

ORDER

on the promulgation of the Cooperation in Criminal Matters with the Member States of the European Union Act (ZSKZDČEU-1)

I hereby promulgate the Cooperation in Criminal Matters with the Member States of the European Union Act (ZSKZDČEU-1) passed by the National Assembly of the Republic of Slovenia at its session of 23 May 2013.

No 003-02-5/2013-11

Ljubljana, 31 May 2013

Borut Pahor m.p.
President of the Republic of Slovenia

COOPERATION IN CRIMINAL MATTERS WITH THE MEMBER STATES OF THE EUROPEAN UNION ACT (ZSKZDČEU-1)

PART I BASIC PROVISIONS

Content of the Act

Article 1

(1) This Act regulates cooperation in criminal matters between the competent authorities of the Republic of Slovenia and other Member States of the European Union.

(2) Cooperation in criminal matters as referred to in the preceding paragraph includes:

1. the mutual recognition and enforcement of:

a) decisions issued by judicial authorities for the purpose of arresting and surrendering persons, the seizure and confiscation of objects, temporarily securing claims for the confiscation of proceeds, and confiscation of proceeds,

b) decisions issued by courts or other competent authorities for the purpose of obtaining objects, documents and data to be used in criminal proceedings and minor offence proceedings,

c) decisions issued by courts imposing custodial sentences, safety measures, and other measures involving deprivation of liberty,

č) decisions issued by courts imposing measures to ensure the defendant's attendance, and to ensure that criminal proceedings are conducted successfully,

d) decisions issued by courts or competent authorities imposing suspended sentences with custodial supervision, conditional sentences, alternative sanctions, and decisions on conditional release under custodial supervision,

e) decisions of the competent authorities imposing financial sanctions;

2. referring and resuming criminal prosecution;

3. legal assistance in criminal matters, including the establishment of joint investigation teams and the joint implementation of investigative measures;

4. other forms of cooperation in accordance with the legal order of the European Union and its Member States.

Application of this Act, other regulations, and the transposition of legal acts of the European Union

Article 2

(1) The provisions of this Act do not apply to cooperation in criminal matters regulated in another manner by a directly applicable legal act of the European Union, or by a treaty.

(2) The provisions of Part II of this Act also apply *mutatis mutandis* to the surrender procedure between the Republic of Slovenia, the Republic of Iceland and the Kingdom of Norway, pursuant to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway.

(3) With respect to the issues of cooperation in criminal matters not regulated under this Act, the provisions of the Penal Code and the laws regulating liability of legal persons for criminal offences, the criminal procedure, the enforcement of sentences, and minor offences, shall apply *mutatis mutandis* in accordance with their nature under the law of the Republic of Slovenia.

(4) This Act regulates the mutual recognition and enforcement of decisions issued by judicial authorities for the purpose of arresting and surrendering persons, the seizure and confiscation of objects, temporarily securing claims for the confiscation of proceeds and of the confiscation of proceeds, decisions issued by courts or other competent authorities for the purpose of obtaining objects, documents and data for use in criminal proceedings and minor offence proceedings, decisions issued by courts imposing custodial sentences, safety measures, and other measures involving deprivation of liberty, decisions issued by courts imposing measures to ensure the defendant's attendance, and to ensure criminal proceedings are conducted successfully, decisions issued by courts or competent authorities imposing suspended sentences with custodial supervision, conditional sentences, alternative sanctions, and decisions on conditional release under custodial supervision, decisions of competent authorities imposing financial penalties, the establishment of joint investigation teams and the joint implementation of investigative measures, the exchange of data from criminal records, and cooperation with Eurojust and the European Judicial Network, in accordance with the following:

1. Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 063, 06/03/2002, p. 0001 - 0013) and its latest amendment with Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 138, 04/06/2009, p. 0014), (hereinafter referred to as Council Decision 2002/187/JHA);

2. Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18/07/2002, p. 0001) and its latest amendment with Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 081, 27/03/2009, p. 0024), (hereinafter referred to as Council Framework Decision 2002/584/JHA);

3. Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20/06/2002, p. 0015), (hereinafter referred to as Council Framework Decision 2002/465/JHA);

4. Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 02/08/2003, p. 0045), (hereinafter referred to as Council Framework Decision 2003/577/JHA);

5. Council Framework Decision 2005/212/JHA of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property (OJ L 068, 15/03/2005, p. 0049), (hereinafter referred to as Council Framework Decision 2005/212/JHA);

6. Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 076, 22/03/2005, p. 0016) and its latest amendment with Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 081, 27/03/2009, p. 0024), (hereinafter referred to as Council Framework Decision 2005/214/JHA);

7. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 196, 02/08/2003, p. 0045) and its latest amendment with Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2006/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 081, 27/03/2009, p. 0024), (hereinafter referred to as Council Framework Decision 2006/783/JHA);

8. Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327, 05/12/2008, p. 0027) and its latest amendment with Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2008/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 081, 27/03/2009, p. 0024), (hereinafter referred to as Council Framework Decision 2008/909/JHA);

9. Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 16/12/2008, p. 0102) and its latest amendment with Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2008/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial (OJ L 081, 27/03/2009, p. 0024), (hereinafter referred to as Council Framework Decision 2008/947/JHA);

10. Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 138, 04/06/2009, p. 0014), (hereinafter referred to as Council Decision 2009/426/JHA);

11. Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24/12/2008, p. 0130), (hereinafter referred to as Council Decision 2008/976/JHA);

12. Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (OJ L 350, 30/12/2008, p. 0072), (hereinafter referred to as the Council Framework Decision 2008/978/JHA);

13. Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 093, 07/04/2009, p. 0023), (hereinafter referred to as the Council Framework Decision 2009/315/JHA);

14. Council Decision 2008/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 093, 07/04/2009, p. 0033), (hereinafter referred to as Council Decision 2008/2008/JHA);

15. Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (OJ L 294, 11/11/2009, p. 0020), (hereinafter referred to as Council Framework Decision 2009/829/JHA);

16. Council Framework Decision 2009/984/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15/12/2009, p. 0042), (hereinafter referred to as the Council Framework Decision 2009/984/JHA);

(5) With regard to states which have not transposed the acts referred to in the preceding paragraph into their national legislation, the appropriate provisions of the act regulating criminal procedure and the provisions of treaties apply instead of the provisions of this Act.

Principle of mutual recognition

Article 3

In proceedings under Part II and under Chapters 8, 9, 12, 14, 16, 18, 20 and 22 of this Act, the competent authorities of the Republic of Slovenia shall enforce decisions of the competent authorities of other Member States on the basis of the mutual recognition of decisions, and shall establish only whether the appropriate instruments have been submitted, and whether other conditions provided by this Act are met.

Principle of effective assistance

Article 4

The competent authorities of the Republic of Slovenia shall, in proceedings under this Act and within the scope of their powers and in accordance with the fundamental principles of the legal order of the Republic of Slovenia, act in such manner that enables, as far as possible, the attainment of the purpose of cooperation for the benefit of conducting criminal proceedings in another Member State or the Republic of Slovenia, or for the benefit of conducting other proceedings regulated by this Act.

Principle of expeditiousness of proceedings

Article 5

Cooperation in criminal matters under this Act must be conducted with priority and expeditiousness if the same applies to matters of the same kind under the legal order of the Republic of Slovenia.

Communication between competent authorities

Article 6

- (1) Competent national and foreign authorities shall communicate directly.
- (2) If a State designates a central authority, communication shall be conducted through such authority.
- (3) In order to determine the competent authority, enquiries may be made with the assistance of Eurojust, European Judicial Network contact points, or the ministry responsible for justice (hereinafter: the Ministry).
- (4) A warrant and other documents concerning the implementation of this Act shall be forwarded in their original form, an authenticated copy, or in other written form by mail, fax, in electronic form or by other secure technical means which ensure that such documents are transmitted in a manner which ensures the appropriate protection of personal data with regard to the risk of it being exposed; illegibility or non-recognisability must be ensured during transmission; also, the judicial authority enforcing such documents must be able to verify the authenticity of the sender and data.
- (5) If there are problems with sending or verifying the authenticity of documentation which cannot be solved directly, a warrant and other documents may also be sent with the assistance of the Ministry.
- (6) The competent national authorities shall receive requests made by foreign competent authorities in the Slovenian or English language, and communicate in languages that the other State finds acceptable, unless determined otherwise by this Act concerning certain matters.

Costs

Article 7

The costs entailed when implementing the provisions of this Act on the territory of the Republic of Slovenia shall be borne by state authorities and other bearers of public authority competent to conduct proceedings and enforce measures under the national legislation of the Republic of Slovenia.

Definitions of terms

Article 8

Individual terms used in this Act shall have the following meaning:

1. 'Member State' shall mean a Member State of the European Union;
2. 'third country' shall mean a country that is not a European Union Member State;
3. 'the issuing State' or 'the ordering State' shall mean a Member State the competent authority of which issued a decision or measure to be enforced in another Member State;
4. 'the executing State' shall mean a Member State the competent authority of which enforces a decision or measure for another Member State;
5. 'central authority' shall mean the authority of a Member State which, under the law of such Member State, is responsible for the administrative forwarding and receiving of warrants, requests for international legal assistance, other instruments related to cooperation in criminal matters, and related official administration;

6. ‘the Ministry’ shall mean the ministry responsible for justice, which is considered a central authority in the Republic of Slovenia responsible for matters determined as such by this Act;

7. ‘the ordering judicial authority’ or ‘the competent authority of the issuing State’ shall mean a judicial authority of the ordering State or the competent authority of the issuing State which, under the law of such State, is competent to issue a decision or measure to be enforced under this Act;

8. ‘the executing judicial authority’ shall mean a judicial authority of the executing State which, under the law of such State, is competent to decide on enforcement or to enforce a decision or measure to be enforced under this Act;

9. ‘national court’ shall mean a competent court of the Republic of Slovenia in accordance with the act governing criminal procedure, unless determined otherwise by this Act;

10. ‘European Arrest Warrant’ (hereinafter the ‘warrant’) shall mean a decision issued by a judicial authority of a Member State for the purpose of enabling another Member State to arrest and surrender to it a person with a view to conducting criminal proceedings, or to execute a custodial sentence or safety or other measure which involves deprivation of liberty imposed by a criminal court;

11. ‘surrender’ shall mean the enforcement of a warrant in a Member State by surrendering the requested person to a competent authority of another Member State which issued the warrant;

12. ‘arrest’ shall mean the deprivation of liberty of the person against whom a warrant is issued;

13. ‘decision on securing’ shall mean any decision or measure adopted by a competent authority of the issuing State in the course of criminal proceedings or for the purpose thereof in order to prevent any use, concealment, destruction, change, transfer, encumbrance or disposal of property for the purpose of temporarily securing a claim for the confiscation of proceeds, or in order to prevent such conduct for the purpose of the preservation of evidence concerning objects which might constitute evidence or which must be confiscated in criminal proceedings;

14. ‘property’ shall mean assets of any kind, whether corporeal or incorporeal, personal or real, as well as income and legal or other instruments evidencing title to or an interest in such property and possessing monetary value;

15. ‘Eurojust’ is a legal entity of the European Union, established for the purpose of accelerating the prevention of grave criminal offences with the Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA, OJ L 063, 06/03/2002, p. 0001);

16. ‘The European Judicial Network in Criminal Matters’ or ‘EJN’ shall mean a network of national contact points of the Member States aimed at facilitating judicial cooperation in criminal matters and set up by the Joint Action of 29 June 1998 adopted by the Council on the creation of a European Judicial Network.

PART II

ARREST AND SURRENDER PROCEDURE BETWEEN MEMBER STATES

Chapter 1

General provisions

Admissibility of the execution of a warrant in the Republic of Slovenia

Article 9

(1) Surrendering a person on the basis of a warrant is admissible if the warrant is issued for a criminal offence punishable in the ordering State by deprivation of liberty for a maximum period of at least one year, or for the purpose of enforcing a custodial sentence, safety measure or other measure imposed by a criminal court involving deprivation of liberty for at least four months, and if the act for which surrender is requested is also considered a criminal offence under the national penal code (double criminality).

(2) Double criminality shall not be verified if a warrant is issued for a criminal offence punishable under the law of the ordering Member State by deprivation of liberty for a maximum period of at least three years, and if such a criminal offence is classified under the law of such State as one of the following:

- participation in a criminal organisation;
- terrorism,
- trafficking in human beings,
- sexual exploitation of children and child pornography,
- illicit trafficking in narcotic drugs and psychotropic substances,
- illicit trafficking in weapons, munitions and explosives,
- corruption,
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests (OJ C 316, 27/11/1995),
- laundering of the proceeds of crime,
- counterfeiting currency,
- computer-related crime,
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- facilitation of unauthorised entry and residence,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage-taking,
- racism and xenophobia,
- organised or armed robbery,
- illicit trafficking in cultural goods, including antiquities and works of art
- swindling,
- racketeering and extortion,
- counterfeiting and piracy of products,

- forgery of administrative documents and trafficking therein,
- forgery of means of payment,
- illicit trafficking in hormonal substances and other growth promoters,
- illicit trafficking in nuclear and radioactive materials,
- trafficking in stolen vehicles,
- rape,
- arson,
- crimes within the jurisdiction of the International Criminal Court established by the Rome Statute,
- unlawful seizure of aircraft/ships,
- sabotage.

(3) The legal classification of a criminal offence and the prescribed penalty for the types of criminal offences listed in the preceding paragraph is within the exclusive jurisdiction of the ordering judicial authority.

(4) If the surrender of a person is admissible for a criminal offence referred to by the first paragraph of this Article, surrender may also be granted with regard to criminal offences which under the law of the ordering State as well as under the law of the executing State are punishable by deprivation of liberty or a safety measure or other measure imposed by a criminal court which does not meet the condition of the prescribed penalty as provided by the first paragraph of this Article (accessory surrender).

Grounds for refusing to surrender a requested person

Article 10

The surrender of a requested person shall be refused in the following instances:

1. if a warrant is issued for a criminal offence which would have been covered by an amnesty in the Republic of Slovenia if the authorities of the Republic of Slovenia had jurisdiction to prosecute and try the offender for such an act;

2. if a warrant is issued for a criminal offence for which the requested person has already been finally acquitted or convicted in the Republic of Slovenia or in another Member State or a third country, provided that, where there a sentence has been imposed, the sentence has already been served or is currently being served, or may no longer be executed under the law of the sentencing Member State;

3. if a warrant is issued for a criminal offence for which criminal proceedings against the requested person were finally discontinued in the Republic of Slovenia, or the charge was finally dismissed as unfounded, or if a competent state prosecutor rejected the criminal denouncement on procedural grounds because the suspect fulfilled his or her obligations under the mediation agreement, or because the suspect fulfilled the tasks imposed by a state prosecutor to reduce or rectify the damaging consequences of the criminal offence in accordance with the provisions of the act regulating criminal procedure;

4. if a warrant is issued for a criminal offence committed by the requested person when the person was still under the age of 14 years;

5. if a warrant is issued for a criminal offence for which criminal prosecution or execution of a sentence would have fallen under a statute of limitations in the Republic of Slovenia if a national court had jurisdiction for the prosecution or execution of sentence;

6. if a warrant is issued for a criminal offence which does not constitute a criminal offence under the national penal code, and the exception provided by the second paragraph of the preceding Article cannot not be applied. If a warrant is issued for criminal offences in connection with taxes, duties, customs duties and foreign exchange, surrender may not be refused on the grounds that national legislation does not levy equal taxes or duties, or does not have the same regulations on customs duties and foreign exchange as the legislation of the ordering State;

7. where the person who is the subject of the warrant is subject to prosecution in the Republic of Slovenia for the same criminal offence as that on which the warrant is based if the criminal offence is committed against the Republic of Slovenia; however, if the criminal offence is committed against a national of the Republic of Slovenia, the aforesaid applies only if the enforcement of an indemnity claim of the injured party is not secured;

8. if there are reasonable grounds to conclude that the warrant is issued for the purpose of prosecuting and punishing the requested person due to his or her sex, race, religion, ethnic origin, nationality, language, political conviction or sexual orientation, or if the person's position could be made significantly worse for such reasons;

9. if the ordering judicial authority does not give the assurances laid down in Article 14 of this Act;

10. if the warrant is issued for the purpose of executing a custodial sentence or another measure imposed by a criminal court involving deprivation of liberty, and the requested person was not present at the trial on the basis of which the decision was issued, unless the conditions are met for executing a warrant issued on the basis of a trial *in absentia*.

Optional grounds for refusing to surrender a requested person

Article 11

The surrender of a requested person may be refused in the following instances:

1. where the person who is the subject of the warrant is subject to prosecution in the Republic of Slovenia for the same criminal offence as that on which the warrant is based, provided that criminal proceedings could clearly be conducted more easily in the Republic of Slovenia;

2. if a request for an investigation is rejected in the Republic of Slovenia by a final order because there is no well-founded suspicion that the requested person has committed the criminal offence on which the warrant is based, and a state prosecutor declares to request again the institution of criminal proceedings;

3. if a warrant is issued for the purpose of executing a custodial sentence and the requested person is a national of the Republic of Slovenia, or a national of a Member State residing on the territory of the Republic of Slovenia, or a foreigner with a permanent residence permit in the Republic of Slovenia, provided that the requested person declares that he or she wishes to serve the sentence in the Republic of Slovenia, and provided that a national court undertakes to execute the sentence of the court of the ordering State in accordance with the national legislation, on condition that the circumstances exist which enable the execution of the sentence in the Republic of Slovenia under this Act;

4. if a warrant is issued for criminal offences which are regarded by the national penal code as having been committed in whole or in part in the territory of the Republic of Slovenia, and a state prosecutor declares to request the institution of criminal proceedings;

5. if a warrant is issued for criminal offences committed outside the territory of the ordering State, but the national penal code does not permit prosecution for the same offences when committed outside the territory of the Republic of Slovenia.

Restriction of surrender with the principle of speciality

Article 12

A requested person surrendered to another Member State may be prosecuted, serve a sentence, or be surrendered to another Member State only for those criminal offence committed prior to the surrender and for which such person was surrendered, unless determined otherwise by this Act.

Prerequisites for executing a warrant issued on the basis of a trial *in absentia*

Article 13

(1) A warrant issued for the purpose of executing a custodial sentence or another measure imposed by a criminal court which is to be executed by way of deprivation of liberty shall be enforced even if the requested person was not present at the trial on the basis of which a decision was made, provided that the warrant states that, in accordance with the procedural requirements as provided by the national law of the ordering State:

- the person was personally summoned within good time and thus notified of the expected date and venue of the trial on the basis of which the decision was issued, or if such person was actually in any other manner officially notified of the expected date and venue of the trial, namely in a manner which allows for an unequivocal conclusion that the person was notified of the planned trial, and under a further condition that the person was warned of the fact that a court would issue a decision even in the person's absence, or

- the person was notified of the date and venue of the trial at which his or her lawyer, whether of the person's own choosing or provided by the court, was present and defended the person, or

- if, after the person was served with a decision and expressly notified of the right to a retrial or appeal, in which such person has the right to participate, and which enables the matter to be reconsidered, with new evidence which could lead to a different decision from the original one, such person expressly stated that he or she would not contest the decision, or did not request a retrial, or file an appeal within good time.

(2) A warrant referred to in the preceding paragraph shall also be enforced if it states that the person was not served in person with the decision under the procedural requirements determined by the national law of the ordering State, but that the person would be served in person with such a decision immediately after surrender, and that at such time the person would be expressly notified of the right to a retrial or appeal in which the person has the right to participate, and which enables the matter to be reconsidered along with new evidence which could lead to a different decision from the original one, and would also be notified of the time limit within which the person must request a retrial or file an appeal, as provided by such European Arrest Warrant.

(3) If a warrant was issued under the conditions provided by the preceding paragraph, and the person did not receive an official notice of criminal proceedings prior to such time, the person may request a copy of the judgment after he or she is notified of the contents of the warrant and prior to the surrender. The ordering authority must, immediately upon being

notified of such a request, ensure that the requested person receives a copy of the judgment via a national court. The surrender proceedings or the issuing of the order on the execution of a European Arrest Warrant shall not be suspended due to such a request being filed by the requested person. The person is to receive a copy of the judgment for information purposes only, and this will not constitute an official serving of the judgment, nor will it have any effect on time limits related to the request for a retrial or for filing an appeal.

