She even got a fine. Basically, it always turned out so that you said to yourself, “That can't be true!” (V4)

“The first experience can also be the last experience, unfortunately, and this is most often the case, because if victims do not receive adequate “support” at that moment, they close the “tap” and are gone. And they share this with others and this sharing of information may have the most impact among the victims.” (P7)

“As an individual and as an activist, and at the same time by following everything that is happening to everybody with the police, I have a tremendous dislike, distrust and at the same time very bad experiences with the police. /.../ I will never see the police at a systemic level as an ally, for me it's impossible just based on what I come from and what kind of person I am.” (V2)

“Sometimes victims say that they have been questioned in a way that makes them feel guilty ... or the victim finds it difficult to speak, cries and cannot speak ... but on the other

side you see that there is no understanding and it is like 'hurry up, I don't have time'..." (P6)

"They were intimidating this landlord, he had to spend the entire morning at the police station for allegedly hiding "illegal migrants" in his house. And he did not! Of course this man then said (migrants) all have to move out (of his house) because he does not want to have such problems again". (P13)

"They didn't even think of hatred. [...] if the police officer does not write anything and does not even hint in this direction (hate crime), then the whole system can be destroyed. Sometimes there is not even a statement from the victim... E.g. in this case, this man only said to the police officer "this man hit me with one object", that's all. He didn't say "this guy hit me because he's racist". According to the statements, the police officer himself should have recognized this and asked and written it down. If this already breaks down with the policeman, then the whole process is..." (P6)

"I always go with our members, when they want to report something, I go along, for support. Because even if I go to the police alone, it's a disaster, let alone if you send a refugee to the police alone. So yeah, I'm coming along. Even towards me, they often behave badly. Anything related to foreigners and refugees is immediately discredited. [...] I was a little surprised the last two times /.../ they were very, very correct, at the police, completely different from before. In my opinion, this is also a bit, you know, new instructions for the police on how to behave. And I was shocked, I couldn't believe it, because I go there already, you know, on standby, something is going to be bad and then you walk in and something is bad. And now twice, they were very correct, very kind... [...] This kindness in the end doesn't help anyone either, it's just that you don't really have trauma from that day, but the change in the end, in the result... there is none." (P13)

Negative experience when accessing services (for example at the post office, the bank, in stores, etc.):

"Many people use their power when they are behind the counter of any service. You come and they "gender" you with a gentleman and then you say "no, madam". And they continue to "gender" you as a man. [...] I have not even once experienced in Slovenia that someone said: "Oh, I apologise." (V4)

"A man with his wife and two children came to my office. The wife was almost crying and I said: "What's wrong." She says: "We're Albanians." Yeah, okay, what's wrong with that? [...] Then he says that they were in ten offices and not one (lawyer) accepted them. I asked if it was because they were Albanian and he said yes." (P3)

Negative experiences at courts:

"When I got to the hearing, there were Indian sticks burning and I asked why. They told me because it stinks. Then I talked to him (the homeless man). The burning sticks won't help, he needs to be told he stinks. We're all going to suffocate with these sticks in here with him. I explained to him that I understand that he is homeless, but that he is not

currently homeless because he is in detention and has a toilet, a bathroom, and fresh clothes to wear. If they haven't told him, if he wants, I can call there too. I told him that it would be very nice if he came next time without the smell of unwashed, dirty. The next time he came and smelled nice! Little things. But everything can be changed and arranged. She already let him know that he was the worst bum among bums by lighting that stick.” (P3)

One of the professionals (P11), supporting the Roma community in cases of domestic violence, forced marriage, etc., explained that from her experience it was not possible to ensure the victim would not have contact with the perpetrator of the crime. Consequently: *“I have had several unsuccessful cases where the victim eventually changed her mind and was no longer willing to testify against the offender. She has refused all the charges, and this is a reflection of the fact that, as a country, we do not know how to take care of the victims of crime and that, in essence, the victims are left to fend for themselves in the end. [They are left to the] goodwill of a worker in a particular organisation and that is all. We are really faced with horrific stories. Quite often they are minors. And when a 17-year-old minor from Macedonia changes her mind during the procedure itself, when she is already pregnant, we cannot even talk about returning her to her country of origin if we know where we are sending her. She really needs protection, now, immediately, not in six months’ time, not tomorrow. In this whole process, she is getting the message time and time again, that she is to blame. But nothing happens.” (P11)*

Experience in schools:

“It happens many times in school... they brought gifts for all the children except my son. In kindergarten, my son was told: ‘you’re ugly, when you grow up, you’ll have black skin, you have bad clothes.’ Others didn’t want to play with him. He cried so much. I then told the teacher and the parents at the meeting that this is not nice... [...] We are all human. They shouldn’t behave like that. Then they said: ‘oh we didn’t know that children acted like that, ok we’ll talk to them...’ But children do what they see and hear at home.” (V5)

“The principal called me to his office when I was in the second year and told me to drop out of school because of the influx of the Roma population. If I don’t do that, I will have so many negative grades that I will never be able to pass. The principal said that to my face. So I told him that he should tell this to my parents because they will never believe me. My parents were begging⁷⁷ to give me money for the train. But (the school) realised that there was an influx of Roma population in high school and I should drop out. [...] And I didn’t finish that school.” (P14)

Employment related:

Our interviewee, a trans woman said: *“I was the main camera before the transition, that means something in this world. All of a sudden they didn’t let me do my job anymore. [...] Then from the main camera the following season I was moved to the direction, to the van,*

⁷⁷ Begging means they went door to door in their local environment to ask people for money.

where I pressed the "record" button, so basically I lost my position... And the following season, I couldn't even get back to the team."(V4)

The most stereotypical prejudices towards Roma are those related to unemployment: *"I personally know people who cannot get a job just because their surname is Brajdič. In this part of Slovenia, Brajdič is a Romani surname. Everyone knows that. Just because you are Brajdič, per example, you can't buy a washing machine in a store (I'm caricaturing it) in a way to pay in monthly instalments. Because you are Brajdič, because you won't pay, because you surely don't work anywhere."*(P14)

What came as a surprise during our research, is the fact that it's close to impossible for veiled muslim women to find employment – even in sectors in urgent need of workforce. *"Several times on the phone they said "ok, come", but when I came and they saw that I had a headscarf, they said "we will call you back" and they didn't call me. [...] I don't want to be at home all my life! Once I just wanted a cleaning job. I will clean with my hands, not with my scarf... They also said "you can work if you don't wear a headscarf." [...] My husband speaks Slovenian poorly, but he can find a job wherever he goes, because he doesn't have a headscarf like me. It's easier for him."*(V5)

Despite being employed, many migrants continue to face problems: *"You can work, but no one cares where you will live. You can also work, but they won't open a bank account for you. This guy I went to the bank with, he went a hundred times, he just got a bank account after two and a half months. He has been working for three months, but he couldn't get any salary because he didn't have a bank account."*(P13)

Appendix 2: Victims' rights

Right to information

With the 2019 transposition of the Victims' Directive, the responsibilities of the police and state prosecutors towards victims of crime are much more clearly defined.⁷⁸ Upon the first contact, the police (as well as any other competent authority in pre-trial or criminal proceedings) must inform the victim about the manner of providing information on:

- free medical, psychological and other assistance and support;
- assistance and measures under the law governing the prevention of domestic violence;
- protective and other measures for ensuring personal security under this law and the law governing the protection of witnesses;
- the possibility to exercise their rights in proceedings through a counsel and the right to free legal aid under the Act governing free legal aid;

⁷⁸ Slovenia, The Act amending the Criminal procedure act (Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku, ZKP-N), 26 March 2019.

- mandatory representation of right of minor victims when they are victims of certain crimes;
- right to be accompanied by a person of trust during the pre-trial and trial procedure;
- the right not to have unwanted contact with the suspect or accused person, unless contact is strictly necessary for the successful conduct of pre-trial or criminal proceedings;
- the possibilities for compensation for damages under CPA and under the law governing compensation to victims of crime;
- payment and reimbursement of the costs of proceedings of the victim;
- the right to interpretation and translation;
- the contact person of the competent authority with whom they can communicate in his / her case;
- any other rights or benefits that may be relevant to the injured party (Art. 65.a(1) of the CPA).

The scope and type of information depends on the personal characteristics and vulnerability of the victim, their special needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings (Art. 65.a (2) of the CPA).

Right of victims when making a complaint

The victim has the right to receive a written note that they filed a criminal complaint (Art. 147a CPA).

Right to receive information about their case

The competent authority must inform the victim of this right in pre-trial or criminal proceedings and record this in an appropriate manner in such a way that the police, the competent state prosecutor or a judge may be informed thereof. Information on the status of pre-trial or criminal proceedings can be provided via websites (Art. 65.a(3) CPA).