Guarantees

Article 14

(1) A national court may, prior to making a decision on surrender, request the following guarantees from the ordering judicial authority:

1. that the legislation of the ordering State allows for the possibility of granting a pardon to a convicted person, or a possibility of changing an imposed sentence, either at a convicted person's request or *ex officio*, within twenty years of the sentence becoming final at the latest if a warrant was issued for a criminal offence for which a life imprisonment is prescribed in the ordering State;

2. that the requested person will be returned to the Republic of Slovenia after the proceedings are concluded if the warrant was issued for the purpose of conducting criminal proceedings and the requested person is a national of the Republic of Slovenia, a national of a Member State who is residing on the territory of the Republic of Slovenia, or a foreigner with a permanent residence permit in the Republic of Slovenia, and if a national court undertakes by issuing a written statement to enforce the judgment of the court of the ordering State in accordance with national law.

(2) Guarantees must be given within the time limit determined by a national court.

Chapter 2

Decision-making procedure regarding the execution of a warrant

Jurisdiction

Article 15

(1) The investigating judge of the court within the jurisdiction of which the requested person has a permanent or temporary residence, or within the jurisdiction of which the requested person is located, has jurisdiction to conduct proceedings for the surrender of such person to another Member State.

(2) If the investigating judge who receives a warrant does not have territorial jurisdiction, he or she shall immediately forward such warrant to a judge who has jurisdiction, and notify the ordering judicial authority thereof.

Language

Article 16

If a warrant is not in the Slovenian language, or if a translation into the Slovenian or English language is not enclosed, the investigating judge shall notify the ordering judicial authority thereof and set an appropriate time limit, which must not exceed 10 days, for the authority to submit a translation in the Slovenian or English language. If the requested person is deprived of liberty, the investigating judge may order that the warrant be translated into the Slovenian or English language.

Rights of a requested person

Article 17

(1) A requested person must have a legal counsel appointed during the entire surrender proceedings, from when the person is brought before an investigating judge, or from the first

hearing on the surrender until the execution of the surrender. If the requested person does not appoint a legal counsel, the president of the court shall appoint one *ex officio*.

(2) The requested person has the right to interpretation in accordance with the provisions of the law regulating criminal procedure. If the requested person so demands, the warrant must be translated in writing into the person's language or into another language such person understands.

Institution of proceedings

Article 18

(1) When the investigating judge receives a warrant on a prescribed form as provided by Annex 1 of this Act, and its translation into the Slovenian or English language, the investigating judge shall verify whether the warrant contains the data required to issue a decision on its execution, and whether it meets the conditions provided by Article 9 of this Act. If the warrant is incomplete in its essential elements, the investigating judge shall set an appropriate time limit on the authority of the ordering State within which the latter should communicate the additional data required to institute proceedings.

(2) If all conditions as provided by the preceding paragraph are met, the investigating judge shall issue an order to bring the requested person before the court.

(3) If a warrant is issued, or if a form is completed as prescribed by the Schengen Information System, police officers may arrest the requested person even without a prior order to bring the requested person as per the preceding paragraph if there is a risk that the person will abscond or hide.

Legal cautioning of the requested person and production of the requested person

Article 19

(1) Upon arrest, the police must instruct the requested person that he or she is being deprived of liberty on the basis of a warrant, and informing the requested person as to which state is requesting his or her arrest and surrender and for what reason. The person must be immediately notified that he or she is not obliged to make any statement, that he or she has the right to the immediate legal assistance of a person of his or her own choosing, and that upon the person's request a competent authority must notify the person's next-of-kin of his or her deprivation of liberty. If the requested person is not a national of the Republic of Slovenia, he or she must also be notified of the fact that upon his/her request, a competent authority must also notify a consulate of the person's country of the deprivation of liberty.

(2) Police officers must bring the arrested person before a competent investigating judge immediately, or within 24 hours at the latest in the case referred to in the third paragraph of the preceding Article. Upon bringing the person before the investigating judge, police officers must notify the investigating judge of the reason and the time when the person was deprived of liberty. In the case referred to in the third paragraph of the preceding Article, police officers must submit a warrant or a copy thereof to the investigating judge.

Examination of the requested person

Article 20

(1) The investigating judge shall verify the identity of the person brought before him or her, and then notify such person of his or her rights as determined by the first paragraph of the preceding Article. The investigating judge shall verify the identity of the person brought before him or her, notify such person of his or her rights as determined by the first paragraph of the preceding Article, and notify the person of the contents of the warrant.

(2) The investigating judge shall examine the person brought before him or her without delay, and no later than within 48 hours of when the person was brought, regarding the admissibility of the execution of the warrant as referred to by Article 13, and the reasons for refusing to surrender pursuant to Article 10 of this Act, at the same time informing the person of the contents of the warrant, and instructing the person of the possibility of consenting to the surrender. A competent state prosecutor must be present at the examination.

(3) The investigating judge may, where such is necessary in order to conduct the examination as per the preceding paragraph, and in order to ensure or appoint a legal counsel to the person, issue an order that the requested person be detained for a required period of time, but for no longer than 48 hours from the time the person was brought before the investigating judge. The provisions of the law governing criminal procedure apply *mutatis mutandis* to the appeal against such order.

Hearing held for the purpose of deciding on surrender

Article 21

(1) After the examination as referred to in the preceding paragraph, a hearing shall be held for the purpose of deciding on the surrender of the requested person. At the request of the requested person, his or her legal counsel, a competent state prosecutor, or pursuant to a decision of an investigating judge, the hearing to decide on the surrender may be postponed in order to allow for a defence to be prepared, the case file to be examined, or translations and other required documents to be obtained.

(2) The investigating judge must instruct the requested person that consent to surrender is voluntary, irrevocable once given, and warn the person that if he or she consents to surrender, a summary decision will be taken within 10 days.

(3) The investigating judge shall instruct the requested person on the meaning of the principle of speciality, on the fact that the person may waive the application of this principle, on the consequences of such waiver, and on the fact that the waiver is voluntary and may not be revoked.

(4) If the requested person declares that he or she consents to being surrendered, he or she must express the consent and potential waiver of the application of the principle of speciality before the investigating judge. The legal caution referred to in the preceding paragraphs, the consent, the waiver of application of the principle of speciality, and the person's statement that the consent or waiver has been given voluntarily and in the presence of a legal counsel, shall be entered in the record.

(5) If the investigating judge does not provide the person with the legal caution as per the first paragraph of the preceding Article, and the second and third paragraphs of this Article, or if such legal caution is not entered in the record, or if the person gives such a statement without legal counsel being present, a national court may not base its decision on surrender on the statement of the requested person.

Decision on surrender by consent

Article 22

(1) If the requested person consents to surrender, the investigating judge must, without delay and no later than within 48 hours, make a decision on the surrender.

(2) Surrender shall be granted by issuing an order containing the following data:

a) first name, last name, date and place of birth, and citizenship of the requested person,

- b) the Member State to which the requested person is to be surrendered,
- c) description of the criminal offence for which the person is to be surrendered,
- č) indication that the requested person consented to surrender,
- d) indication that the requested person waived the application of the principle of speciality,
- e) indication that the requested person may not be surrendered to a third country for a criminal offence committed prior to the surrender,
- f) indication regarding when and for how long the requested person was deprived of liberty on the basis of a warrant.

(3) If the requested person does not waive the application of the principle of speciality, the order must also contain an indication that the requested person may not be prosecuted, serve a sentence, or be surrendered to another Member State for another criminal offence committed prior to surrender.

(4) The order shall be served on the requested person, his or her legal counsel, and a state prosecutor.

(5) The requested person and his or her legal counsel may appeal the order issued by the investigating judge before a non-trial panel of a district court within 24 hours from the hour when the order was served on them. The panel must render a decision on the appeal within 48 hours.

Decision on surrender without consent

Article 23

(1) If the requested person does not consent to surrender, the investigating judge shall immediately examine such person regarding the reasons for refusing to be surrendered. A legal counsel and a competent state prosecutor must be present during the examination, and are entitled to present their proposals and opinions.

(2) During examination, the act governing criminal procedure for examining defendants shall apply *mutatis mutandis*.

(3) The investigating judge may request additional data or guarantees from the ordering judicial authority, in accordance with the provisions of this Act, and set an appropriate time limit for their submission; the investigating judge may also take other investigative measures to establish if the conditions for the surrender of the requested person are met. If the requested person is subject to criminal proceedings in the Republic of Slovenia regarding the same or another criminal offence, the investigating judge shall indicate this fact in the case files.

(4) A non-trial panel of a district court shall issue an order granting or refusing surrender, based on the reasoned motion of the investigating judge.

(5) A written order granting surrender shall include the following data:

- a) first name, last name, date and place of birth, place of residence, and nationality of the requested person,
- b) the Member State to which the requested person is to be surrendered,
- c) description of the criminal offence for which the person is to be surrendered,

č) indication that the requested person may not be prosecuted, serve a sentence, or be surrendered to another Member State or extradited to a third country for another criminal offence committed prior to the surrender,

d) indication of when and for how long the requested person was deprived of liberty on the basis of a warrant.

(6) The order shall be served on the requested person, his or her legal counsel, and a state prosecutor.

(7) The requested person, his or her legal counsel, or the state prosecutor may appeal the order of the non-trial panel within 48 hours from the hour when the order was served on them. A higher court panel must decide on the appeal within three days.

(8) Any refusal to surrender must be reasoned and communicated to the ordering judicial authority.

Detention

Article 24

(1) The European Arrest Warrant, or issuing of an alert in the Schengen Information System on a prescribed form pursuant to the provisions of Article 95 of the Convention of 19 June 1985 on the Gradual Abolition of Checks at Common Borders, shall be considered requests for detention and the execution of surrender proceedings.

(2) For the purpose of successfully conducting surrender proceedings against a requested person, and provided that the circumstances exist which indicate that there is a risk of the requested person absconding, the investigating judge shall decide, on the basis of a decision issued by the ordering judicial authority, or a motion of a competent state prosecutor, whether to order detention of the requested person or any of the other measures to ensure that the person attends proceedings, all by applying, *mutatis mutandis*, the provisions of the act regulating criminal procedure.

(3) The order referred to in the preceding paragraph shall be served on the requested person, his or her legal counsel, and a state prosecutor.

(4) The requested person, his or her legal counsel, or the state prosecutor may appeal the order referred to in the second paragraph of this Article before a non-trial panel of a district court within 24 hours from the hour when the order was served on the requested person. The panel must render a decision on the appeal within 48 hours. The appeal shall not suspend the execution of the order.

(5) The investigating judge shall immediately notify the ordering judicial authority on the adopted measure.

(6) After the investigating judge issues such order, the requested person may be held in detention for no longer than a month from the day when he or she was deprived of liberty. When this time limit expires, the requested person may be further detained only on the basis of an order on renewing detention.

(7) Detention may be renewed on the basis of an order issued by a non-trial panel of a district court, but the total detention time may not exceed nine months. The order to renew detention shall be issued by the panel on the basis of a reasoned motion of an investigating judge or a competent state prosecutor. The requested person and his or her legal counsel must be notified of such motion at least three days prior to the expiry of the time limit as set in the

preceding and this paragraph, and may make a statement concerning the allegations prior to the decision being rendered. The panel may renew detention by two months on each occasion.

(8) The requested person and his or her legal counsel may appeal the order to renew detention within three days of the day when the order was served on them. A higher court must render a decision on the appeal within three days.

Seizure of objects and temporary securing of a claim for the confiscation of proceeds

Article 25

(1) If the ordering judicial authority so orders in a warrant, or if so provided by the national penal code, the investigating judge shall seize and hand over to the ordering judicial authority any objects which might serve as evidence in criminal proceedings.

(2) If, when issuing a warrant, an ordering judicial authority orders the temporary securing of a claim for the confiscation of proceeds, the investigating judge shall order the temporary securing of property in the Republic of Slovenia.

(3) A court shall render a decision on the seizure, as provided by the preceding paragraphs, in an order whereby the court decides on the surrender.

(4) When rendering a decision pursuant to the first or second paragraphs of this Article, the court shall not verify double criminality if the ordering judicial authority states in the warrant that the case concerns one of the types of criminal offence as referred to in the second paragraph of Article 9 of this Act.

(5) The objects, proceeds or property as referred to in the preceding paragraphs shall also be seized and handed over in a case when the surrender cannot take place due to the fact that the requested person has died or absconded.

(6) If a national court seizes objects, proceeds or property as referred to in the first and second paragraphs of this Article in the course of conducting ongoing criminal proceedings, it shall retain the objects, or hand them over temporarily to the ordering State on condition that they be returned.

(7) The ordering State must return the objects referred to in the first and second paragraphs of this Article if the executing State or a third person is entitled to them. The costs of receiving, storing and returning of the items shall be borne by the ordering State.

Time limits on deciding on the surrender of a requested person

Article 26

(1) Surrender proceedings must be expeditious.

(2) If the requested person consents to being surrendered, the final decision on the surrender must be rendered within 10 days from when the consent is given.

(3) If the requested person does not consent to being surrendered, the final decision on the surrender must be rendered within 60 days of the arrest or the first examination of the requested person.

(4) If a decision on the surrender cannot be rendered within the time limits determined in the second and third paragraphs of this Article, a national court must immediately notify the ordering judicial authority thereof and explain the reasons for the delay. In such cases, the time limit may be extended by an additional 30 days.

(5) If, due to exceptional circumstances, a decision on the surrender cannot be rendered within the time limits provided by this Article, a national court must immediately notify

Eurojust thereof and explain the reasons for the delay. If another Member State disregards the time limits provided for the enforcement of an arrest warrant several times, a national court shall notify the Council of the European Union thereof. Such notice shall be given with the assistance of the Ministry.

(6) Until the surrender takes place, the court must adopt appropriate measures to ensure the attendance of the requested person, and take all measures necessary to enable the surrender of the requested person.

Examination or temporary surrender of the requested person during surrender proceedings

Article 27

(1) Until surrender takes place, and on a motion of the ordering judicial authority, provided that a warrant is issued for the purpose of conducting criminal proceedings, an investigating judge shall act as follows:

- a) examine the requested person on the criminal offence for which the warrant is issued, or
- b) allow the temporary surrender of the requested person to the ordering State.

(2) Details related to the examination and the conditions and duration of the temporary surrender of the requested person shall be determined by the investigating judge and the ordering judicial authority in a written agreement which must be binding on all the authorities of the ordering State.

(3) The investigating judge shall examine the requested person in accordance with the provisions of the law on criminal procedure, and in accordance with the agreement referred to in the preceding paragraph. A legal counsel and a state prosecutor must be present during examination; however, another person, determined in accordance with the legislation of the ordering State, may also be present.

(4) Should the investigating judge assess that the examination of the requested person would clearly be conducted more easily and efficiently in the ordering State, or if other well-founded reasons exist, the investigating judge shall grant a temporary surrender of the requested person by issuing a written order. Based on a motion filed by the requested person, the ordering State must enable the return of the requested person to the Republic of Slovenia in order that the requested person may participate in surrender proceedings.

Immunity

Article 28

(1) If the requested person enjoys immunity, the investigating judge shall request that the competent authorities initiate proceedings to revoke such immunity.

(2) If the requested person who enjoys immunity is a national of another State or a member of an international organisation, the institution of proceedings to revoke immunity shall be requested by the ordering judicial authority.

(3) The time limits provided by Article 26 of this Act commence on the day that the investigating judge receives a written notice on revocation of immunity.

(4) If the requested person's immunity is revoked, a national court shall take appropriate measures to ensure the attendance of the requested person, and take all measures necessary to enable the surrender of the requested person.

Surrender of an extradited person

Article 29

(1) If the surrender is requested of a person who was extradited to the Republic of Slovenia by a third country on condition that such person may not be prosecuted, serve a sentence, or be extradited to another country to face prosecution, a national court must respect this condition notwithstanding the provisions of this Act. The investigating judge must, without delay, request consent to surrender such a person to the ordering State from the competent authority of the third country which extradited the person, in accordance with treaties binding on the Republic of Slovenia.

(2) The time limits provided by Article 26 of this Act commence on the day when the investigating judge receives the consent referred to in the preceding paragraph.

(3) Until the country which extradited the requested person renders a decision, a national court shall take appropriate measures to ensure the attendance of the requested person, and take all measures necessary to enable the surrender of the requested person.

Chapter 3

Decision in the case of multiple warrants, and in the case of a concurrent warrant and request for extradition

Competence to render a decision in the case of multiple warrants

Article 30

If a warrant against a requested person is issued by judicial authorities of several Member States, a non-trial panel of a district court shall decide to which Member State the requested person shall be surrendered, in accordance with the procedure provided by this Act.

Decision-making procedure in the case of multiple warrants

Article 31

(1) If the investigating judge conducting the surrender proceedings is notified that multiple warrants have been issued against the requested person, and if an order granting surrender has not yet been issued, the investigating judge shall suspend the surrender proceedings; however, if the case file has already been forwarded to the panel, the investigating judge shall request that the case file be returned, and shall conduct single surrender proceedings after receiving the other warrant or warrants, and submit the case file to the panel referred to in the preceding Article. Prior to submitting the case to the panel, the investigating judge may seek the opinion of Eurojust.

(2) The panel shall render a decision as to which Member State the requested person shall be surrendered with due consideration of all circumstances of the case, particularly the seriousness and place of the criminal offence, the respective dates of particular warrants, and whether a warrant has been issued for the purpose of conducting criminal proceedings or for the execution of a custodial sentence.

(3) The order shall be served on the requested person, his or her legal counsel, and a state prosecutor.

(4) The requested person, his or her legal counsel, or the state prosecutor may appeal the order within three days of when the order was served on them. A higher court shall render a decision on such an appeal.

(5) The investigating judge shall directly notify all ordering judicial authorities of the final decision.

Decision-making procedure in the case of a warrant and a request for extradition

Article 32

(1) If a final decision is issued against the same person that is to be surrendered to a Member State and extradited to a third country, a panel of three judges of the Supreme Court of the Republic of Slovenia shall render a decision on whether the person shall be surrendered to a Member State or extradited to a third country.

(2) If the investigating judge conducting surrender proceedings is notified that an international arrest warrant or a request for extradition has also been issued against the requested person, the judge shall conduct separate surrender proceedings pursuant to the provisions of this Chapter, and extradition proceedings pursuant to the law regulating criminal procedure. When the surrender proceedings and the extradition proceedings have been concluded with final effect, the investigating judge shall refer the case to the Supreme Court.

(3) The Supreme Court of the Republic of Slovenia shall render a decision with due consideration of all the circumstances of the case, especially those referred to in the second paragraph of Article 31 of this Act, and those referred to in appropriate treaties binding on the Republic of Slovenia.

(4) In the case of a concurrent surrender warrant and a request for extradition, the time limits provided by Article 26 of this Act apply only to the decision on the warrant. If a final decision on concurrent requests cannot be rendered within the time limits set in Article 26 of this Act, the investigating judge shall immediately notify the ordering authority of the reasons for the delay.

Appeal and providing information

Article 33

(1) A person whose surrender or extradition is requested, his or her legal counsel, or a state prosecutor may appeal the order within three days from when the order was served on them. A panel of five judges of the Supreme Court of the Republic of Slovenia shall render a decision on the appeal.

(2) The investigating judge shall notify the judicial authorities that issued the warrant of the decision of the Supreme Court of the Republic of Slovenia, and also the Ministry, which shall notify the country which requested the extradition of the person.

(3) The time limits provided by Article 26 of this Act commence from when the decision of the Supreme Court becomes final.

(4) The provisions of Articles 30, 31 and 32 of this Act and the provisions of the preceding paragraphs of this Article do not prejudice the obligations of the Republic of Slovenia towards the International Criminal Court founded by the Rome Statute, or towards other international criminal courts, in accordance with treaties binding on the Republic of Slovenia.

Chapter 4

Execution of surrender of the requested person

Providing information

Article 34

(1) The investigating judge shall immediately notify the ordering judicial authority of the decision on the surrender of the requested person becoming final, and forward a copy of the decision.

(2) Upon surrendering a requested person, all information on the duration and type of measures taken to ensure the attendance of the person as referred to in Article 24 of this Act must be submitted to the ordering judicial authority, as well as all other information needed to

conduct proceedings in the State that issued the warrant. A form provided by Annex 2 of this Act may be used to provide information to the ordering authority.

Surrender of the requested person

Article 35

(1) When the surrender order has become final, the investigating judge shall order the execution of the surrender of the requested person without delay. The written order shall be sent to the police for immediate execution. The police shall agree with the competent authorities of the ordering State on the method, time and place of the surrender of the requested person, which must take place as soon as possible and no later than within 10 days from the surrender order becoming final.

(2) If circumstances beyond the control of the Member States prevent the execution of the surrender of the requested person within the time limit provided by the preceding paragraph, the investigating judge or the police shall immediately notify the ordering judicial authority thereof and agree with the authority on a new method, date or place of surrender, which must be executed within the following 10 days.

(3) The surrender of a requested person may exceptionally be temporarily postponed for serious humanitarian reasons, in particular if it is possible that the surrender will manifestly seriously threaten the life or health of the requested person. The surrender must take place as soon as these grounds have ceased to exist. The investigating judge shall notify the ordering judicial authority of such fact and agree on a new method, time or place of the surrender, which must take place within the following 10 days.

(4) Police officers shall execute the surrender of a requested person by conveying the person to the border and surrendering him or her to competent authorities of the ordering State.

(5) If the requested person is still in detention after the expiry of the time limits provided by the second and third paragraphs of this Article, the investigating judge shall release the requested person from detention. The release of the requested person does not prevent their surrender at a later date.

Postponed or temporary surrender of the requested person

Article 36

(1) The surrender of a requested person may be postponed if criminal proceedings are being conducted against the person before a national court, or if the person is serving a sentence imposed for some other criminal offence, not the one referred to in the warrant. The court that decides on the surrender shall also decide on the postponement of the surrender when issuing a surrender order against the requested person.

(2) In the case referred to in the preceding paragraph, the requested person may be temporarily surrendered to the ordering State under the conditions laid down in a written agreement concluded by the court conducting criminal proceedings, or by the court that has the jurisdiction to execute the sentence, and the ordering judicial authority. The conditions laid down in the agreement are binding on all the authorities of the ordering State.

(3) In the case of a postponed surrender and before the surrender actually takes place, it must be verified that the warrant is still in force; if the warrant has been revoked, an appropriate decision must be issued.

Transit through the territory of the Republic of Slovenia

Article 37

(1) The Ministry shall decide on a request for the transit through the territory of the Republic of Slovenia of a requested person who is being surrendered by a Member State to another Member State.

(2) The request for transit must contain the following data:

a) first name, last name, date and place of birth, place of residence, and nationality of the requested person,

b) copy of a warrant,

c) legal definition of the criminal offence,

č) description of the criminal offence, including time and place of it being committed.

(3) The Ministry shall notify the authority requesting the transit of their decision, as well as the police, who shall escort the person through the territory of the Republic of Slovenia.

(4) The provisions of this Article do not apply in the event of transit by air without a scheduled stopover. In the event of an unscheduled landing, the Ministry shall request that the ordering State submit the information as laid down in the second paragraph of this Article.

(5) The provisions of this Article also apply *mutatis mutandis* if transit through the territory of the Republic of Slovenia is necessary in order to extradite a person from a third country to another Member State.

Transit through the territory of another Member State

Article 38

(1) If permission for transit through the territory of another Member State is necessary in order to execute a European Arrest Warrant issued by a national court, and if such permission cannot be obtained by the authority competent to execute the surrender of the requested person within their competences, a national court shall forward to a competent authority of such State the documents referred to in the second paragraph of the preceding Article and request permission for transit.

(2) If transit through the territory of another Member State is necessary in order to extradite a person from a third country, a court shall forward to the Ministry the documents referred to in the second paragraph of the preceding Article, so that the Ministry can request permission for transit.

Chapter 5

Consent to prosecution or extradition for other criminal offences

Jurisdiction with regard to rendering a decision on consent

Article 39

The investigating judge of the court that permitted the surrender of a person shall render a decision on a request of a judicial authority of a Member State for consent to prosecute a person surrendered by the Republic of Slovenia, or to execute a sentence against such person, or to surrender such person to another Member State for another criminal offence committed prior to being surrendered. The request must contain the information required by Article 37 of this Act.

Procedure

Article 40

(1) The investigating judge shall render a decision on giving consent by issuing a written order, without examining the surrendered person prior to issuing the order. Consent shall not

be given if the conditions for executing a warrant are not met under the provisions of this Act. A decision must be rendered by no later than 30 days from the receipt of the request.

(2) A decision on the request of a judicial authority of a Member State for consent to extradite a person surrendered by the Republic of Slovenia to a third country shall be rendered in accordance with treaties binding on the Republic of Slovenia.

Chapter 6

Procedure and conditions for issuing a warrant

Admissibility of issuing a warrant in the Republic of Slovenia

Article 41

A warrant may be issued based on a motion of a state prosecutor, or *ex officio*, if detention of a defendant is ordered in the Republic of Slovenia for a criminal offence prosecuted *ex officio*, and punishable under the national penal code by deprivation of liberty for a maximum period of at least one year, or for the purpose of executing a custodial sentence, safety measure or other measure involving deprivation of liberty of at least four months.

Contents and form of a warrant

Article 42

(1) The national court conducting criminal proceedings, or the national court having jurisdiction for executing a sentence, shall issue a warrant on the form provided by Annex 1 of this Act.

(2) The original of the warrant must be translated into the official language or one of the official languages of the executing State, or the language determined by the Member State.

Forwarding a warrant

Article 43

(1) If the whereabouts of the requested person are unknown, a national court shall forward the warrant to the police who shall then proceed in accordance with the provisions of the law regulating criminal procedure regarding the execution of an arrest warrant.

(2) An alert regarding the requested person may be issued in the Schengen Information System, in accordance with the provisions of Article 95 of the Convention of 19 June 1985 on the Gradual Abolition of Checks at Common Borders, or the law regulating the police. An alert in the Schengen Information System containing data from the form provided by Annex 1 of this Act is equal to a warrant.

Examination or temporary surrender

Article 44

(1) If a warrant is issued for the purpose of conducting criminal proceedings, the national court that issued the warrant may request permission from the executing judicial authority to examine the requested person, or to surrender the person temporarily to the Republic of Slovenia for examination or participation in a main hearing.

(2) The investigating judge shall be present during the examination of the requested person in the executing State. A state prosecutor and a legal counsel may be present during the examination, unless their presence is not allowed under the legislation of the executing State. The investigating judge must notify in good time and in an appropriate manner the state prosecutor of the place and time of the examination of the requested person.

(3) Details related to the examination, and the conditions and duration of a temporary surrender shall be determined by a national court and an executing judicial authority in a written agreement binding on all the authorities of the Republic of Slovenia.

National authorities are bound by the principle of speciality

Article 45

The requested person, surrendered to the Republic of Slovenia or to another Member State, may not be prosecuted, sentenced, or detained in order to execute a sentence or an arrest warrant for any other criminal offence committed prior to the surrender other than the one for which the person was surrendered; such person may also not be deprived of liberty, or surrendered to another Member State, or extradited to a third country for any other reason, unless otherwise provided by this Act.

Derogations from the principle of speciality

Article 46

The principle of speciality, as provided by Article 45 of this Act, does not apply in the following instances:

1. if the requested person, having had the opportunity to leave the territory of the Republic of Slovenia, has not done so within 45 days of his or her final discharge, or has returned to the Republic of Slovenia after leaving;
2. if only a fine is prescribed for the other criminal offence which the person committed prior to being surrendered;
3. if the person expressly waived the applicability of the principle of speciality prior to, or after, being surrendered;
4. if measures involving deprivation of liberty would not be imposed in the course of the criminal proceedings;
5. if the person is to be subject to a penalty or measure which does not involve deprivation of liberty, especially a fine or some alternative measure, even if such penalty or measure could cause a restriction of liberty;
6. if the Member State which surrenders the person agrees to the prosecution, execution of sentence, or surrender to another Member State for another criminal offence committed by such person prior to their being surrendered.

Waiver of the principle of speciality

Article 47

(1) A person surrendered to the Republic of Slovenia may waive the applicability of the principle of speciality regarding criminal offences committed prior to being surrendered before a national court conducting criminal proceedings for a criminal offence committed prior to the surrender, or before an investigating judge of the court having the jurisdiction to execute a sentence or over surrender proceedings.

(2) The person referred to in the preceding paragraph shall be instructed on the meaning of the principle of speciality, the consequences of such waiver, and on the fact that the waiver is voluntary and may not be revoked. A surrendered person without legal counsel shall be instructed that he or she has the right to appoint a legal counsel of his or her own choosing.

(3) The legal caution from the preceding paragraph, waiver of application of the principle of speciality, and the person's statement that the waiver has been given voluntarily shall be entered in the record. If the person was not given such legal caution, or if the legal caution was not entered in the record, the court may not base its decision on the statement of the surrendered person.

(4) If a person surrendered to the Republic of Slovenia does not waive the application of the principle of speciality, the court referred to by the first paragraph of this Article must request consent to prosecute, sentence or surrender such person to another Member State for another criminal offence committed prior to their being surrendered.

Extradition of the surrendered person to a third country

Article 48

(1) A person surrendered to the Republic of Slovenia may not be extradited to a third country without the consent of the Member State which surrendered the person. The request for consent shall be issued by a national court in accordance with treaties binding on the Republic of Slovenia.

(2) The preceding paragraph does not apply to Member States regarding which it is considered, on the basis of a notice given to the Secretary-General of the Council of the European Union, that their consent to further extradite a person to a third country is given.

PART III

LEGAL ASSISTANCE

Chapter 7

The scope of legal assistance

Article 49

(1) According to this Act, legal assistance shall mean the cooperation of the competent authorities of the Republic of Slovenia with the competent authorities of Member States, which shall be provided:

1. in criminal proceedings conducted for criminal offences for which sentencing at the time of the request for legal assistance is within the jurisdiction of the judicial authorities of the requesting State;

2. in proceedings for minor offences and other criminal conducts if judicial protection before a court which also has jurisdiction in criminal matters is permitted against a decision of a competent authority;

3. in proceedings for indemnity, rehabilitation and the enforcement of other rights of persons who have been unjustifiably convicted or deprived of liberty without due cause.

(2) Legal assistance shall be implemented mainly by the service of documents and implementation of investigative actions and other measures with the purpose of successfully conducting pre-trial criminal or criminal proceedings.

Competent authorities

Article 50

(1) The competent authorities referred to in the first paragraph of the preceding Article shall be the courts, State Prosecutor's Offices or administrative authorities, against the decisions of which judicial protection before a court having jurisdiction also in criminal matters is permitted, as well as authorities competent for the execution of criminal sanctions.

(2) If it is provided under the law of the Republic of Slovenia that a national court has jurisdiction to order or execute an act or measure in relation to the proceedings referred to in items 1 and 3 of the first paragraph of the preceding Article, district courts in the area of which the act or measure is to be executed shall have subject-matter jurisdiction over legal assistance. If several courts have jurisdiction, territorial jurisdiction shall be vested in the court having jurisdiction to perform the first act or measure indicated in the request. If the

court having territorial jurisdiction cannot be determined, the District Court of Ljubljana shall have jurisdiction.

(3) If, under the law of the Republic of Slovenia, a state prosecutor is competent to order an act or measure referred to in the preceding paragraph, the preceding paragraph shall apply *mutatis mutandis* to the determination of subject-matter and territorial jurisdiction.

(4) If the request for legal assistance refers to the acts referred to in item 2 of the first paragraph of the preceding Article, which are considered minor offences or other types of criminal conduct under the law of the requesting State, the local court in the territory of which the act or measure is to be executed shall have jurisdiction over legal assistance, even when a request is issued by an administrative authority of the requesting State.

(5) If the request for legal assistance relates to ordering measures or the execution of acts for which various authorities are competent under the law of the Republic of Slovenia, the request shall be forwarded to the State Prosecutor's Office having territorial jurisdiction, which shall order the measure or execute acts for which it has jurisdiction under the law of the Republic of Slovenia, and propose the ordering of the measure or execution of acts to a competent court.

Presence of representatives of competent authorities and those which are parties to proceedings

Article 51

(1) The competent authorities of other Member States may not independently execute acts and measures within the framework of legal assistance in the territory of the Republic of Slovenia.

(2) If a treaty provides that officials of Member States may execute individual acts or measures in the territory of another Member State, such acts or measures shall be executed in the territory of the Republic of Slovenia upon a request of another Member State under the supervision of officials of the competent authorities of the Republic of Slovenia.

(3) A competent authority of the Republic of Slovenia may not refuse a reasoned request from a competent authority of another Member State for representatives of competent authorities of Member States and other parties to proceedings and their legal representatives to be present in the execution of legal assistance if their presence or cooperation is likely to be of benefit for the appropriate implementation of legal assistance. A competent authority of the Republic of Slovenia shall, upon a request of a competent authority of the requesting State, notify the former of the time and place of the implementation of the request.

(4) The provisions of the second and third paragraph of this Article also apply *mutatis mutandis* if the presence of representatives of the competent authorities of the Republic of Slovenia and other persons referred to in the preceding paragraph is necessary to implement legal assistance in another Member State.

Exchange of information without a request

Article 52

(1) If a national judicial authority estimates, for well-founded reasons, that information in relation to criminal offences obtained during the performance of its competences could be required in the implementation of pre-trial criminal or criminal proceedings, or could represent the basis for a request for legal assistance, it may forward such information to, or receive it from, the competent authorities of another Member State without prior request.

(2) The exchange of information referred to in the preceding paragraph shall not prejudice the institution or conduct of criminal proceedings, or the exercise of other competences of the authority communicating the information.

(3) If the authority, when communicating information, set any conditions for its use, such conditions shall be binding on the authority receiving such information.

Establishing a joint investigation team

Article 53

(1) In a matter which is the subject of pre-trial criminal proceedings, an investigation or judicial proceedings in one or several Member States, the police may, when executing tasks and measures in the course of pre-trial criminal proceedings, or in the course of investigation, which fall within their authority under the provisions of the law governing criminal procedure, cooperate with police officers of another Member State within or outside the territory of the Republic of Slovenia.

(2) When executing the tasks and measures referred to in the preceding paragraph, the police shall be coordinated by a state prosecutor pursuant to the provisions of the law governing criminal procedure, and in so doing, and otherwise in exercising authority in accordance with the provisions of this Act, may cooperate with state prosecutors of another Member State within or outside the territory of the Republic of Slovenia (joint investigation team).

(3) The tasks, measures, coordination and other competences referred to in the preceding paragraphs of this Article must be executed in accordance with the agreement on the establishment and operations of a joint investigation team on the territory of the Republic of Slovenia or another Member State concluded by a general state prosecutor, or upon his or her authorisation by his or her deputy with a state prosecutor's office, court, police or other competent authority of another State, after seeking the opinion of the director general of the police for each individual case. The agreement is to be concluded on the initiative of a general state prosecutor, head of a District State Prosecutor's Office, or head of a Specialised Office of the State Prosecutor of the Republic of Slovenia, or on the initiative of a competent authority of another Member State.

(4) The agreement referred to in the preceding paragraph must determine which authorities are to conclude the agreement, which case is to be dealt with by a joint investigation team, the purpose of the team's operation, the state prosecutor of the Republic of Slovenia who is to be the head of the team in the territory of the Republic of Slovenia, other members of the team, and the duration of the team's operation. The general state prosecutor shall notify the Ministry in writing of the concluded agreement.

Method of work of a joint investigation team

Article 54

(1) Police officers, state prosecutors, or other competent authorities of another Member State shall execute the tasks, measures, coordination or other competences referred to in the first and second paragraphs of the preceding Article in the territory of the Republic of Slovenia only within the framework of a joint investigation team, in accordance with the provisions of the agreement on the establishment and operations thereof, as referred to in the third paragraph of the preceding Article.

(2) If so provided by the agreement on the establishment and operations of the joint investigation team referred to in the third paragraph of the preceding Article, representatives of the competent authorities of the European Union, such as EUROPOL, Eurojust and OLAF,

may also participate in a joint investigation team. The representatives of competent authorities of the European Union shall exercise their authority in the territory of the Republic of Slovenia only within the framework of the joint investigation team, in accordance with the provisions of the agreement referred to in the third paragraph of the preceding Article.

(3) Organisational units of the police and state prosecutor's offices of the Republic of Slovenia must provide the joint investigation team with all necessary assistance.

(4) On the completion of the work of the joint investigation team, the head of the team shall provide all its members and the general state prosecutor with written reports.

Controlled delivery

Article 55

(1) Controlled delivery shall mean an agreed covert surveillance of transport or the transfer of persons, items or goods the trade in which is limited or prohibited, to, from or through the territory of the Republic of Slovenia, where the competent authorities, for the purpose of revealing a large-scale criminal activity, temporarily postpone the execution of the deprivation of liberty and other measures provided by the law governing criminal procedure.

(2) Rendering a decision on controlled delivery shall fall within the competences of a district state prosecutor through whose area of authority the controlled delivery is envisaged to cross the state border, or from the area of whom it is dispatched, or a Specialised Office of the State Prosecutor of the Republic of Slovenia.

(3) A controlled delivery shall be permitted at the request of a competent authority of a Member State, or in agreement with another Member State, if criminal offences are involved which meet the conditions for issuing a European Arrest Warrant.

(4) In the territory of the Republic of Slovenia, controlled delivery shall be exercised by the competent Slovenian authorities in a manner which ensures permanent supervision and appropriate action.

5) Controlled delivery shall not be permitted, or its further execution shall be discontinued if:

1. or until there is a risk to people's life or health; or
2. it is likely that further supervision or action in another Member State is not ensured or will not be effective.

(6) After the execution of a controlled delivery, a competent state prosecutor must establish that the conditions exist for referring criminal prosecution to the Member State in which suspects have been deprived of liberty.

Undercover operation

Article 56

(1) An undercover agent of another Member State shall be permitted to operate in the Republic of Slovenia upon a written order issued by a state prosecutor or investigating judge having jurisdiction in the area in which the execution of the undercover operation is to begin, or a state prosecutor of the Specialised Office of the State Prosecutor of the Republic of Slovenia under conditions and for a period as provided by the law governing criminal procedure. The written order shall be issued on the basis of a request from a competent judicial authority of the Member State which approved the undercover operation in pre-trial criminal or criminal proceedings in such state.

(2) If, in order to conduct pre-trial criminal proceedings or criminal proceedings in the Republic of Slovenia, it is required that an undercover agent from the Republic of Slovenia operate in another Member State, the competent authority of such Member State shall request the execution of an undercover operation from the authority competent to order the measure in accordance with the law regulating criminal procedure. A written order must be attached to such request.

Implementation of undercover operations

Article 57

(1) An undercover agent of another Member State may operate in the territory of the Republic of Slovenia under the guidance and supervision of the police, which shall be sent an order permitting the operation of the undercover agent marked as ‘confidential’, in accordance with the law governing classified information.

(2) The undercover agent must abide by the legal order of the Republic of Slovenia and all orders of the competent national authorities. The undercover agent shall be subject to the provisions of the law governing criminal procedure, while conditions and the manner of his or her operation shall be specified in more detail in the agreement with the authority of the requesting State, and shall be included in the order referred to in the first paragraph of the preceding Article.

(3) On the initiative of the undercover agent, the police may propose that the state prosecutor issue a written order permitting the execution of a measure of sham purchase, sham acceptance or the giving of gifts or sham bribery, in accordance with the provision of the law governing the criminal procedure.

Chapter 8

Recognition and execution of a European evidence warrant for the purpose of obtaining objects, documents and data

Subject of provisions

Article 58

This Chapter provides the rules under which a court recognises a European evidence warrant issued by a competent authority of a Member State for obtaining objects, documents and data from another Member State for the purpose of conducting criminal proceedings and minor offence proceedings.

Definitions of terms

Article 59

The terms used in this Chapter shall have the following meaning:

- a ‘European evidence warrant’ shall be a decision issued by a court or other competent authority of a Member State with a view to obtaining objects, documents and data from another Member State for use in criminal proceedings and minor offence proceedings;

- ‘search or seizure’ shall include any measures provided by the law governing criminal procedure or minor offence procedure as a result of which a legal or natural person is required to provide objects, documents or data, or enable such to be seized, if necessary, even without the consent of such person.