The Police offers the victims the possibility to check the stage of the pre-trial proceedings via a website.⁷⁹ By entering personal information, contact details and the date of the report, the victim can access information on the course, stage and conclusion of the relevant pre-trial procedure.

Right to accompaniment by a person of trust

Victims have the right to be accompanied by a person of trust during the pre-trial and criminal procedure (trial). Before the transposition of the Victims' Directive into national legislation, this right was only granted to minor victims, or victims of violence. Now, this right can also be exercised by other victims if the severity or the nature of the offence, the

⁷⁹ Obveščanje oškodovancev kaznivih dejanj,
https://www.policija.si/apps/obvescanje_oskodovancev/form.php

victim's personal circumstances or the level of endangerment so requires (Art. 65(4) CPA). This could in practice be very important for victims of hate crime. However, this right may be restricted, if the accompaniment is against the interests of the procedure or the victim.

Mandatory legal representation for minor victims

Minors who are victims of criminal offences against sexual integrity, marriage, family and children, enslavement and trafficking in human beings must have, throughout the criminal proceedings, a counsel to ensure their rights, particularly regarding the protection of his or her integrity during the hearing before the court and the enforcement of pecuniary claims. If they do not have a counsel, the court appoints a counsel among attorneys *ex officio* (Art. 65(3) of the CPA).

Right to translation and interpretation;

Victims, like other parties to criminal proceedings, have the right to use their own language in investigative and other judicial acts or at the main hearing (Art. 8 of the CPA). This means the use of an interpreter, as well as the translation of essential documents. However, the victims must make a request to receive the translation. The essential documents for victims are the following: summons, decisions to dismiss a criminal complaint, decisions to reject or refuse a request for an investigation, decisions to suspend proceedings, decisions to dismiss an indictment, judgments and instructions on the right to take over or to continue the prosecution. However, the court may, upon a motion of the victim, decide that, given the specific circumstances of the case, other written material or acts should also be interpreted or translated in order to ensure the fulfilment of guarantees or the exercise of rights in pre-trial or criminal proceedings (Art. 8(3) of the CPA).

Right to be informed of the release or escape of the suspect or accused person from pretrial house detention or from detention

To ensure their personal security, the victim may request to be informed of the release or escape of the suspect or accused person from pretrial house detention or from detention. They have to be informed of this right by the competent authority during the first contact in pre-trial or criminal proceedings, which shall be duly recorded. However, such information may be refused if the suspect or accused person could be threatened as a result. The victim is informed by either the police, the court or the prison (Art. 65.a(4) of the CPA). At the request of the victim, the centre for social work is also notified.

Individual assessment of victims to identify specific protection needs

The police make an individual assessment that is used as a basis for the decision if and to what extent the victim would benefit from special protection measures as provided by the law (Art. 143.č of the CPA). The individual assessment must examine in particular the personal characteristics of the injured person, the nature, gravity and circumstances of the crime, the conduct of the accused person and the injured person in pre-trial or criminal proceedings and outside them, and should take into account the opinion of the injured

person, in particular if the injured person expressly refuses in advance the possibility of special protection. Particular consideration must be given to the age and potential disability of the injured person and to the **circumstances of the criminal offences committed as a result of prejudice, discrimination, exploitation or hatred**, criminal offences involving the elements of violence or criminal offences against sexual integrity, and criminal offences involving the elements of terrorism, trafficking in human beings and crimes committed within the context of a criminal association. It is considered that minor victims always need special protection. The police make the assessment by asking the victim a set of questions based on a form, which was prepared by the working group, which was established by the Ministry of Justice (*Ministrstvo za pravosodje*) in 2019 to develop measures for the effective implementation of the new provisions of the Criminal Procedure Act transposing the Victims' Directive.⁸⁰ An individual assessment is updated if its elements change significantly. The police prepare and update the individual assessment until a criminal complaint is filed or until they send a report to the state prosecutor. The state prosecutor's office prepares and updates the individual assessment during the course of pre-trial and criminal proceedings, or if the injured party has filed a criminal complaint with the state prosecutor's office. However, one interviewee mentioned that the state prosecutor's office does not prepare or update the individual assessments, but rather examine the individual assessment prepared by the police and assess whether there are any further steps to be taken or any further instructions should be given to the police to complete the assessment.