Conditions for execution

Article 60

This Chapter governs the recognition and execution of a European evidence warrant issued:

a) for the purpose of conducting criminal proceedings;

b) in the course of proceedings before administrative authorities in connection with acts considered minor offences or other violations under the law of the issuing State if, under the law of such state, the person was able to file legal remedies contesting the decision at a court having jurisdiction mainly in criminal matters;

c) in the course of proceedings before judicial authorities in connection with acts considered minor offences or other violations of the law of the issuing State if, under the law of such state, the person was able to file legal remedies contesting the decision at a court having jurisdiction mainly in criminal matters; and

d) in connection with the proceedings referred to in items a), b) and c) referring to criminal offences, minor offences or other violations for which legal persons may be held responsible or punished in the issuing State.

Scope of application

Article 61

(1) Under the provisions of this Chapter, a court shall recognise and execute a European evidence warrant if it is issued for the purpose of obtaining objects, documents or data required by the issuing State to conduct criminal or minor offence proceedings.

(2) A European evidence warrant referring to the communication of data, documents or objects shall not be recognised and executed under the provisions of this Chapter if a competent authority of the issuing State requests that a national court implement the following acts of investigation:

- examination of suspects, defendants, witnesses, expert witnesses or other parties;
- carrying out bodily examinations or obtaining bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints;
- obtaining information by direct action in real time, such as through the interception of communications, covert surveillance or monitoring of bank accounts;
- conducting analysis of existing objects, documents or data, and obtaining communications data retained by providers of a publicly available electronic communications service or a public communications network.

(3) Regardless of the preceding paragraph, a court shall recognise and execute a European evidence warrant if it refers to objects, documents or data as referred to by the preceding paragraph already in the possession of the court before the European evidence warrant is issued.

(4) If so indicated by the issuing authority and regardless of the provisions of the preceding paragraphs, the European evidence warrant shall also cover any other object, document or data discovered by a national court during the execution of the warrant and considered to be essential to the proceedings for the purpose of which the European evidence warrant was issued.

(5) If expressly requested by the issuing authority and regardless of the second paragraph of this Article, the European evidence warrant shall also cover the taking of statements from persons present during the execution of the warrant if directly related to the subject of the European evidence warrant. Such statements shall be taken pursuant to the provisions of the act governing criminal procedure or minor offence procedure.

Grounds for non-recognition or non-execution

Article 62

(1) Recognition and execution of a European evidence warrant may be refused:

- if it is issued to conduct a search or seizure regarding a criminal offence which does not constitute a criminal offence under the national penal code, and the exception from determining double criminality as referred to in the third paragraph of this Article does not apply. If a European evidence warrant is issued for criminal offences in connection with taxes, duties, customs duties and foreign exchange, execution may not be refused on the grounds that the national legislation does not charge equal taxes or duties, or does not provide the same regulations on customs duties and foreign exchange as the legislation of the ordering State;

- if it is not possible to execute the warrant by any of the measures which, according to the circumstances of the case, are available under the law regulating criminal procedure or minor offence procedure;

- if a warrant referring to conducting a search or seizure is not issued or confirmed by a judge or a state prosecutor;

- if execution of the warrant would harm essential national security interests, jeopardise a source of information, or involve the use of classified information relating to specific intelligence activities;

- if the form provided by Annex 3 of this Act is manifestly incorrect and has not been completed or corrected within a time limit set by a competent national authority;

- if a European evidence warrant is issued for a criminal offence for which criminal proceedings against the requested person were *res judicata* discontinued in the Republic of Slovenia, or the charge was *res judicata* dismissed as unfounded, or if a competent state prosecutor rejected the criminal denouncement on procedural grounds because the suspect has fulfilled his or her obligations under the mediation agreement, or because the suspect carried out the tasks imposed by a state prosecutor to reduce or rectify the damaging consequences of the criminal offence in accordance with the provisions of the law governing criminal procedure;

- if execution would contravene regulations on immunity in force in the Republic of Slovenia;

- if a European evidence warrant is issued for criminal offences which under the national penal code are regarded as having been committed wholly or in part within the territory of the Republic of Slovenia;

- if a European evidence warrant is issued for criminal offences committed outside the territory of the ordering State, and the national penal code does not permit prosecution in respect of such offences where they are committed outside the territory of the Republic of Slovenia.

(2) A national court shall refuse to recognise and execute a European evidence warrant on the grounds referred to in indent eight of the preceding paragraph only exceptionally, taking into account the special circumstances of each individual case, especially whether the main or essential part of the offence was committed in the issuing State, and whether the European evidence warrant refers to an action not considered a criminal offence under the legislation of the Republic of Slovenia, and whether search and seizure operations would have to be conducted in order to execute the European evidence warrant.

(3) Double criminality shall not be verified if a European evidence warrant is issued for a search or seizure for a criminal offence which, under the law of the ordering State, is punishable by deprivation of liberty for a maximum period of at least three years, and if under the law of such state the criminal offence is one of those referred to in the second paragraph of Article 9 of this Act.

Consultation

Article 63

(1) In order to conduct proceedings efficiently and obtain evidence, a court may, at any time during proceedings, consult with the issuing authority, especially regarding the choice of investigative actions, special requirements regarding the execution of certain investigative actions, presumed locations of objects, documents and data, etc.

(2) In the cases referred to in the fourth, fifth and sixth indent of the first paragraph of the preceding Article, prior to rendering a decision to either entirely or in part refuse to recognise and execute a European evidence warrant, a court must consult with the competent authority of the issuing State in an appropriate manner, requesting additional information if necessary.

(3) In the cases referred to in the eighth indent of the first paragraph of the preceding Article, prior to rendering a decision to either entirely or in part refuse to recognise and execute a European evidence warrant, a court must consult with Eurojust. If a court does not agree with the opinion of Eurojust, it must inform the Ministry thereof; the Ministry shall further inform the Council of the European Union.

Jurisdiction

Article 64

(1) An investigating judge has jurisdiction to render a decision on a European evidence warrant issued for the purpose of conducting criminal proceedings, while a local court in the area of which an action or measure is to be conducted has jurisdiction to render a decision on a European evidence warrant issued in minor offence proceedings.

(2) The territorial jurisdiction of a national court shall be determined with regard to the area in which an action or measure is to be conducted.

(3) If it cannot be determined which court has jurisdiction pursuant to the provisions of the preceding paragraph, the District Court of Ljubljana or the Local Court of Ljubljana shall have jurisdiction in accordance with the first paragraph of this Article.

(4) If the court, having received a European evidence warrant, does not have jurisdiction, it shall immediately refer the case to a court having jurisdiction.

Decision-making procedure

Article 65

(1) Proceedings for the recognition of a European evidence warrant shall commence when a court receives the form provided by Annex 3 of this Act.

(2) A court shall render a decision to recognise or refuse to recognise a European evidence warrant by issuing an order.

(3) A court shall also render a decision in accordance with the preceding paragraph when the ordering authority, if present when an investigative act is conducted, issues a supplementary European evidence warrant.

(4) If coercive measures under the law of the Republic of Slovenia are used in executing a warrant, an order on the recognition and execution of a European evidence warrant shall be

served on the person(s) whose legal interests are infringed upon by the execution of a European evidence warrant, including *bona fide* third persons. Service must be effected at the time that the order is executed or after execution, but without undue delay.

(5) Persons whose rights are infringed upon have the right to file an appeal against the order referred to in the preceding paragraph within three days of such order being served. The appeal shall not suspend the execution of the order. A non-trial panel, or (if it is a case of execution of a European evidence warrant in minor offence proceedings) a higher court panel shall render a decision on the appeal within five days of receiving the case files. The reasons for recognising and executing a European evidence warrant, and the execution procedure may be contested by appeal, but not the reasons for issuing a European evidence warrant.

(6) The court that renders the decision on the recognition and execution of a European evidence warrant shall immediately notify the authority of the issuing State if an appeal is filed, so that such authority may provide additional reasoning for the execution of the European evidence warrant. The court must notify the authority of the issuing State of the result of the appellate proceedings.

Execution of a European evidence warrant

Article 66

(1) If a court recognises a European evidence warrant, it shall simultaneously order the manner and appropriate measures for the execution of a European evidence warrant in accordance with the law regulating criminal procedure or minor offence procedure in a way which enables the obtaining of objects, documents or data requested by the European evidence warrant, even by coercive measures if necessary.

(2) Regardless of the provision of the preceding paragraph, the court shall order that the European evidence warrant be executed in a manner as requested by the ordering authority in the European evidence warrant if such manner is consistent with the fundamental principles of the legal order of the Republic of Slovenia.

Supplementation of a European evidence warrant

Article 67

A court shall set an appropriate time limit within which the competent authority of the issuing State must provide the court with a certificate, or supplement a certificate, or communicate additional information required for rendering a decision, and caution the authority that after the time limit expires recognition shall be refused in whole or in part, if:

1. the certificate is incomplete or manifestly incorrect in its essential parts; or
2. the European evidence warrant is not confirmed by a competent court or state prosecutor's office of the issuing State.

Time limits for recognition

Article 68

(1) A court must render a decision on the recognition and execution of a warrant with final effect within 30 days of receiving the warrant.

(2) Regardless of the provision of the preceding paragraph, a court shall, if possible, take into account the time limit indicated by the ordering authority in order to meet procedural time limits or comply with other specially urgent circumstances.

(3) If there are no reasons to postpone the recognition and execution of a warrant under Article 69 of this Act, or if the requested objects, documents or data were already obtained for

the purpose of conducting criminal proceedings or minor offence proceedings in the Republic of Slovenia, the executing authority must obtain them immediately or within 60 days of receiving the European evidence warrant at the latest.

(4) If, due to exceptional circumstances, it is impossible to render a decision on recognition and execution within the time limits provided by the preceding paragraphs, a court shall immediately notify the authority of the issuing State thereof and provide reasons for the delay, as well as the expected date by which the European evidence warrant will be executed.

(5) If there are no reasons to postpone the execution of a European evidence warrant, or if no legal remedies are filed against the investigative act, a court shall transfer the objects, documents or data obtained on the basis of a European evidence warrant to the issuing State without delay.

(6) When transferring objects, documents or data, a court may indicate whether it requires them to be returned as soon as they are no longer required by the ordering State.

Postponement of execution and transfer of evidence

Article 69

(1) The execution of a European evidence warrant may be postponed where:

- its execution might prejudice ongoing criminal proceedings or minor offence proceedings in the Republic of Slovenia;
- the objects, documents or data concerned are required in proceedings in the Republic of Slovenia.

(2) As soon as the grounds for postponement have ceased to exist, the court shall forthwith execute the European evidence warrant and notify the issuing authority in an appropriate manner.

(3) The transfer of evidence may also be postponed due to pending legal remedies.

Providing information

Article 70

(1) A court must immediately inform the competent authority of the issuing State of the following:

- if it is established in the course of executing a European evidence warrant that investigative measures not initially foreseen, or which could not be specified when the European evidence warrant was issued, should be undertaken, in order to enable the ordering authority to take further action;
- if it is established that a European evidence warrant was not executed in a manner consistent with the law of the Republic of Slovenia.
- if it is established that, in a specific case, a court cannot comply with the formalities and procedures indicated in the European evidence warrant.

(2) At a request from the ordering authority, a court shall without delay confirm and communicate to such authority the following information:

- on the transmission of the European evidence warrant to an authority competent for its recognition;
- on a refusal to recognise a European evidence warrant on the basis of Article 62 of this Act, with the reasons for the refusal;

- on postponing the execution or recognition of a European evidence warrant, the reasons for postponement, and, if possible, the expected duration;

- on the impossibility of executing the European evidence warrant because the objects, documents or data have disappeared, been destroyed or cannot be found in the location indicated in the warrant, and the location of the objects, documents or data has not been indicated in a sufficiently precise manner even after consultation with the competent authority of the issuing State.

(3) A competent national authority may request that, considering the circumstances of a case, the issuing State inform it of the use of personal data communicated by the Republic of Slovenia in the course of proceedings under this Chapter.

Chapter 9

Transmission of a European evidence warrant for recognition and execution to another Member State

Subject of provisions

Article 71

This Chapter provides the rules under which a European evidence warrant, issued by a competent authority of the Republic of Slovenia, is transmitted to another Member State for recognition, with the aim of obtaining objects, documents and data from another Member State for the purpose of conducting criminal proceedings and minor offence proceedings.

Admissibility of issuing a European evidence warrant and contents thereof

Article 72

(1) A European evidence warrant may be issued only for the purpose of obtaining objects, documents or data on the form provided in Annex 3 of this Act.

(2) A European evidence warrant referring to the transmission of data, documents or objects may not be issued if a competent authority of the executing State is requested to conduct the following investigative acts:

- examination of suspects, defendants, witnesses, expert witnesses or other parties;
- carrying out bodily examinations or obtaining bodily material or biometric data directly from the body of any person, including DNA samples or fingerprints;
- obtaining information by direct action in real time, such as through the interception of communications, covert surveillance or monitoring of bank accounts;
- conducting analysis of existing objects, documents or data, and obtaining communications data retained by providers of a publicly available electronic communications service or a public communications network.

(3) Regardless of the preceding paragraph, a court shall issue a European evidence warrant if it refers to objects, documents or data as referred to by the preceding paragraph already in the possession of the competent authority of the executing State before the European evidence warrant is issued.

(4) A European evidence warrant may also include the following:

- that the European evidence warrant also covers any other object, document or data discovered by an executing authority during the execution of the warrant which is considered to be, without further investigation, essential to the proceedings for the purpose of which the European evidence warrant was issued,

- that the European evidence warrant also applies to taking statements from persons present during the execution of the warrant if such statements are directly connected to the contents of the European evidence warrant.

(5) In the event that a European evidence warrant is issued as a consequence of executing a seizure order issued on the basis and in accordance with the provisions of Chapter 20 of this Act, this fact must be expressly indicated in the European evidence warrant

(6) If conditions for issuing a European evidence warrant under this Act are met, a national authority may issue a European evidence warrant even when present during the execution of individual investigative acts in the territory of an executing State.

(7) In cases when evidence needs to be obtained from another Member State for which a European evidence warrant cannot be issued under the provisions of the preceding paragraphs of this Article, a single request for legal assistance may be issued for the purpose of facilitating a more effective cooperation, containing also those measures for which a European evidence warrant would otherwise be issued.

(8) Acts of international legal assistance for which a European evidence warrant cannot be issued shall be conducted on the basis of treaties and the principle of reciprocity.

Issuing and transmitting a warrant

Article 73

(1) The authority competent to order a certain measure under the law regulating criminal procedure or minor offence procedure may transmit a European evidence warrant to a competent authority of another Member State for recognition and execution in order to obtain objects, documents and data which the former believes are located on the territory of such Member State, provided that the following conditions are met:

- such objects, documents or data are urgently required and proportionate to conducting criminal proceedings or minor offence proceedings,

- objects, documents or data could in such cases have been obtained for the purpose of conducting criminal proceedings or minor offence proceedings under the law of the Republic of Slovenia even if they were located in the territory of the Republic of Slovenia, regardless of the type of measure applied during such an operation.

(2) A European evidence warrant not issued by a court or a state prosecutor's office shall be confirmed by an investigating judge or a local judge in minor offence proceedings prior to being transmitted for execution. As part of such verification proceedings, the court verifies only that the conditions are met for ordering such a measure under the law of the Republic of Slovenia.

(3) A competent national authority may request in a warrant that a certain measure be performed in a manner prescribed by the law regulating criminal procedure or minor offence procedure, and it may also set time limits within which a certain act needs to be performed.

Consultations

Article 74

A competent national authority may at any time consult with the competent authorities of the executing State, especially regarding the manner of execution of measures, attendance, or potential issuing of a supplementary evidence warrant.

Providing information

Article 75

A competent national authority may request that the executing authority notify the former of the following:

- transmission of a European evidence warrant to an authority competent to recognise it;
- refusal to recognise a European evidence warrant and the reasons for such decision;
- postponement of execution or recognition of a European evidence warrant, the reasons for such postponement, and, if possible, the expected duration of postponement;
- the impossibility of executing a European evidence warrant because the objects, documents or data have disappeared, been destroyed or cannot be found in the location indicated in the warrant, and the location of the objects, documents or data has not been indicated in a sufficiently precise manner even after consultation.

Use of personal data

Article 76

(1) Personal data obtained on the basis of a European evidence warrant may be used for the following purposes only:

- proceedings for which a European evidence warrant may be issued;
- other judicial proceedings and minor offence proceedings directly related to the proceedings referred to in the preceding indent;
- prevention of a direct and serious threat to public safety.

(2) For other statutory purposes, personal data as referred to by the preceding paragraph may be further processed only on the basis of a prior consent of the executing State, and provided that their further processing for use in official proceedings is not incompatible with the original purpose of collecting such data, unless the issuing State obtained the consent of the individual to whom such data refer.

(3) The provisions of the preceding paragraphs do not apply to personal data obtained by a competent national authority in accordance with this Chapter, and which originate from the Republic of Slovenia.

Liability for damages

Article 77

The Republic of Slovenia shall reimburse to the executing State any sums paid in damages by virtue of a liability for damages, when such state is, under its own law, liable for damage caused to a person whose legal interests were infringed upon by the execution of a European evidence warrant, unless the damage was due to the conduct of the authorities of the executing State.

Chapter 10

Exercise of competence in parallel criminal proceedings

General provision

Article 78

(1) The competent authorities of the Republic of Slovenia and competent authorities of other Member States shall exchange information on parallel pre-trial criminal proceedings or criminal proceedings conducted in such States on the basis of the same facts and against the same natural or legal person (hereinafter: 'parallel proceedings').

(2) The procedure for the exchange of data as referred to in the preceding paragraph, and the direct consultation procedure as referred to in Article 81 of this Act do not apply to

proceedings conducted by competent authorities pursuant to Articles 5 and 13 of the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 04/01/2003, p.1).

(3) Prior to issuing an order on investigation, a competent state prosecutor is competent for the exchange of data pursuant to the first paragraph of this Article, and for direct consultation proceedings pursuant to Article 81 of this Act, while during the investigation an investigating judge is competent thereof, and after the accusatory instrument is filed a competent court has jurisdiction.

Request on the existence of parallel proceedings in another Member State

Article 79

(1) If a competent authority has reasonable grounds to believe that parallel proceedings are being conducted in another Member State, it shall request a competent authority of such Member State to confirm the existence of such parallel proceedings.

(2) The request referred to in the preceding paragraph must include the following:

1. contact details of the competent authority (personal name, title, data on the authority, and on means of communication);

2. description of the facts and circumstances that are the subject of the criminal proceedings concerned;

3. all relevant details on the identity of the suspect or defendant (personal name and possible aliases, personal names of parents, former personal name if it was changed, place of residence, date, month, year and place of birth, personal identification number (EMŠO) or other unique data), and the same details on the injured party, if necessary;

4. the phase that has been reached in the parallel proceedings,

5. data on a potential provisional detention of the suspect or defendant, and

6. other necessary data depending on the circumstances of each case.

(3) The competent authority of the Republic of Slovenia shall set an appropriate time limit within which the competent authority of the contacted State may reply.

(4) If a competent authority has already been notified of the existence of parallel proceedings in any manner, it may enter into direct consultations pursuant to Article 81 of this Act.

Response to a request on the existence of parallel proceedings in the Republic of Slovenia

Article 80

(1) A competent authority must respond to a request from a competent authority of the contacting State without delay or at the latest within the time limit set in the request. If deprivation of liberty is ordered against a suspect or defendant, a request shall be processed speedily and treated with priority.

(2) If the authority which receives the request is not competent to respond, it shall immediately refer the request to a competent authority of the Republic of Slovenia and inform the competent authority of the contacting State thereof.

(3) If, due to the circumstances of an individual case, a competent authority which receives the request is unable to prepare a response within the time limit set by the request, it shall

notify the competent authority of the contacting State of the reasons for the delay, and of the time limit within which a response would be transmitted.

(4) The response to the request on the existence of parallel proceedings must contain data on the facts which are or were the subject of proceedings in the Republic of Slovenia against the person indicated in the request, if such facts are the same as the facts and circumstances in the request.

(5) If parallel proceedings are being conducted in the Republic of Slovenia, the response must also contain the contact details of the competent authority (personal name, title, data on the competent authority, and means of communication), and data on the phase that has been reached in the parallel proceedings, or the nature of a final decision of a criminal court if issued; it may also include other essential data depending on the circumstances of each case.

Direct consultation

Article 81

(1) If, pursuant to the procedure provided by Articles 78 and 79 of this Act, competent authorities of other Member States and of the Republic of Slovenia confirm the existence of parallel proceedings, the competent authority of the Republic of Slovenia shall enter into direct consultations with the competent authorities of Member States which are conducting parallel proceedings.

(2) Direct consultation shall mean the cooperation of the competent authority of the Republic of Slovenia with the competent authorities of Member States which are conducting parallel proceedings, in order to reach consensus on measures to prevent the adverse consequences of parallel proceedings, even by conducting criminal proceedings in only one state if necessary.

(3) Consultation as referred to in the preceding paragraphs shall be without prejudice to the introduction or conduct of pre-trial criminal proceedings or criminal proceedings, or to the exercise of other authorities of the authority involved in consultation. The authorities involved in consultation shall notify each other of all enforced measures.

(4) During consultation pursuant to the second paragraph of this Article, all facts and evidence in connection with the case, and all circumstances relevant to reaching a consensus shall be examined. In doing so, the competent authority of the Republic of Slovenia shall especially take into account the interests of criminal proceedings, cost-effectiveness of prosecution, availability of evidence, protection of family life, and also the costs of pre-trial criminal proceedings or criminal proceedings entailed until that time or about to be entailed, but not the length of the prescribed penalty.

(5) A competent authority may also enter into direct consultations pursuant to the first paragraph of this Article by establishing direct contact with a member of Eurojust in the Republic of Slovenia, and by filing a request for assistance pursuant to the provisions of this Act regulating cooperation with Eurojust.

(6) If consensus is not reached by direct consultation, the competent authority may refer the matter to Eurojust.

(7) Competent authorities of Member States may agree on the use of language in which direct consultations shall be conducted in individual cases.

Providing information as part of direct consultation

Article 82

(1) While direct consultation continues, the competent authority of the Republic of Slovenia shall notify the competent authorities of other Member States where parallel proceedings are conducted of all the relevant measures taken in the course of pre-trial criminal proceedings or criminal proceedings in the Republic of Slovenia.

(2) The competent authority of the Republic of Slovenia shall communicate data to the competent authorities of other Member States where parallel proceedings are being conducted to the extent that is necessary and permissible considering the circumstances of each case, except data which could threaten the fundamental interests of the national security of the Republic of Slovenia or the security of individuals.

Providing information on consensus

Article 83

A competent authority must notify in writing the police and other competent authorities of the Republic of Slovenia and competent authorities of other Member States which cooperated in direct consultations of a reached consensus regarding the measures for preventing adverse consequences of parallel proceedings, or for referring criminal prosecution to the Republic of Slovenia or to another Member State.

Referring prosecution

Article 84

(1) If a person who is a national of another Member State and who has permanent residence in another Member State commits a criminal offence in the territory of the Republic of Slovenia, all criminal files for criminal prosecution and trial may be referred to such Member State if such Member State raises no objection.

(2) Prior to issuing a decision on investigation, the referral shall be decided by a competent state prosecutor. During the investigation, it shall be decided by the investigating judge on a motion from the state prosecutor, while prior to the main hearing it shall be decided by a non-trial panel of a district court, even if the case falls within the jurisdiction of a local court.

(3) When rendering a decision on a referral of criminal files, the authorities referred to in the preceding paragraph shall also take into account all costs entailed up to that time and all future costs of pre-trial criminal proceedings or criminal proceedings.

(4) The referral of files is not permitted if the injured party is a national of the Republic of Slovenia who objects to such referral, unless the injured party's indemnity claim has been secured.

(5) The referral of criminal files is not permitted if a seizure or temporary securing of a claim for the confiscation of money or unlawful proceeds referred to in Article 245 of the Penal Code, or of unlawfully given or received bribe as referred to in Articles 151, 157, 241, 242, 261, 262 and 263 of the Penal Code has been ordered, except in cases where a court issues such orders on the initiative of competent authorities of another Member State. In such cases and in cases when the temporary securing of claims for the confiscation of proceeds in connection with other criminal offences has been ordered, the authorities referred to in the second paragraph of this Article may refer a criminal file to another Member State only after it has been established that such Member State has appropriate legislation in force governing the confiscation of proceeds and the referral of files to another State, and if the value of the temporarily secured assets has been taken into account.

Resuming prosecution

Article 85

(1) A request of another Member State to the Republic of Slovenia to resume the prosecution of a national of the Republic of Slovenia, or a person having permanent residence in the Republic of Slovenia for a criminal offence committed in another Member State, and the corresponding case files, shall be transmitted to a competent state prosecutor's office in the area of which such person has permanent or temporary residence.

(2) If an indemnity claim is filed with a competent authority of another Member State, it is considered as having been filed with a competent national court.

(3) The Member State which sends the request shall be notified of a refusal to resume criminal prosecution, and of a final decision rendered in criminal proceedings.

Chapter 11

Cooperation with Eurojust and the European Judicial Network

Eurojust

Article 86

(1) In the course of detecting or investigating a criminal offence or measures of criminal prosecution that concern at least two Member States, or a Member State and a third country, if Eurojust has concluded an agreement on cooperation with such third country, or if such assistance is essential in a specific case, a competent national court or state prosecutor's office may request Eurojust to implement appropriate measures to provide fast and effective cooperation.

(2) In order to attain the purpose of the preceding paragraph, Eurojust may, through a national member of Eurojust in the Republic of Slovenia, or when acting as a College:

1. strive to facilitate, promote and coordinate cooperation between the competent authorities of Member States in exercising requests and decisions regarding judicial cooperation and the implementation of the principle of mutual recognition;

2. advise or propose improvements to cooperation between the competent authorities of Member States in the field of legal assistance, surrender, and the enforcement of a European Arrest Warrant;

3. increase the effectiveness of the detection or investigation of a criminal offence and of measures of criminal prosecution by means of advice and other similar assistance.

4. perform other tasks for which it is authorised by legal instruments of the European Union on the establishment and operation of Eurojust.

(3) All information exchanged between Eurojust and the competent authorities of the Republic of Slovenia shall be transmitted through a national member of Eurojust from the Republic of Slovenia.

A national member of Eurojust from the Republic of Slovenia

Article 87

(1) When exercising their powers under Eurojust, a national member of Eurojust from the Republic of Slovenia (hereinafter: the 'national member of Eurojust'), his or her deputy and assistant have the powers and rights provided by the law regulating state prosecutor's offices and this Act.

(2) Upon appointing a national member of Eurojust and national correspondents of Eurojust, and upon each amendment of their powers, the ministry responsible for state prosecutor's offices shall notify Eurojust and the General Secretariat of the Council of the European Union of the type and scope of such powers.

Exercise of powers of a national member of Eurojust

Article 88

(1) A national member of Eurojust exercises his or her powers related to the transferred cooperation of the Republic of Slovenia to Eurojust by the following actions:

a) accepts, transmits, facilitates, monitors and ensures additional information related to the execution of requests and adoption of decisions regarding judicial cooperation in criminal matters;

b) within his or her powers in individual cases and with the consent of, or at the request of, a competent authority of the Republic of Slovenia, in exceptional circumstances:

- issues or proposes the issuing of requests for judicial cooperation,
- executes or proposes the execution of requests for judicial cooperation,
- orders or proposes the ordering of necessary investigative measures at a coordinating meeting organised by Eurojust with the competent national authorities;
- permits and coordinates controlled deliveries in the Republic of Slovenia;

c) in urgent cases, or if a competent national authority is not known or available, a national member may permit and coordinate controlled deliveries and execute or propose the execution of a request without the consent of a competent authority; however, the national member shall notify the competent authority thereof as soon as possible.

(2) A national member of Eurojust shall cooperate with foreign judicial authorities in accordance with the provisions of the laws agreements and other legal acts regulating international cooperation and international legal assistance in criminal matters.

Exchange of information

Article 89

(1) A national member of Eurojust is authorised to obtain, through direct contacts with the competent authorities of the Republic of Slovenia, firstly with the state prosecutor's offices, courts and the police, such personal and other data which are processed by such authorities and which are needed to perform or exercise of the tasks of Eurojust, and which are provided by the legal acts of the European Union on the establishment and operation of Eurojust.

(2) A national member of Eurojust may transmit information obtained to European Union authorities, international organisations, and the law enforcement authorities of other Member States in accordance with their legislation or legal order.

(3) A national member of Eurojust must ensure such manner of operation as to provide the competent authorities of the Republic of Slovenia with subsequent information as to whom, when and on which legal basis the information referred to in the preceding paragraphs were communicated.

(4) A national member of Eurojust may communicate information to Eurojust and other Eurojust members from Member States to extent admissible to provide legal assistance in criminal matters under the regulations of the Republic of Slovenia and binding treaties.

(5) Any person has the right to request access to their own personal data processed by Eurojust, and in the event that such data is incorrect or incomplete, such person also has the right to request correction, temporary restriction of access, and deletion of such data, in accordance with the acts on the establishment and operation of Eurojust which regulate the protection of personal data.

(6) The request referred to in the preceding paragraph must be filed with the Office of the State Prosecutor General of the Republic of Slovenia, which forwards such request to the national member of Eurojust, who then immediately forwards it to Eurojust. The decision of Eurojust on such a request may be appealed before the Eurojust Joint Supervisory Body within 30 days of the receipt of the decision.

Obligation to provide information

Article 90

(1) A competent national authority shall notify the national member of Eurojust without undue delay of all matters of judicial cooperation in which:

- requests are transmitted to at least two Member States;
- joint investigation teams are established;
- controlled deliveries are ongoing in at least three countries, of which at least two are Member States;
- a conflict of jurisdiction with another country exists or could arise;
- difficulties or refusals regarding the execution of requests or judicial cooperation recur.

(2) The notification referred to in the preceding paragraph is not necessary if it would harm the fundamental interests of national security, endanger the security of individuals, or infringe on conditions determined by bilateral or multilateral agreements with third countries.

Request to Eurojust

Article 91

(1) In the course of national criminal proceedings, a competent judicial authority of the Republic of Slovenia may establish direct contact with a national member of Eurojust and submit a request for assistance in accordance with the powers of Eurojust. The police shall file requests through a competent judicial authority. The proposing authority may also request that the original request be immediately forwarded to the member of the Member State in the territory of which a request is to be executed.

(2) In urgent matters, requests for judicial cooperation may also be filed with an On-Call Coordination through a Eurojust single contact point.

Eurojust request

Article 92

(1) If a competent national court or state prosecutor's office refuses a reasoned request from a national member of Eurojust or a Eurojust College, they shall notify Eurojust of their decision and provide reasons for it.

(2) If a reasoned decision to refuse a request cannot be transmitted as this could harm the security interests of the Republic of Slovenia, in particular its constitutional arrangements or territorial integrity, or jeopardise ongoing detections or investigations of criminal offences, or the security of natural persons, in particular the security of protected witnesses, Eurojust shall be sent an explanation that operational reasons exist for the refusal.

Liaison judges

Article 93

The provisions of the law on state prosecutor's offices and this Act on a national member of Eurojust apply in proceedings to conclude an agreement to send a liaison judge from the Republic of Slovenia to a third country on behalf of Eurojust.

European Judicial Network

Article 94

(1) In order to improve judicial cooperation in criminal matters, the Republic of Slovenia provides for effective cooperation with the European Judicial Network.

(2) European Judicial Network contact points are established in the Republic of Slovenia for the purpose of facilitating direct contact and cooperation between judicial authorities of Member States. At least one contact point shall be established in the territory of each higher court, comprising judges and state prosecutors, in addition to establishing a contact point at the Specialised Office of the State Prosecutor of the Republic of Slovenia and the ministry responsible for justice.

(3) The purpose of the contact points of European Judicial Network in the Republic of Slovenia is to facilitate and assist in implementing judicial cooperation between competent national and foreign authorities by means of active intervention and the establishment of direct contact with competent contact points or services of other Member States.

(4) In addition to the tasks referred to in the preceding paragraph, the national correspondent of the European Judicial Network (hereinafter: 'national correspondent') also has authority over matters relating to the internal functioning of the Network, above all the coordination of requests and responses for legal assistance between competent national authorities, and for contacts with the Secretariat of the European Judicial Network.

(5) In addition to the tasks provided by the third paragraph of this Article, the European Judicial Network tool correspondent is also responsible for updating and providing information on appointed contact points, their titles or functions, and the contact data necessary for providing information on national and foreign authorities responsible for judicial cooperation, and for providing data on the legal order of the Republic of Slovenia, and for forwarding statements and reservations related to treaties in force and other legal acts binding on the Republic of Slovenia.

(6) In order to simplify judicial cooperation, and in particular to obtain basic or brief information on the foreign legal order and information on the course of foreign criminal proceedings and legal assistance proceedings, courts and state prosecutor's offices shall provide assistance to contact points in their operations and shall use the assistance of contact points if such information or data cannot be obtained through direct contacts with an authority of the involved Member State.

Contact points

Article 95

(1) Presidents of courts shall appoint judges authorised to perform tasks as contact points. Presidents of courts shall communicate to the Ministry the personal names of judges, their titles and the necessary contact details for the purpose of performing tasks as contact points of the European Judicial Network, and immediately communicate any changes to information relating to contact points.

(2) Heads of district state prosecutor's offices and the head of the Specialised Office of the State Prosecutor of the Republic of Slovenia shall appoint state prosecutors authorised to perform tasks as contact points. Heads of state prosecutor's offices shall communicate to the Ministry the personal names of state prosecutors, their titles and the necessary contact details for the purpose of performing tasks as contact points of the European Judicial Network, and immediately communicate any changes to information relating to contact points.

(3) The Minister shall appoint a civil servant authorised to perform tasks as a contact point at the Ministry.

Cooperation between the European Judicial Network and Eurojust

Article 96

(1) A national correspondent and a national member of Eurojust shall cooperate closely, especially by consultation, cooperation and the mutual provision of information on matters within their powers.

(2) A national member of Eurojust shall inform the contact points of the European Judicial Network of all cases which he or she believes would be dealt with more appropriately within the Network.

(3) The contact points of the European Judicial Network shall notify the national member of Eurojust of all cases which they believe would be dealt with more appropriately within the Eurojust.

PART IV

RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS

Chapter 12

Recognition and enforcement of a decision imposing a measure substituting detention of a defendant in another Member State

Subject of provisions

Article 97

This Chapter provides the rules under which a national court recognises a decision of a competent authority of another Member State imposing, as an alternative to detention, other supervision measures to ensure the defendant's attendance, to eliminate risk of recidivism, and in order to successfully conduct criminal proceedings, exercises supervision measures imposed by such decision, and responds in the event of violation thereof.

Definitions of terms

Article 98

The terms used in this Chapter shall have the following meaning:

- 'decision on supervision measures' means an enforceable decision taken in the course of criminal proceedings by a competent authority of another Member State in accordance with its national law and procedures and imposing on a defendant, as an alternative to detention, one or more supervision measures;

- 'supervision measures' means obligations and instructions imposed on a defendant for the purpose of ensuring his or her attendance, eliminating the risk of recidivism, and successfully conducting criminal proceedings;

- 'defendant' is a natural person upon whom one or more supervision measures are imposed by a decision of a competent authority of the issuing State.

Application of other regulations

Article 99

In addition to the provisions of this Chapter, the competent authorities of the Republic of Slovenia, in applying the provisions of this Chapter, are also obliged to ensure the implementation of provisions of other regulations on the protection of victims of criminal offences, the general public, and the protection of law and order.

Jurisdiction

Article 100

(1) The investigating judge of the district court in the area in which the defendant had his or her last permanent residence in the Republic of Slovenia has jurisdiction over consultations, explanations regarding the execution of supervision measures, and over deciding whether to recognise a decision on supervision measures. If the defendant is not a permanent resident of the Republic of Slovenia, jurisdiction shall be determined according to the location of his or her last temporary residence.

(2) If it cannot be determined which court, as per the preceding paragraph, an investigating judge of the District Court of Ljubljana has jurisdiction.

(3) If the national court which receives the decision on supervision measures accompanied with a certificate does not have jurisdiction, it shall immediately refer the case to a court having jurisdiction, and notify thereof the competent authority of the issuing State which forwarded the decision and the certificate for enforcement.

Consultation and exchange of data

Article 101

(1) Unless such is not feasible, a national court shall consult with a competent authority of the issuing State:

- during the course of preparing, or at least prior to forwarding a decision on supervision measures and the certificate for enforcement;
- in order to facilitate and effectively enforce supervision measures, and
- on serious violations of imposed supervision measures.

(2) Within the framework of consultation referred to in the preceding paragraph, a national court and a competent authority of the issuing State shall exchange all data needed to render a decision on recognition, for the enforcement of supervision measures, and for the surrender of a defendant, in particular the following:

- data enabling verification of the defendant's identity (first and last name and possible aliases, parents' first and last names, mother's maiden name, place of birth, day, month and year of birth, personal identification number (EMŠO) or other unique identification data);
- data enabling verification of residence of the defendant (place and address of permanent or temporary residence, data on the change of address or place of residence, data on employment, health and social insurance, data from public records where the defendant's property is entered);
- data from a criminal record which are relevant depending on the type and nature of supervision measures imposed.

(3) A national court may communicate to a competent authority of the issuing State any information on the risk that the defendant may pose to victims and the broader or general public.

Types of supervision measures and manner of their execution

Article 102

(1) A national court, under the provisions of this Chapter, shall execute the following supervision measures by taking *mutatis mutandis* supervisions measures for ensuring the defendant's attendance, elimination of the risk of recidivism, and for successfully conducting criminal proceedings in accordance with the law regulating criminal procedure:

a) impose an obligation on the defendant to inform a national court of any change of residence, in particular for the purpose of receiving a summons to attend an examination or a main hearings in the course of criminal proceedings, which is enforced by issuing a caution to the defendant to respond to a summons and to immediately inform a national court of any change of address as well as any intention to change residence, and a caution as to the consequences provided by the law on criminal procedure if the defendant fails to do so;

b) impose an obligation on the defendant not to enter certain localities, places or defined areas in the State that issued the decision on supervision measures or in the Republic of Slovenia, which is enforced with a restraining order from a certain locality, place or area;

c) impose an obligation on the defendant, if necessary, to remain at a specified place at specified times, which, depending on the nature of the imposed supervision measure, is enforced by a promise made by the defendant not to leave his or her residence, or with a house arrest;

d) impose an obligation on the defendant containing limitations on leaving the territory of the Republic of Slovenia, which is enforced by a promise made by the defendant not to leave his or her residence or leave the Republic of Slovenia without a court's permission;

e) an obligation of the defendant to report to a specified authority at a specified time, which is enforced by reporting to a police station;

f) an obligation of the defendant to avoid contact with specific persons in relation to any alleged criminal offence or criminal offences, which is enforced by a restraining order with regard to a specified person;

g) an obligation of the defendant not to operate a vehicle, which is enforced by confiscation of the defendant's driving licence for the duration of proceedings, and

h) an obligation to deposit a specified monetary amount, or provide other guaranties, either in a specified number of instalments or in a single sum, which is enforced by bail.

(2) Under the provisions of this Chapter, a national court shall also execute the following supervision measures by applying, *mutatis mutandis*, the provisions of the law regulating measures of custodial supervision (Articles 63 to 67 of the Penal Code) or safety measures (Articles 69 and 71 of the Penal Code):

a) an obligation to undergo therapeutic treatment or treatment of addiction, which is enforced by custodial supervision of ordering treatment in an appropriate medical institution, and if the person consents also to treatment of addiction to alcohol or drugs;

b) prohibition on performing specified activities related to the alleged criminal offence, which may include working in a certain profession or in a certain type of employment, which is enforced by a safety measure banning the performance of an occupation.

Conditions for the recognition and execution of supervision measures

Article 103

(1) Under the provisions of this Chapter, a national court shall recognise and enforce a final judicial decision of the issuing State imposing one or more of the supervision measures referred to in the preceding Article:

- if the defendant with temporary or permanent residence in the Republic of Slovenia agrees to return to the Republic of Slovenia after a competent authority of the issuing State informs him or her of the supervision measures, or

- if a national court agrees that a competent authority of another Member State may forward for enforcement to the Republic of Slovenia a decision on supervision measures imposed on a defendant without a temporary or permanent residence in the Republic of Slovenia.