Appendix 3: Reasons, why victims do not report hate crime

1. Lack of trust in public authorities due to bad experience and structural issues

"The reason why I don't report is – besides the question, whether something is even going to happen or the fear of who I need to talk to about it – when you do decide to report, whatever you've already experienced is minimised or unheard or systemically misunderstood by those you report to."(V2)

"there are many things that could be reported, that could in fact be reported and should encourage legal practice, but people don't want to because they will only end up with problems. So I see a very big disadvantage here, where you're on your own and then as an LGBT person you're even more on your own because you don't have social networks like immediate family etc. [...] Yeah, I think the slowness is quite a problem. Court proceedings can take a very long time and that discourages many people from basically reliving traumatic experiences for years and years if they can be resolved in one year in other ways."(P12)

⁸⁰ Mirovni inštitut (2021) ARVID - Advancing Access to Rights under Victims' Directive for Persons with Disabilities, National Report for Slovenia, Ljubljana: Mirovni inštitut.

“(victims don't report) because they don't achieve anything by doing so. I will tell you two cases from this year, two crimes that we reported. [...] One is this guy from Africa who was attacked in the park. We went to the police, we reported it, we even told the name of the perpetrator, because we found out who he was and they made a note of it, and since then there has been no word or hearing about this case. We don't know what's going on, we don't know if they're running it or not, in short, we haven't heard anything about it for half a year. Then, another thing, a guy who was looking for an apartment was scammed. They met (with the owner), he showed him the apartment, he wrote a contract, so very strange, where only his first name and the initial of his last name and blah blah... in short, a contract. This guy just gave him a deposit to rent this room, he gave him a key and after this guy got there (to move in), that key didn't work anymore. He changed the lock... In short, this guy... I also saw him when they first met... just a Nazi, he had these white crosses tattooed on him. Well, in short, we go to the police and report it. They take it as a report of a crime, fraud... and then they call him to recognize this person, just the face and they give him 11 photos of some faces and he immediately knew which one it was and showed it. Well, and about a month after that, he receives a notification from the state prosecutor's office that they will not prosecute this case, because there is not sufficient suspicion of a criminal act, fraud, due to the fact that, among the faces that he could recognize, among these 11 people, only one was tattooed, so of course he chose the one with tattoos because he remembered he had tattoos. Which (in their opinion) doesn't mean it's really that guy, because there was only one with tattoos, so he automatically chose him. Even though it was the same name as on that contract, the same address as on the contract, but no, it's not proven that it's him, so they refused.” (P13)

“As for hate speech, one reason could be the belief that nothing happens anyway. That even if they report that this is accepted as something that is acceptable in our society, because for a long time we may not have dealt with it much. The practice was also different, it was very difficult (to satisfy) these legal conditions... now I'm talking about hate speech... that it didn't go through based on how this provision of the Criminal Code was interpreted. [...] for hate crime, that the victims themselves may... people may also be embarrassed to expose themselves, and they may be embarrassed to expose such personal circumstances...” (P2)

2. Discrimination and prejudice by the public authorities themselves

“In short, why don't people go to the police? Because nothing happens. Let's say refugees ... a lot of them go to the police to report something and nothing has ever happened, so they just don't go anymore the next time it happens. [...] they are basically not taken seriously, not treated seriously, let alone that police would be paying special attention to the elements of hatred.” (P13)

“It was very often the case that some refugee went to the police to report something that had happened to him, and then they treated him in this way, as if he himself had done something wrong. And he felt bad, “why did I go there in the first place, that now they are targeting me here, and they are interrogating me, as if I did something wrong. I came to report that something had happened to me!” And they all felt very bad and said, “I'm not

going to go there again, I'm not going to listen to such strange comments and accusations. That they treat me like this, as if I am the culprit. I came to report (the crime)!"”(P13)

“Victims of violence, especially women, experience a lot of hate violence or even hate crimes after speaking out about violence. Once they speak out, there is a lot of blaming and contempt that goes down to personal categories... I remember a case a few years ago where a lady who reported sexual abuse of her child was assessed by a forensic psychiatric expert or a psychiatrist. He was assessing her IQ and her husband's IQ, because he assumed that she was less capable because she was involved in the arts and she was a puppeteer, and her husband was an entrepreneur... And she experienced, if you ask me, a kind of hate violence there, she experienced secondary victimisation there [...] I read the transcript of this psychiatrist, he was very abusive towards her. It's something that tends to spill over into society.””(P10)

3. Fear of reprisals by the community and the wider society

These reasons are connected to each other and create a sort of climate in the society, where victims do not feel empowered to seek justice through public institutions and procedures.