(2) A national court may consent as per the second indent of the preceding paragraph if the circumstances support a belief that the defendant will reside permanently or temporarily in the Republic of Slovenia during the execution of supervision measure, and that it will be possible to execute supervision measures effectively.

(3) Prior to giving such consent, a national court may examine the defendant, if necessary, on the circumstances referred to in the preceding paragraph.

(4) A national court shall render a decision on the consent referred to in the second paragraph of this Article by issuing a reasoned written statement which is forwarded to a competent authority of the issuing State.

Basis for rendering a decision

Article 104

(1) A national court shall render a decision on the recognition of a foreign decision on the basis of the following instruments:

- a decision on supervision measure which is to be enforced,
- a form provided in Annex 4 of this Act, completed and confirmed by a competent authority of the issuing State.

(2) A national court may request that the competent authority of the issuing State provide the former with the original of the decision forwarded for enforcement, or an authenticated copy thereof and the original certificate.

Decision-making procedure

Article 105

(1) The proceedings for the recognition of a decision on supervision measures shall commence when a national court receives the instruments which form the basis for rendering a decision on enforcing a supervision measure in the Republic of Slovenia.

(2) As part of recognition proceedings, a national court shall verify whether all statutory bases and conditions for recognising a forwarded decision on supervision measures are met.

(3) If a national court establishes that there are no reasons to refuse the recognition and enforcement of a decision, it shall recognise it by issuing an order, thereby adapting supervision measures if necessary.

Examination of the defendant

Article 106

(1) In the course of recognition proceedings and in the course of execution, a national court may examine the defendant, even if the defendant does not have his or her permanent or temporary residence in the Republic of Slovenia, regarding the following:

- all circumstances related to the admissibility of recognising decisions on supervision measures,
- the possibility of executing supervision measures in the Republic of Slovenia,
- the adaptation of supervision measures,
- renewing, testing, amending and executing supervision measures, and

- violation of supervision measures.

(2) An examination of the defendant may also be conducted via video conference, pursuant to the procedure and under the conditions provided by the law and in accordance with the applicable regulations on assistance and cooperation under international law and the law of the European Union.

Time limit on rendering a decision

Article 107

(1) A national court shall render a decision on recognising a decision on supervision measures within 20 working days of receiving the certificate and the decision.

(2) If, due to exceptional circumstances, it is impossible to render a final decision on recognition within the time limit provided by the preceding paragraph, or in the event of an appeal being filed within a further 20 working days, a national court must immediately notify the competent authority of the issuing State thereof, and state the reasons for the delay, as well as the expected date by which a decision on recognition will be rendered.

(3) If the certificate is incomplete or manifestly fails to correspond with the decision on supervision measures, a national court may postpone its decision on recognising the decision until the certificate is supplemented or corrected, or until a the expiry of reasonable time limit which a national court sets for such purpose on the competent authority of the issuing State.

Reasons for refusal to recognise a decision on supervision measures

Article 108

(1) A national court shall refuse recognition of a decision on supervision measures and shall not enforce a final decision on supervision measures if:

1. a competent authority of the issuing State fails to forward a certificate; if a certificate is incomplete or manifestly fails to correspond with the decision on supervision measures, and the competent authority of the issuing State fails to appropriately supplement or correct it within a reasonable period determined by a national court;

2. conditions are not met for recognition and enforcement regarding the permanent or temporary residence of the defendant in the Republic of Slovenia, regarding the consent of a national court to a request from the defendant without his or her permanent or temporary residence in the Republic of Slovenia to execute supervision measures in the Republic of Slovenia, or regarding the type of supervision measures executed by the Republic of Slovenia under this Act;

3. the defendant has already been convicted *res judicata* of the same offence, or acquitted, or if criminal proceedings against the defendant have been discontinued with final effect, or if the charges against the defendant have been dismissed as unfounded with final effect;

4. the supervision measure is ordered for an act not considered a criminal offence under the Penal Code of the Republic of Slovenia, and is not one of the acts referred to in the second paragraph of Article 8 of this Act (double criminality); however, in cases concerning taxes, duties, customs duties and foreign exchange, the enforcement of a decision may not be refused on the grounds that the law of the Republic of Slovenia does not charge the same type of taxes, or does not have the same regulations on taxes, customs duties and foreign exchange as the legislation of the issuing State;

5. under the law of the Republic of Slovenia, criminal prosecution already falls under the statute of limitations, and the offence is of the type for which the law of the Republic of

Slovenia provides that the authorities of the Republic of Slovenia have jurisdiction to prosecute.

6. under the law of the Republic of Slovenia, the defendant enjoys immunity which prevents the execution of supervision measures;

7. the act in respect of which a decision on supervision measures is issued was committed by a person who at that time was younger than fourteen years;

8. there are objective reasons to believe that a supervision measure is issued against the defendant for the purpose of punishing him or her on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political belief or sexual orientation, or that such person's position may be prejudiced for any of these reasons.

(2) A national court may refuse to recognise a decision on supervision measures and not enforce a final decision on supervision measures if, in the event of a violation of a supervision measure, the court would have to refuse a surrender requested on the basis of a European Arrest Warrant. If, regardless of the aforementioned, the court is prepared to recognise a decision on supervision measures and execute the prescribed supervision measures, it shall inform the competent authority of the issuing State thereof, and state the reasons for refusal on the basis of a European Arrest Warrant.

(3) If, in the event referred to in the preceding paragraph, a competent authority of the issuing State does not withdraw a certificate, a national court may recognise a decision on supervision measures and execute the; however, the defendant cannot be surrendered on the basis of a European Arrest Warrant.

(4) Prior to rendering a decision not to recognise a decision on supervision measures on the basis of items 1, 2 and 3 of the first paragraph of this Article, a national court shall establish appropriate contact with the competent authority of the issuing State and, if necessary, request that the issuing State forward all necessary additional data and information without delay.

The order on recognition or refusal to enforce a decision on supervision measures

Article 109

(1) The order on recognition must, along with other statutory data, include in particular the following:

- data on the defendant,
- title of the authority whose decision is the subject of recognition proceedings,
- reference number and date of issue, as well as the date when the decision on supervision measure became final,
- type of supervision measure or measures imposed on the defendant in the issuing State,
- title and Article of the criminal offence for which criminal proceedings are conducted against the defendant in the issuing State,
- regulations of the issuing State which were applied in issuing the decision on a supervision measure,
- type and nature of the supervision measure which corresponds to the imposed supervision measure, and which is to be enforced in the Republic of Slovenia; if necessary, also a more detailed statement of the scope and manner of its execution due to the adaptation to national law,

- duration of the supervision measure under the decision of the competent authority of the issuing State,

- the maximum possible duration of execution of the supervision measure under the law of the Republic of Slovenia, and statutory requirements regarding the renewal or testing of reasons for its execution,

- competent authorities which are to cooperate in the execution of supervision measures, and their tasks, and

- other information indispensable for, or necessary for, the execution of a supervision measure.

(2) the order on recognition or on refusal to recognise must be reasoned.

(3) The order shall be served on the defendant and the state prosecutor competent for the national court rendering a decision on the recognition of the decision on supervision measures.

(4) The defendant and the state prosecutor may appeal the order within eight days of the service of the order. A panel must render a decision on the appeal within eight working days.

(5) No extraordinary legal remedies against the final order on recognition or on refusal to recognise exist.

Adaptation of supervision measures

Article 110

(1) If the nature of a supervision measure imposed by a competent authority of the issuing State is incompatible with the law of the Republic of Slovenia, a national court may adapt such a measure when issuing an order on recognition, taking into account the type of supervision measures to ensure the defendant's attendance and to conduct criminal proceedings successfully, as provided by the law of the Republic of Slovenia for criminal offences of the same kind.

(2) The adapted supervision measure must, in its nature, correspond with supervision measure imposed by the competent authority of the issuing State as far as possible, and must not exceed the severity of such a measure.

(3) The provisions of the preceding paragraphs also apply *mutatis mutandis* in the event of a competent authority of the issuing State amending the supervision measure during its execution.

Ordering the execution of supervision measures

Article 111

When the decision on recognition is final, a national court shall order its enforcement without delay, forwarding it to the authorities which, under the law of the Republic of Slovenia, are competent for the direct execution of supervision measures.

Execution of supervision measures

Article 112

(1) A national court has jurisdiction over the execution of supervision measures from the day when a written notice is sent to a competent authority of the issuing State on the recognition of a decision on supervision measures.

(2) A supervision measure which a national court recognises or adapts with final effect in the course of recognition proceedings shall be executed pursuant to the law of the Republic of Slovenia.

(3) At any time during the execution of supervision measures, a national court may request that the competent authority of the issuing State whether further execution of a supervision measure is still necessary or appropriate given the circumstances of the case.

Competence to take subsequent decisions and the applicable law

Article 113

An authority of the issuing State has the competence to renew and test a supervision measure, withdraw a decision with which a supervision measure has been imposed, amend a supervision measure, issue a detention order, European Arrest Warrant or any other enforceable judicial decision with equal effect, and for all subsequent decisions on supervision measures.

Renewal, testing and amending of supervision measures

Article 114

(1) Prior to the expiry of period of supervision measures, a national court may request that a competent authority of the issuing State determine for how long, if at all, such supervision measures will have to be renewed.

(2) A national court shall render a decision on the request of a competent authority of the issuing State to renew the execution of supervision measures within the maximum permissible duration of execution of a supervision measure under the law of the Republic of Slovenia by issuing an order, and the court shall not reconsider the grounds for refusing recognition if it has already done so. The order must determine the duration of renewed execution, or the maximum possible duration of execution under the law of the Republic of Slovenia.

(3) A national court shall render a decision on the request of a competent authority of the issuing State for the execution of amended supervision measures by issuing an order, thereby applying *mutatis mutandis* the provisions of this Chapter on the procedure for recognising supervision measures, and the court shall not reconsider grounds for refusal of recognition if it has already done so.

(4) In cases as per the preceding paragraph, a national court may recognise and execute the amended supervision measures, or adapt them if their nature is incompatible with the law of the Republic of Slovenia; however, the court may refuse their execution only if they do not fall among those supervision measures which the Republic of Slovenia is bound to enforce under this Act.

(5) The competence of the authority of the issuing State to render a decision to renew, test or withdraw a decision on a supervision measure, to amend a supervisory measure, issue a detention order, a European Arrest Warrant, or issue another subsequent decision on a supervision measure shall not interfere with the institution of proceedings against a defendant in the Republic of Slovenia for criminal offences committed, except for those criminal offences on which a decision on supervision measures is based.

Discontinuing the execution of supervision measures

Article 115

(1) The execution of supervision measures in the Republic of Slovenia shall be discontinued immediately and referred to a competent authority of the issuing State if:

- a national court receives notice from a competent authority of the issuing State that a certificate has been withdrawn or that execution must be discontinued immediately;

- supervision measures cannot be executed due to the fact that the defendant cannot be found on the territory of the Republic of Slovenia after the decision on supervision measures and the certificate has been forwarded;

- a defendant who had his or her temporary or permanent residence registered in the Republic of Slovenia registers temporary or permanent residence in another Member State;

- a competent authority of the issuing State amends the supervision measures and the national court refuses to execute them on the grounds that such measures are not among the supervision measures which the Republic of Slovenia is bound to execute under this Act;

- the maximum duration period lapses within which supervision measures may be executed under the law of the Republic of Slovenia;

- after a national court has requested that the competent authority of the issuing State, due to the legislation of the Republic of Slovenia, submit a certificate of renewal or testing of the execution of supervision measures regarding the maximum period of their execution, and the competent authority of the issuing State fails to do so, even after the reasonable time limit provided by the request and the additional reasonable time limit set on the basis of the same subsequent request expires, and the national court does not receive an answer even after issuing a caution that the court shall discontinue the execution of supervision measures if such a request is not be fulfilled;

- even after a national court notifies the competent authority of the issuing State of recurring violations of supervision measures, or of a finding which may result in the issue of a new decision regarding the renewal, testing or withdrawal of a decision on supervision measures, their amendment or the issuing of a detention order, a European Arrest Warrant or any other enforceable judicial decision with equal effect, or other subsequent decision on supervision measures, such competent authority of the issuing State fails to submit such a decision even after a further reasonable time limit has expired.

(2) In the events referred to in the preceding paragraph, a national court shall consult with the competent authority of the issuing State within good time of the possibility of preventing the discontinuance of execution of supervision measures.

(3) A national court shall discontinue the execution of supervision measures by issuing an order, and also notify the competent authority of the issuing State thereof immediately.

Notifying the issuing State

Article 116

(1) A national court must, immediately or within good time, depending on the nature of the case, notify the competent authority of the issuing State of the following:

1. if, due to lack of jurisdiction, a national court forwards the decision on supervision measures and the certificate to another authority competent for recognition;

2. of any change of residence of the defendant;

3. of the expected lapse of the maximum duration of a supervision measure, as provided by the law of the Republic of Slovenia;

4. if supervision measures cannot be executed due to the fact that the defendant cannot be found on the territory of the Republic of Slovenia after the certificate and the judicial decision have been forwarded;

5. of the fact that an appeal or another legal remedy has been filed against an order on recognition of a decision on supervision measures;

6. of the decision on the recognition of a decision on supervision measures becoming final, and of all measures taken for its enforcement;

7. of a potential decision to adapt the nature of a supervision measure in accordance with this Act, and the reasons for such decision;

8. of refusal to recognise and enforce a foreign decision, and the reasons for such decision;

9. of any violation of a supervision measure and of any other finding or circumstance which could result in the renewal, testing or withdrawal of a decision on a supervision measure, an amendment to a supervision measure, the issuing of a detention order, a European Arrest Warrant or any other enforceable judicial decision with equal effect, or the issuing of another subsequent decisions on a supervision measure;

10. of the fact that circumstances exist with regard to the defendant which indicate a risk to victims of criminal offences or the general public.

(2) Notification of the circumstances provided by item 9 of the preceding paragraph shall be performed by means of the form provided in Annex 5 of this Act.

Surrender on the basis of a European Arrest Warrant

Article 117

(1) If a national court receives a European Arrest Warrant or any other enforceable judicial decision with equal effect, issued by a competent authority of the issuing State against a national of the Republic of Slovenia, or a foreigner residing in the territory of the Republic of Slovenia, or a foreigner with permanent residence permit in the Republic of Slovenia, and if all other conditions for surrendering such person are met, as provided by Chapter II of this Act, the defendant shall be surrendered pursuant to the provisions of this Act.

(2) When a national court renders a decision to surrender a defendant pursuant to the provisions of the preceding paragraph, the restriction of admissibility of surrender regarding the prescribed or imposed penalty, safety measure or other measure, or double criminality as per the first paragraph of Article 9 of this Act, does not apply.

Chapter 13

Forwarding a decision of a national court imposing a supervision measure substituting detention for recognition and enforcement to another Member State

Subject of provisions

Article 118

(1) This Chapter provides the rules under which another Member State is forwarded a decision of a national court on imposed supervision measures substituting detention of a defendant for recognition, the rules on cooperation on the execution of such measures, and the surrender of the defendant to the Republic of Slovenia in the event of a violation of such measures.

(2) The provisions of this Chapter may not form a basis in the course of criminal proceedings conducted against such defendant for a defendant's motion for his or her detention to be substituted by a supervision measure.

Applying the provisions of this Act *mutatis mutandis*

Article 119

(1) Unless provided otherwise by this Act regarding the meaning of expressions, restriction of rights, application of other regulations, conditions for forwarding a national court's decision imposing a supervision measure to ensure the defendant's attendance and ensure the successful implementation of criminal proceedings for recognition and enforcement to another Member State, conducting proceedings, examining a defendant, communication between authorities, consultations and exchange of data and information, surrender on the basis of a European Arrest Warrant, the provisions of the preceding Chapter apply *mutatis mutandis*.

(2) When applying the provisions *mutatis mutandis* pursuant to the preceding paragraph, the Republic of Slovenia is considered an issuing State, and a national court is considered a competent authority of the issuing State, while another Member State is considered an executing State, and a competent authority of such state a competent authority of the State executing a supervision measure.

Conditions for forwarding a national court's decision

Article 120

(1) For the purpose of recognition and enforcement, a national court may forward to a competent authority of another Member State a decision with which, in order to ensure the defendant's attendance, to eliminate risk of recidivism, to successfully conduct criminal proceedings and to improve the security of victims and the general public, such court imposed one or more of the following supervision measures on a defendant pursuant to the law regulating criminal procedure:

a) a legal instruction to a defendant to appear before a court if summoned, and to immediately notify a national court of any change of address, as well as the intention to change the place of residence, in addition to a warning of the consequences provided by the law regulating criminal procedure if the defendant fails to comply;

b) a promise to be made by a defendant not to abandon his or her place of residence;

c) restriction order regarding a certain place or person;

d) reporting at a police station;

e) bail;

f) house arrest;

g) confiscation of a driving licence for the duration of proceedings.

(2) If the defendant consents, a decision to impose a supervision measure on a defendant pursuant to the preceding paragraph may be forwarded by a national court to the following competent authorities for recognition and enforcement:

- competent authority of another Member State where a defendant has his or her permanent or temporary residence; or

- competent authority of any other Member State proposed by the defendant instead of the Member State where the defendant has his or her permanent or temporary residence, provided that a competent authority of such member State consents to the decision being forwarded for enforcement, in accordance with the conditions in force in such Member State..

(3) The enforcement of supervision measures under items e) and g) of the first paragraph of this Article may be forwarded only to a Member State which, on the basis of the second paragraph of Article 8 of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition of decisions on supervision measures as an alternative to provisional detention (OJ L 294, 11/11/2009, p. 0020-0040), has informed the General Secretariat of the Council that such Member State is prepared to enforce such measures.

Jurisdiction

Article 121

(1) The national court which imposes a supervision measures at first instance has jurisdiction to forward such a decision on supervision measures for enforcement to a competent authority of another Member State.

(2) The provision of the preceding paragraph also applies *mutatis mutandis* to consultations with competent authorities, to providing information, to renewal, amendment, revocation and discontinuance of measures, to issuing a detention order, a European Arrest Warrant, or any other enforceable judicial decision with equal effect, or to issuing a different subsequent decision on a supervision measure in proceedings pursuant to this Chapter, and to other proceedings and decisions related to imposing supervision measures and forwarding them for execution to the competent authorities of other Member States.

Consultation and exchange of information and data

Article 122

(1) Prior to forwarding a certificate and a decision, a national court may consult with a competent authority of the executing State regarding the effective enforcement of a supervision measure.

(2) Consultations pursuant to the preceding paragraph are mandatory prior to forwarding a supervision measure to a Member State where a defendant is not registered as a permanent or temporary resident.

(3) During consultations, a national court may also request other explanations from the competent authority of the executing State, in particular regarding the provisions of the legislation of such State concerning the duration and manner of renewing and testing such supervision measure.

(4) Within the framework of consultations referred to in the preceding paragraphs, a national court and a competent authority of the executing State shall exchange all data necessary to render a decision on recognition, for the execution of supervision measures, and for surrendering a defendant, in particular:

- data enabling the verification of the defendant's identity (first and last name and possible aliases, parents' first and last names, mother's maiden name, place of birth, day, month and year of birth, personal identification number (EMŠO) or other unique identification data);

- data enabling the verification of the place of residence of the defendant (place and address of permanent or temporary residence, data on the change of address or place of residence, data on employment, health and social insurance, data from public records where the defendant's property is entered);

- data from a criminal record which are relevant depending on the type and nature of supervision measures imposed.

(5) A national court shall appropriately consider any information which a competent authority of the executing State provides on the risk the defendant may pose to victims and the general public.

(6) A national court may request assistance from the Ministry in communicating, consulting and exchanging information and data, enquiries and notifications among competent authorities if such cannot be obtained directly or through the contact points of the European Judicial Network.

Procedure prior to forwarding a decision

Article 123

(1) In the course of imposing supervision measures pursuant to the first paragraph of Article 102 of this Act, or at the latest at the time of serving the decision on imposing such measures, a national court shall inform the defendant of the following:

- the option to have the supervision measures executed in the Member State where the defendant has his or her permanent or temporary residence; or
- the possibility of executing supervision measures in a Member State where the defendant is not a permanent or temporary resident, provided that such Member State permits such execution, and provided that such Member State agrees to such execution under the conditions set by such Member State.

(2) After providing a defendant with a legal instruction as per the preceding paragraph, a national court shall examine the defendant regarding his or her potential consent or a motion related to the execution of supervision measures in another Member State, or enable the defendant to make a written statement on this matter.

(3) If the defendant fails to submit a written statement on the option referred to in the preceding paragraph immediately after being informed of it or within eight days at the latest, it is deemed that the defendant does not consent to forwarding, or that the defendant does not propose such forwarding.

(4) Regardless of the provision of the preceding paragraph, a defendant may, at any time during the course of proceedings, propose a decision to be forwarded for recognition and enforcement to another Member State, in accordance with the conditions laid down in this Article.

(5) Prior to rendering a decision on forwarding a decision on supervision measures for enforcement to a competent authority of another Member State, a national court shall examine a state prosecutor having jurisdiction before such court, or obtain the state prosecutor's written opinion.

Rendering a decision on forwarding a decision on supervision measures to another Member State

Article 124

(1) A national court shall render a decision on forwarding a decision on supervision measures after receiving the consent of, or a motion from, the defendant, an opinion of a state prosecutor, and the consent of a competent authority of such Member State when necessary.

(2) In deciding on whether a decision on the imposed supervision measures should be forwarded for enforcement to another Member State, a national court shall take into account the personal and family circumstances of the defendant, the type and nature of the measure

imposed, and the possibility that enforcement will attain the purpose of the measure, or that criminal proceedings will be conducted successfully.

(3) A national court shall inform the defendant and the state prosecutor in writing of the court's decision, and also a competent authority of another Member State if preliminary consultations have taken place.

Forwarding the certificate and the decision

Article 125

(1) After rendering a decision as per the preceding Article, a national court which imposed the supervision measure at first instance shall forward the following to the competent execution authority of another Member State:

- a final decision on supervision measure(s) to be enforced, or an authenticated copy of such decision;
- a certificate signed, and its accuracy confirmed, by a competent judge of a national court, in accordance with the form provided in Annex 4 of this Act;
- a translation of the certificate into the official language of the executing State, or one of the official languages of the executing State, or into another language deemed acceptable by such State.

(2) As part of the certificate provided by the preceding paragraph, a national court shall also indicate the following:

- data on the duration for which supervision measures are imposed, and on the duration for which the validity of such measures may be renewed, as well as on the maximum total duration of their execution, after which time, pursuant to the law of the Republic of Slovenia, supervision measures cannot be renewed;
- data on the envisaged period in which the supervision measures will need to be executed, considering the circumstances known at the time of forwarding a decision;
- presentation of the possibility of examining the defendant via videoconference, accompanied by the necessary technical data.

(3) The certificate and accompanying instruments may at any one time be forwarded for enforcement to one Member State only.

(4) If the competent authority of the executing State so requests, the original of the decision on supervision measures, or its authenticated copy, and the original of the certificate, must be sent to such authority.

(5) A national court may request assistance from the Ministry to determine which authorities of Member States are competent to receive certificates and instruments, and which official languages are deemed acceptable by individual Member States if such cannot be obtained through the contact points of the European Judicial Network.

Renewal, testing, amending and discontinuance of execution of supervision measures

Article 126

(1) A national court shall render a decision on the renewal, testing, amending and discontinuance of execution of supervision measures in accordance with the law of the Republic of Slovenia.

(2) In the course of rendering a decision as per the preceding paragraph, a national court may examine the defendant or obtain his or her written statement even when such is not provided by the law regulating criminal procedure if necessary or useful to render a decision on supervision measures, or for their execution.

(3) A national court must immediately forward the decision issued in the course of rendering a decision pursuant to the provisions of this Article to a competent authority of the executing State.

(4) Prior to the expiry of the time limit set by the competent authority of the executing State in a decision on recognition, or in a subsequent decision on renewal of execution, for allowing the execution, a national court may request that such authority renew execution, or renew execution again, if this is indispensable in the circumstances of the case and the foreseeable consequences for the defendant if jurisdiction for execution is resumed by the Republic of Slovenia. In doing so, a national court shall state the duration of the renewal of supervision measures.

Withdrawal of a certificate

Article 127

(1) Until the execution of a execution supervision measure commences in the executing State, a national court may withdraw the certificate for the following reasons:

1. a received notice on the maximum time period for executing a certain supervision measure, as permitted by the executing State;

2. a received notice on the adaptation of the nature of the supervision measure in the executing State;

3. a received notice from a competent authority of the executing State regarding the circumstances which, in the event of a violation of a supervision measure, could result in a refusal to surrender on the basis of a European Arrest Warrant.

(2) A reasoned withdrawal must be forwarded to the competent authority of the executing State as soon as possible, or at the latest within ten days of the receipt of an official notice which gives rise to the grounds for withdrawal provided by the first paragraph of this Article.

Notifying the competent authority of the executing State

Article 128

(1) A court must immediately notify the competent authority of the executing State of the following and provide reasons:

1. a withdrawal or revocation of a certificate;

2. that a final decision with which a supervision measure was imposed, or its enforceability, has been subsequently abrogated or amended;

3. a renewal of the duration, testing, withdrawal or amendment of a supervision measure;

4. that an appeal or other legal remedy has been filed against a decision on supervision measures;

5. of a decision to issue a detention order, a European Arrest Warrant, or any other enforceable judicial decision with equal effect, or to issue a different subsequent decision on a supervision measure.

(2) If a competent authority of the executing State requests an answer as to whether the execution of a supervision measure is still necessary or appropriate considering the circumstances of a particular case, a national court shall respond immediately and, if necessary, issue corresponding decisions on the renewal, testing, withdrawal or amendment of supervision measures, discontinuance of execution, or the issuing of a detention order, a European Arrest Warrant, or any other enforceable judicial decision having equal effect, or the issuing of a different subsequent decision on a supervision measure

(3) *Ex officio* or at the request of a competent authority of the executing State, and before the term of validity of the decision on supervision measures expires, a national court shall render a decision regarding how much time, if any, is envisaged as necessary for the renewal of supervision measures.

Execution of a supervision measure in the Republic of Slovenia

Article 129

(1) A national court has jurisdiction to execute supervision measures until it receives notice of a competent authority of the executing State on the recognition of a decision on supervision measures.

(2) A national court shall resume its jurisdiction over the execution of supervision measures as soon as, in accordance with the provisions of this Chapter, it notifies a competent authority of the executing State that the national court is withdrawing the certificate, or if the national court receives notice from a competent authority of the executing State of the following:

1. that the defendant is not residing in the executing State;
2. discontinuance of the execution of supervision measures under the law of the executing State;
3. refusal to execute amended supervision measures, either due to a failure to meet the conditions for recognition and enforcement, or due to a failure to meet the requirements of the executing State regarding circumstances which could result in the renewal, testing, withdrawal or amendment of a decision by which a supervision measure was imposed; the issuing of a detention order, a European Arrest Warrant or any other enforceable judicial decision having equal effect, or the issuing of a different subsequent decision on a supervision measure which could result in the issuing of another subsequent decision on supervision measures;
4. end of the period of supervision measures under the law of the executing State if the execution of supervision measures has not been renewed, or the maximum duration of a supervision measure permitted under the law of the executing State has been reached.

(3) In the events provided by the preceding paragraph, a national court shall consult with the competent authority of the issuing State within good time of the possibility of preventing a discontinuance of the execution of supervision measures.

(4) A national court shall issue a declaratory order on resuming its jurisdiction over the execution of supervision measures from a competent authority of the executing State, pursuant to the provisions of this Article.

Criminal prosecution in the Member State where a supervision measure is being executed

Article 130

A defendant against whom a supervision measure is being executed which was imposed by a final decision of a court of the Republic of Slovenia may be prosecuted or criminal proceedings may be initiated against such defendant in the executing State for committed criminal offences, except for criminal offences on which a final decision is based which imposes a supervision measure for the purpose of ensuring the defendant's attendance, and for the purpose of successfully conducting criminal proceedings.

Chapter 14

Recognition and enforcement of a decision imposing a custodial sentence or measure involving deprivation of liberty in another Member State

Conditions for recognition and enforcement

Article 131

Pursuant to the provisions of this Chapter, a national court shall recognise and enforce a final decision of a court of the issuing State imposing a custodial sentence, a safety or other measure involving deprivation of liberty for a definite or indefinite period on a person for a criminal offence under the law of the issuing State on the basis of criminal proceedings if the sentenced person is in the territory of the issuing State or the Republic of Slovenia, and under the following conditions:

1. regardless of the sentenced person's consent, if he or she is a national of the Republic of Slovenia, and

a) the sentenced person is registered as permanent or temporary resident in the Republic of Slovenia, including cases where a sentenced person fled to, or arrived in, the Republic of Slovenia in order to avoid criminal proceedings or the execution of a sentence in the issuing State, or

b) if a person was sentenced to expulsion, forcible removal or other measure resulting in the fact that such person would no longer be permitted to remain in the territory of the State which issued a final decision upon such person's release from serving the sentence or measure involving deprivation of liberty;

2. with the consent of the sentenced person, if it is established under the provisions of this Chapter that special circumstances and ties of the sentenced person to the Republic of Slovenia exist, on the basis of which a reasonable conclusion may be drawn that the enforcement of the sentence in the Republic of Slovenia would facilitate the sentenced person's social rehabilitation.

Grounds for non-recognition and non-enforcement

Article 132

(1) A national court shall not recognise and enforce a final decision of a judicial authority of the issuing State imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty, if:

1. a competent authority of the issuing State fails to forward the form as provided by the second indent of the first paragraph of Article 136 of this Act, or if such form is manifestly contrary to the decision, and the competent authority of the issuing State fails to supplement it accordingly, or fails to provide additional data required for a decision, or

2. the conditions for recognition and enforcement provided by Article 131 of this Act are not met;

3. a person has already been convicted or acquitted *res judicata* for the same offence, or criminal proceedings against such person have been discontinued with final effect, or the charge against such person has been dismissed as unfounded with final effect;

4. an act for which a sentence is imposed is not considered a criminal offence under the national penal code; if the decision which a national court is to enforce refers to criminal offences in connection with taxes, duties, customs duties and foreign exchange, enforcement may not be refused on the grounds that national legislation does not levy equal taxes or duties, or does not have the same regulations on customs duties and foreign exchange as the legislation of the State issuing the decision;

5. under the law of the Republic of Slovenia, the execution of a sentence has fallen under the statute of limitations;

6. the act for which the sentence was imposed was committed by a person who at that time was younger than fourteen years;

7. it follows from the form that the person was not personally present at the trial on the basis of which a decision was issued, unless the conditions are met which this Act provides for enforcing a warrant issued on the basis of a trial *in absentia* (the first paragraph of Article 13 of this Act);

8. if there are reasonable grounds to conclude that the judgment was rendered in the course of proceedings in which fundamental human rights and freedoms were violated, or where the person was sentenced on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political conviction or sexual orientation, or where such person's position was significantly worse for any of these reasons;

9. the imposed sentence includes psychiatric treatment, health care or other measure involving deprivation of liberty which cannot be executed in the Republic of Slovenia in spite of the application of provisions on the adaptation of sentences pursuant to this Act;

10. the State which issued the final decision fails to grant consent for prosecution or execution of sentence or for another type of deprivation of liberty in the Republic of Slovenia for another criminal offence committed by the person prior to their transfer, if a competent authority of the Republic of Slovenia so requests pursuant to Article 148 of this Act.

(2) A national court may refuse to recognise and enforce a final decision of a judicial authority of the issuing State imposing a custodial sentence, a safety measure or other measure enforced by deprivation of liberty, if:

1. such recognition and enforcement contravenes the regulations of the Republic of Slovenia on immunity;

2. at the moment when a decision is received, whereby it is established that, according to such decision, the person must serve only less than six months of the imposed sentence;

3. the act on which the decision is based was committed, in total or for the most part, on the territory of the Republic of Slovenia, or at a location considered part of the territory of the Republic of Slovenia. In each individual case, the court shall consider the special circumstances of the case, and in particular whether the act was committed for the most part or in its essential part in the issuing State.

Consultations

Article 133

(1) Prior to forwarding the certificate and the decision, a competent authority of the issuing State may consult with a competent national court regarding whether transferred enforcement of sentence would facilitate the social rehabilitation of the sentenced person. During consultations, a national court shall take into account the opinion of the sentenced person regarding the transfer of enforcement of sentence if the sentenced person expresses such an opinion.

(2) Consultations as per the preceding paragraph are mandatory in the case of transferring enforcement of a sentence on the basis of special circumstances and ties which the sentenced person has to the Republic of Slovenia, and if the issuing State intends to forward the certificate and instruments to the Republic of Slovenia. In such cases, a competent national court must immediately notify the competent authority of the issuing State of a decision as to whether the court consents to the judgment being forwarded.

(3) A national court may submit to a competent authority of the issuing State a reasoned opinion of rejection which states why the transfer of enforcement to the Republic of Slovenia would not facilitate the social rehabilitation of the sentenced person.

(4) If a competent authority of the issuing State forwards the certificate and the judgment without the prior consultation referred to in the second paragraph of this Article, the opinion of the national court referred to in the preceding paragraph may be sent to the competent authority of the issuing State immediately upon receipt of the certificate and the judgment. In such cases, a national court shall set an appropriate time limit within which the competent authority of the issuing State must communicate whether they still request the transfer of enforcement.

Jurisdiction

Article 134

(1) The district court in the area of which the last permanent residence of the sentenced person was registered in the Republic of Slovenia has jurisdiction over all consultations in this Chapter of this Act, all explanations regarding the enforcement of sentences in the Republic of Slovenia, over recognising a decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty, and over requests to a competent authority of the issuing State for the forwarding of a certificate and judgment on the basis of an application of a sentenced person, over proceedings for the enforcement of a sentence, notification of the issuing State on the sentence served, discontinuance of enforcement, and over other decisions in proceedings under this Chapter. If the sentenced person did not have a permanent residence in the Republic of Slovenia, jurisdiction shall be determined according to the location of his or her last temporary residence.

(2) If the court having jurisdiction cannot be determined according to the preceding paragraph, the District Court of Ljubljana shall have jurisdiction.

(3) If a national court which receives a decision for recognition and enforcement, or the application of a sentenced person for instituting proceedings for a transfer of the enforcement of sentence, does not have jurisdiction, it shall immediately refer the case to a court having jurisdiction, and inform thereof the competent authority of the issuing State which sent the certificate and the judgment, or the sentenced person who filed the application for a transfer of enforcement of sentence.

(4) Proceedings shall be conducted and decisions rendered by the judge conducting the enforcement of custodial sentences.

Institution of proceedings

Article 135

(1) The proceedings for recognition of a final decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty is initiated when a national court receives the form provided in the first paragraph of Article 136 of this Act, or an application of the sentenced person for a transfer of enforcement of sentence to the Republic of Slovenia.

(2) If a national court receives an application from a sentenced person for a transfer of enforcement of sentence to the Republic of Slovenia, and the national court, when necessary, consents to the transfer of enforcement of sentence, the court shall notify the competent authority of the issuing State without undue delay and request the latter to forward corresponding instruments.

Instruments

Article 136

(1) A national court shall render a decision on recognition on the basis of the following instruments:

- a final decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty to be enforced;
- a form provided by Annex 6 of this Act, completed and confirmed by a competent authority of the issuing State;
- translation of the certificate into Slovenian or English;
- the written consent of the sentenced person when necessary under this Act, or the opinion of the sentenced person regarding the transfer of enforcement of sentence when submitted;
- a completed official notice to a sentenced person on the intended transfer of enforcement of sentence, as provided by Annex 7 of this Act, when the sentenced person is already on the territory of the Republic of Slovenia.

(2) All official notices shall be exchanged directly between the competent authorities. Communication between the competent authorities shall be governed *mutatis mutandis* by the provisions of Article 6 of this Act. A national court may require that the competent authority of the issuing State provide it with the original of the decision, or its authenticated copy, and the original of the certificate.

Supplementation

Article 137

(1) A national court must set an appropriate time limit within which the competent authority of the issuing State must provide the court with or a supplement a certificate, or communicate additional information required to render a decision, and caution the authority that when the time limit has expired, recognition shall be refused in whole or in part if:

1. the certificate is not sent, is incomplete in its essential parts, or is manifestly contrary to the decision, or
2. reasonable grounds are present whereby it may be concluded that a reason exists for the inadmissibility of recognition and enforcement under Article 131 of this Act.

(2) If the data provided in the form do not suffice for a decision on recognition and enforcement to be rendered, and a translation into Slovenian is required of a decision with which a custodial sentence, a safety measure or other measure involving deprivation of

liberty, or a translation of those parts of the decision which are essential for rendering a decision, such translation shall be provided by the competent authority of the issuing State, after consultations if necessary. In exceptional cases, the translation shall be provided at the cost of a national court if such is indispensable given the nature of the case.

Sentenced person's statement

Article 138

If the certificate and decision are not accompanied by the consent or opinion of the sentenced person regarding the transfer of enforcement of sentence, and the sentenced person is in the territory of the Republic of Slovenia, a national court must examine such person upon serving him or her with the form provided in Annex 7 of this Act, or acquire the sentenced person's written statement if such is more appropriate considering the cost-effectiveness of proceedings, regarding the reasons for the inadmissibility of recognition and enforcement and regarding other circumstances related to the recognition and enforcement of the decision.

Decision on recognition

Article 139

(1) A national court shall decide on the recognition of a foreign decision or on refusal to recognise such decision by issuing an order within 30 days of receiving the certificate and judgment, or additional explanations.

(2) The order provided by the preceding paragraph must contain data on the sentenced person; the title of the authority whose decision is being recognised; reference number and date of the decision; date when the decision became final; duration and type of sentence imposed on the sentenced person in the issuing State; a short description of facts; the designation of the criminal offence for which the person was sentenced and the regulations of the issuing State which were applied; the type, duration and manner of enforcement of sentence in the Republic of Slovenia; reasoning of potential reasons for adapting the duration, type and manner of enforcement of sentence in the Republic of Slovenia; indication of the opinion of the sentenced person regarding the transfer of enforcement of sentence, and other data necessary for enforcement. If recognition is refused, the reasons for refusal must be stated in the order.

(3) If the enforcement of a foreign judgment is accepted, a national court may not change the type, duration and manner of enforcement of sentence imposed by a foreign judgment, except in the cases provided by Articles 140 and 141 of this Act.

(4) The order shall be served on the sentenced person and the state prosecutor competent before the court rendering a decision on recognition of the decision.

(5) The sentenced person and the state prosecutor may appeal the order within eight days of the service of the order. A higher court must render a decision on the appeal within 30 days. Extraordinary legal remedies against a final order are not permitted.

Adaptation of a sentence

Article 140

(1) When a sentence is incompatible with the law of the Republic of Slovenia due to its duration, it may only be adapted if the sentence imposed abroad is higher than the maximum sentence provided by the law of the Republic of Slovenia for a criminal offence for which a person is sentenced. The adapted sentence may not be lower than the maximum sentence provided by the law of the Republic of Slovenia for the same criminal offence.

(2) If a sentence is incompatible with the law of the Republic of Slovenia due to its type or manner of enforcement, or if it cannot be enforced, the type or manner of enforcement shall

be adapted according to the sentence or measure which, under the law of the Republic of Slovenia, may be imposed for a criminal offence for which a person is sentenced. The adapted sentence must correspond to the sentence imposed in the issuing State as far as possible; in particular, a custodial sentence may not be converted to a fine.

(3) In its nature or duration, the adapted sentence may not be stricter than the sentence imposed by the issuing State.

Partial recognition and enforcement

Article 141

(1) If a foreign decision can be partially recognised and enforced, a national court may consult with a competent authority of the issuing State prior to making a decision on refusing recognition in whole for the reasons provided by Article 132 of this Act, with a view to reaching an agreement pursuant to the second paragraph of this Article.

(2) After prior consultations, a national court and a competent authority of the issuing State may agree, on a case-by-case basis, on the manner and conditions for a partial recognition and enforcement of a foreign decision, provided such recognition and enforcement does not result in an aggravation of the duration of the sentence.

Provisional deprivation of liberty

Article 142

(1) If the request for recognition and enforcement is accompanied by a request of the competent authority of the issuing State to order a provisional deprivation of liberty of a person prior to a decision on recognition and enforcement of a foreign decision being rendered, for the purpose of ensuring enforcement or any other measure ensuring attendance, the president of the court shall refer the case file to an investigating judge.