The interviewed lawyer mentioned one of his clients: *“They are afraid. That's why. Because of their sexual orientation, their nationality, etc. My client was also afraid to report. I asked him why and he said because he had sex with men. I told him that it is not a crime here, you can have them voluntarily, but nobody can force you to do it. But he said, he didn't know how much this would mean, since he was black. I told him, you're not the only one and the police can believe you, but if they don't you can find someone you trust to help you. [...] His mother was always afraid that it would get out and that it would be in the papers that her son was gay and that she would get in trouble at school because she was a teacher. It's horrible that you can have problems at school because of that.”*”(P5)

“I can see from the cases, but these are more cases related to family issues. Let's say domestic violence or some kind of extortion or a sextorsion. In this case, perhaps some fear, shame before anyone else would even find out about what happened to them or what is happening to them.””(P3)

“One of the main reasons for not reporting is that regardless of what form of violence they experience, even if it is hostile or domestic violence, they often have nothing very concrete in their hands except their words. From here also comes the doubt about what happened to them or what is happening to them and whether it is serious enough to report. It is clear to them that what they experience has consequences for them, that they cannot live like this, etc. but they are very afraid that they (institutions) will not believe them, even if they go there and say that they will not believe - and that is a great fear. The other side is closely related to feelings of guilt, because perpetrators are severe manipulators and always carry out violence in such a way that they try to make the victim guilty for the situation, and many times the victims internalise this, saying "maybe it is so". [...] Then the third factor

is certainly feelings of shame and stigma, where, especially when it comes to violence that takes place in a private environment, these victims are often ashamed to tell. The most slippery area is definitely sexual violence, which is very difficult to talk about and shame and stigma is a very strong factor. Certainly also fear of what official procedures bring, fear of economic weakness... victims are often economically weak, fear that they will not be able to handle these procedures, that they will not be able to afford a lawyer, protection, etc. And fear because they don't know their rights. When we get them at the association or when I talk to them, especially at this stage before I direct them, there is often this fear, and we have to teach them about their rights... For those who have children, this fear is very much related to that they will lose their children. It is a very strong fear." (P10)

4. Lack of a supporting social network

Another reason why victims of hate crime are not comfortable with reporting the violence they faced is lack of support from a social network: *"as an LGBT person, you are even more on your own because you don't have social networks like an immediate family"* (P12).

5. Lack of information

"I don't know if everyone gets information from the police... This guy got nothing. He was beaten, a policeman came to the hospital and he told the story there. [...] The policeman came to the hospital and could have guessed that it was the victim. But he did not. He was not informed as a victim of anything. His statement was treated as a criminal complaint, but not that he was informed of his rights." (P6)

"No, no that's terrible. The police often does not tell the victim anything, they don't even tell the person he/she is a victim. Centers for social work as well... people talk about their negative experience." (P6)

6. Fear of the offender

"A mother lives with an adult son who abuses drugs and alcohol, is financially dependent on her and is unemployed. She is dependent on him because he is the only one who drives her to the doctor and to the grocery store. And she can't take it anymore, he beats her up every now and then, to put it simply. When this alcohol settles it's ok for two days. She files a complaint because she can't take it anymore. But we call her during those five minutes when the two of them are fine and she denies the crime: 'he's fine now, he doesn't drink anymore.' How long? 'Since yesterday afternoon'. We then say, you know, madam, a crime has happened, the state has to make sure these things don't happen anyway. You have to go to court now. 'No, I'm going to withdraw everything.' Now you can't, because it's a crime that can't be withdrawn, the prosecution prosecutes it ex officio, and the prosecution will decide what to do. 'What should I do?' Well, you have Article 236, because you are a privileged witness, you can [decide to] not testify. Or the prosecution decides, for example, to withdraw from the prosecution and you say that you would not like to prosecute. But the prosecution will still decide, not you. So... that fear of reprisals from the perpetrator, fear of retaliation and so on. This is what victims fear and do not

feel sufficiently protected. Because of what will happen behind closed doors. When they are alone, they depend on each other, and no institution can address this effectively enough, if you understand me.”(P4)