(2) An investigating judge may order detention or another measure provided by the preceding paragraph upon applying *mutatis mutandis* the provisions of the law governing criminal procedure, provided that the following conditions are met:

1. circumstances indicate the risk of the person absconding in order to evade the enforcement proceedings or serving of a sentence or imposition of a measure;
2. consent of the person to a transfer of enforcement of sentence is not necessary, and
3. recognition of the decision is not manifestly inadmissible.

(3) Provisional deprivation of liberty as referred to in the preceding paragraph shall be ordered, enforced or renewed by applying *mutatis mutandis* the provisions on detention after a judgement has been rendered, pursuant to the law governing criminal procedure, on the ordering, execution or renewal of detention.

(4) Detention may only last until the final decision is rendered on a transfer of enforcement of sentence, or until the serving of sentence commences.

Time limits for recognition

Article 143

(1) If no reasons exist for postponing the recognition of a decision under Article 137 of this Act, a final decision on recognition must be rendered within 90 days from the receipt of the judgment and certificate.

(2) If, due to exceptional circumstances, it is impossible to render a decision on recognition within the time limit provided by the preceding paragraph, a national court shall immediately

notify the authority of the issuing State thereof, and state the reasons for the delay, and also state the expected date by which a final decision will be rendered.

Enforcement of a decision

Article 144

(1) After a decision on recognition becomes final, a national court shall without delay employ all means necessary for its enforcement.

(2) If the person is on the territory of the issuing State, a competent national court shall order the enforcement of the decision without delay after the decision becomes final. A written order shall be sent to the police for enforcement. The police shall agree with the competent authorities of the issuing State on the manner, time and place of surrendering the sentenced person. The surrender must take place without delay, within 30 days of the decision on recognition becoming final at the latest.

(3) If circumstances beyond control of the Member States prevent the surrender of the sentenced person within the time limit provided by the preceding paragraph, the police shall immediately notify the competent authority of the issuing State thereof, and agree with it on a new method, time or place of surrender, which must take place within the following 10 days.

(4) Regardless of the provisions of the preceding paragraphs, a national court is not obliged to enforce a sentence if the person cannot be found on the territory of the Republic of Slovenia after a foreign decision has been recognised.

Enforcement of a sentence and jurisdiction over further measures

Article 145

(1) A sentence shall be enforced in accordance with the law of the Republic of Slovenia.

(2) In accordance with the provisions of criminal legislation, the entire period of deprivation of liberty in the issuing State, and the potential deprivation of liberty in the Republic of Slovenia on the basis of Article 142 of this Act, shall be deducted from the sentence to be served.

(3) Both the Republic of Slovenia and the issuing State are competent to grant amnesty or pardon.

(4) Only the issuing State is competent to decide on reopening a case.

Release from enforcement of a sentence

Article 146

If a competent authority of the issuing State gives notice that the enforcement of the decision imposing a custodial sentence, safety measure or other measure involving deprivation of liberty must cease for the reasons under the third or fourth paragraphs of the preceding Article, the enforcement of a sentence in the Republic of Slovenia must cease immediately.

Restrictions and derogations from the principle of speciality

Article 147

(1) A person who is transferred to the Republic of Slovenia may not be prosecuted, sentenced or deprived of liberty in any other manner for criminal offences committed prior to such person's transfer except for the act for which the person was transferred.

(2) The restrictions referred to in the preceding paragraph do not apply:

a) when a person having the opportunity to leave the territory of the Republic of Slovenia has not done so within 45 days of his or her final discharge, or has returned to the Republic of Slovenia after leaving it;

b) when a custodial sentence or a measure involving deprivation of liberty is not prescribed for a certain criminal offence;

c) when criminal proceedings do not provide for conditions for imposing measures involving deprivation of liberty;

d) when it is possible to impose on a sentenced person a sentence which does not include deprivation of liberty, especially a fine or an alternative measure, even if such could cause deprivation of the person's liberty;

e) when a sentenced person agreed to a transfer;

f) when a sentenced person, after being transferred, expressly waives the application of the principle of speciality;

g) in other instances only with consent of the issuing State.

Waiver of the principle of speciality

Article 148

(1) A person transferred to the Republic of Slovenia may waive the application of the principle of speciality regarding criminal offences committed prior to the transfer before a national court conducting criminal proceedings for a criminal offence committed prior to the transfer, or before a national court having jurisdiction over enforcing a sentence.

(2) The person referred to in the preceding paragraph shall be instructed on the meaning of the principle of speciality, on the consequences of such waiver, and on the fact that the waiver is voluntary and may not be revoked. A transferred person without legal counsel appointed shall be instructed that he or she has the right to appoint a legal counsel of his or her own choosing.

(3) The legal caution from the preceding paragraph, the waiver of application of the principle of speciality, and the person's statement that the waiver has been given voluntarily shall be entered in the record. A national court may not base its decision on a statement of a surrendered person if the record does not contain a legal caution and a statement as referred to in the preceding sentence.

(4) If a person transferred to the Republic of Slovenia does not waive the application of the principle of speciality, a national court shall request that a competent authority of the issuing State issue consent to prosecute, sentence, surrender or extradite the surrendered person to another Member State for another criminal offence committed prior to the transfer.

Notifying the issuing State

Article 149

A national court shall immediately notify the competent authority of the issuing State of the following:

1. if, in accordance with the third paragraph of Article 134 of this Act, the court forwards a judgment and certificate to an authority which is competent to recognise it;

2. if a sentence cannot be executed because the sentenced person is not on the territory of the Republic of Slovenia after the certificate and the judgment have been forwarded;

3. a decision on the recognition of a foreign decision becoming final, including the date of its becoming final;
4. a decision on refusing recognition of a foreign decision becoming final, on the basis of Article 132 of this Act, along with the reasoning for such decision;
5. a potential decision to adapt the sentence in accordance with Article 140 of this Act, with the reasoning for such decision;
6. a potential decision to discontinue the enforcement of a criminal sanction due to a pardon or amnesty, with the reasoning for such a decision;
7. the starting and final date of the duration of conditional release if stated in the certificate of the issuing State;
8. a convicted person absconding from serving his or her sentence;
9. on the sentence being served as soon as it is served.

Enforcement on the basis of a European Arrest Warrant

Article 150

(1) If a national court receives a warrant against a national of the Republic of Slovenia or a foreign citizen residing on the territory of the Republic of Slovenia, or a foreigner with a permanent residence permit in the Republic of Slovenia due to the enforcement of a custodial sentence, a safety measure or other measure involving deprivation of liberty, and if a national court establishes that all other conditions for surrendering the sentenced person provided by Part II of this Act are met, and if such person consents to serving their sentence in the Republic of Slovenia, the consent is deemed an application for commencing the transfer of enforcement of a custodial sentence, a safety measure or other measure involving deprivation of liberty, in accordance with the first paragraph of Article 135 of this Act.

(2) A national court shall immediately give notice to the ordering authority that the conditions provided by the first paragraph have been met, forward the record on the application or consent of the sentenced person and the court's consent to enforcing a decision on the basis of the third item of Article 11 of this Act, and request that the ordering authority forward a certificate and decision as per the first paragraph of Article 136 of this Act within a time limit which may not exceed 30 days. For the duration of such time, a national court shall postpone a decision on the warrant. If the ordering authority fails to forward the form and judgment within the time limit, the court shall decide on the surrender of the sentenced person in accordance with the provisions of Part II of this Act.

(3) If a national court receives the certificate and judgment within the time limit, it shall conduct proceedings for the recognition and enforcement of a foreign decision. If the conditions for recognition and enforcement are met, a national court shall refuse the warrant in its decision on recognition and enforcement, notifying the ordering authority thereof.

(4) If the surrender of a national of the Republic of Slovenia, or a national of a Member State residing on the territory of the Republic of Slovenia, or a foreigner with a permanent residence permit in the Republic of Slovenia is granted, under the condition that the surrendered person is returned to the Republic of Slovenia after proceedings are completed (item 2 of Article 14 of this Act), the fulfilment of the conditions provided by Article 132 of this Act shall not be re-established in the course of proceedings for the recognition and enforcement of a foreign decision imposing a custodial sentence or another measure involving deprivation of liberty.

Chapter 15

Forwarding a decision of a national court imposing a custodial sentence or a measure involving deprivation of liberty for recognition and enforcement to another Member State

Conditions for forwarding a national court's decision

Article 151

(1) If a national court imposes a custodial sentence, a safety measure or other measure involving deprivation of liberty on a sentenced person, a national court may forward such decision for recognition and enforcement:

1. to the Member State of which the sentenced person is a national and in which the sentenced person resides;

2. to the Member State of which the sentenced person is a national, although it is not the State in which the sentenced person resides, but to which the sentenced person would be extradited on the basis of an extradition measure or forcible removal which forms part of a judicial decision, or which is imposed by a decision of another competent authority as a result of a judicial decision;

3. to any other Member State not referred to by items 1 or 2 of this paragraph if a competent authority of such Member State consents to the judgment and certificate being forwarded, as the enforcement of sentence in such State would facilitate the social rehabilitation of the sentenced person.

(2) A national court may forward a decision for recognition and enforcement to another Member State without the sentenced person's consent only:

1. to the Member State of which the sentenced person is a national and in which the sentenced person resides;

2. to the Member State to which the sentenced person would be forcibly removed after being released from the enforcement of a sentence imposed on such person on the basis of an extradition measure or forcible removal which forms part of a judicial decision, or which is imposed by a decision of another competent authority as a result of a judicial decision;

3. to the Member State to which a sentenced person absconded or entered in order to avoid criminal proceedings conducted against such person in the Republic of Slovenia, or in order to avoid the enforcement of a judgment in the Republic of Slovenia, and the person's surrender was refused, or the competent authorities of such State agree to the transfer of enforcement of sentence.

(3) If the conditions provided by the first paragraph of this Article are met, the court which imposed the sentence, or the prison, shall notify the sentenced person of the option of transferring the enforcement of sentence to another Member State.

Preliminary procedure

Article 152

(1) Prior to rendering a decision on commencing proceedings, a national court shall obtain the opinion of the competent state prosecutor, especially with regard to other possible criminal proceedings being conducted against the person in the Republic of Slovenia, and a written or oral statement by the person against whom a custodial sentence, safety measure or other measure involving deprivation of liberty is imposed shall be entered in the record if such person is available and if, after being legally cautioned as per the second paragraph, the

person wishes to make such statement, or the statement of such person's authorised representative or statutory representative.

(2) If the conditions for a transfer of the enforcement of sentence without the sentenced person's consent are met, a national court that has jurisdiction to enforce the sentence shall, by applying the notice provided in Annex 7 of this Act, notify the sentenced person in a language that the person understands that the conditions for forwarding a decision for recognition and enforcement to another Member State have been met, and instructing such person that he or she has the right to submit an opinion on the transfer of enforcement of sentence. If the sentenced person is on the territory of the executing State, such notification shall be forwarded to a competent executing authority of another Member State with the other instruments needed to render a decision enclosed.

Consultations

Article 153

(1) Prior to forwarding the certificate and decision, a national court may consult with a competent authority of the executing State regarding whether a transfer of enforcement of sentence would facilitate the social rehabilitation of the sentenced person.

(2) Consultations as per the preceding paragraph are mandatory in the case of transferring the enforcement of a criminal sentence on the basis of special circumstances and ties which the sentenced person has to another Member State in which the person wishes to serve the sentence.

(3) In the course of consultations, a national court may also request other explanations from the competent authority of the executing State, especially regarding the provisions of the legislation of such State concerning conditional release.

Forwarding the certificate and the decision

Article 154

(1) The final decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty, and the form referred to in the second indent of the first paragraph of Article 136 of this Act shall be forwarded to a competent executing authority of another Member State by a district court having jurisdiction to enforce the sentence, on the basis of a motion from the sentenced person, a competent authority of another Member State, or *ex officio*, if the provisions of this Act are met.

(2) When deciding on whether to forward a decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty, for recognition and enforcement to another member State as per the third item of Article 151 of this Act, the court shall take into account the special circumstances and ties that the sentenced person has with such State, and on the basis of which it may be reasonably concluded that the enforcement of sentence would facilitate the person's social rehabilitation.

(3) Proceedings shall be conducted and decisions issued by a judge conducting the enforcement of custodial sentences.

Procedure

Article 155

(1) A national court shall forward the following to a competent authority of the executing State:

- a final decision imposing a custodial sentence, a safety measure or other measure involving deprivation of liberty to be enforced;

- a completed and confirmed form as provided in Annex 6 of this Act;
- a translation of the certificate into the official language of the executing State, or into any other language deemed acceptable by such State.
- written consent to transfer the enforcement of a sentence when necessary under this Act, or an opinion of the sentenced person regarding the transfer of enforcement of sentence, when submitted;
- if a sentenced person is already on the territory of another Member State, a completed official notice to the sentenced person on the intended transfer of enforcement of sentence, as provided by Annex 7 of this Act, and a translation of the notice in a language that the sentenced person understands.

(2) The certificate and accompanying instruments may at any one time be forwarded to one Member State only.

Withdrawal of instruments

Article 156

A national court may withdraw the certificate by providing reasons for its decision until the commencement of enforcement of a custodial sentence, safety measure or other measure involving deprivation of liberty in another Member State, if:

1. it receives a reasoned opinion of rejection from a competent authority of the executing State on the rationality of executing a sentence in a foreign State regarding the better social rehabilitation of a sentenced person;
2. an agreement on partial recognition and enforcement of a final decision cannot be reached with a competent authority of the executing State.
3. after receiving a notice from a competent authority of the executing State, a national court does not agree with the application of the rules on early release or conditional release of the sentenced person in the executing State;
4. other circumstances exist which render the enforcement inadmissible.

Notifying the executing State

Article 157

A court must immediately notify the competent authority of the executing State of the following and provide reasons:

1. a withdrawal of instruments;
2. if a final decision imposing a custodial sentence, safety measure or other measure involving deprivation of liberty, or the enforceability of such decision, is later abrogated or amended;
3. if the enforcement of a decision cannot proceed due to amnesty or pardon being granted in the Republic of Slovenia;
4. potential decisions or measures which render the sentence unenforceable immediately or after a certain period.

Discontinuance of enforcement of a sentence in the Republic of Slovenia

Article 158

(1) The enforcement of a sentence shall be discontinued in the Republic of Slovenia when its enforcement is resumed by the executing State; all measures taken to enforce the sentence shall be revoked.

(2) After receiving notice from another State on the recognition of a national decision, a competent court shall issue an order as referred to in the preceding paragraph without delay, and employ all means necessary to surrender a person.

(3) Exceptionally, the enforcement of a sentence may continue in the Republic of Slovenia if:

- a national court receives a notice that the person has absconded from prison, and on the balance of the sentence not served in the executing State

- a national court receives notice that a sentenced person is not on the territory of the executing State.

(4) In the instances referred to in the preceding paragraph, and after receiving a notice from another State, a competent court must without delay issue an order and employ all means necessary to proceed with the enforcement of a sentence in the Republic of Slovenia.

Request for consent

Article 159

(1) The national court which forwards the certificate and decision for a transfer of enforcement of a sentence shall render a decision on a request from a judicial authority of a Member State for consent to prosecute, sentence or surrender to another Member State a sentenced person transferred to serve sentence from the Republic of Slovenia for another criminal offence committed prior to the surrender.

(2) The request for consent must contain the data as per Article 37 of this Act.

(3) A national court shall render a decision on the consent within 30 days of receiving the request. Consent shall be given if the conditions for surrender pursuant to Part II of this Act are met.

Transit through the territory of the Republic of Slovenia

Article 160

(1) The transit of a person being surrendered by one Member State to another over the territory of the Republic of Slovenia shall be granted by the Ministry; in cases where the circumstances referred to in the sixth paragraph of this Article exist, the Ministry shall notify the other Member State thereof.

(2) A copy of the form provided in Annex 6 of this Act must be enclosed with the request for transit.

(3) The request for transit and data referred to in the second paragraph of this Article, and the responses to such requests, may be communicated via any means enabling the transmission of written documents.

(4) The Ministry shall notify the authority requesting transit of its decision, and the police, who shall accompany the person through the territory of the Republic of Slovenia, within seven days of receiving the request at the latest. During transit through the territory of the Republic of Slovenia, all means shall be employed to prevent the person from absconding.

(5) The provisions of this Article do not apply in the case of transit by air without a scheduled stopover. In the case of an unscheduled landing, the Ministry shall request only that

the ordering State communicate the information referred to in the second paragraph of this Article within 72 hours at the latest.

(6) In the event that a detention order or a final and enforceable judgment for a criminal offence committed prior to the request for transit is issued against the person whose transit is being requested, due to which the Republic of Slovenia cannot guarantee that such person shall not be deprived of liberty on the territory of the Republic of Slovenia, the Republic of Slovenia shall notify the State requesting transit thereof. The Ministry shall obtain the data necessary for issuing permission for transit from the police.

Transit through the territory of another Member State

Article 161

If transit through the territory of another Member State is necessary in order to enforce a sentence imposed or about to be enforced by a national court, a national court shall forward to the competent authority of such State the documents referred to in the second paragraph of the preceding Article and request permission for transit.

Chapter 16

Recognition and enforcement of a decision of another Member State imposing a suspended sentence with custodial supervision, conditional sentence, alternative sanction, or decision on conditional release under custodial supervision

Subject of provisions

Article 162

(1) This Chapter provides the rules under which a national court recognises a final judicial decision, and the potential decisions of another competent authority issued on the basis thereof, which, for a criminal offence and under the law of the issuing State, imposes a suspended sentence with custodial supervision, conditional sentence, alternative sanction, or conditional release under custodial supervision, and the rules whereby a national court executes the obligations imposed by such decision and responds to violations thereof.

(2) The terms used in this Chapter shall have the following meaning:

- 'suspended sentence' shall mean a custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed by imposing one or more probation measures. Such probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;

- 'conditional sentence' shall mean a judgment in which the imposition of a sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty. Probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;

- 'alternative sanction' shall mean a sanction, other than a custodial sentence, a measure involving deprivation of liberty, or a financial penalty, imposing an obligation or instruction on a sentenced person;

- 'probation decision' shall mean a judgment or a final decision of a competent authority of the issuing State taken on the basis of such judgment:

- a) granting a conditional release; or
- b) imposing probation measures;

- 'conditional release' shall mean a final decision of a competent authority or stemming from the national law of the issuing State on the early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served by imposing one or more probation measures;

- 'probation measures' shall mean obligations and instructions imposed by a competent authority on a natural person, in accordance with the national law of the issuing State, in connection with a suspended sentence, a conditional sentence or a conditional release.

Types of obligation and manner of their enforcement

Article 163

Under the provisions of this Chapter, a national court shall enforce the following obligations or instructions (hereinafter: 'obligations') by applying *mutatis mutandis* the provisions regulating supervision measures to ensure the defendant's attendance, elimination of the risk of recidivism, and provisions on successfully conducting criminal proceedings under the law regulating criminal procedure, the provisions of the penal code, and the law on enforcement of criminal sanctions which regulate suspended sentences with custodial supervision, safety measures and precautionary measures:

a) an obligation of a sentenced person to inform a specified authority of any change of residence or employment, which is enforced by ordering the sentenced person to communicate immediately any change of address or employment to a national court, as well as any intention to change residence or employment;

b) an obligation of the defendant not to enter certain localities, places or defined areas in the issuing State or in the Republic of Slovenia, which is enforced by a restraining order regarding a specified locality, place or area;

c) an obligation containing limitations on leaving the territory of the Republic of Slovenia, which is enforced by a promise of the defendant not to leave his or her residence, and not to leave the country without a court's permission;

č) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations or modalities of carrying out a professional activity, which is enforced by applying, *mutatis mutandis*, the provisions of the law regulating the measures of custodial supervision (Articles 63 to 67 of the Penal Code) or safety measures (Articles 69 and 71 of the Penal Code);

d) an obligation of the sentenced person to report at specific times to a specific authority, which is enforced by reporting to a police station or to a counsellor;

e) an obligation of a sentenced person to avoid contact with specific persons, which is enforced by a restraining order regarding a specific person;

f) an obligation of a sentenced person to avoid contact with specific objects which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence, which is enforced by confiscating a driving licence, confiscating objects, or a ban on the performance of an occupation

g) an obligation to compensate financially for the prejudice caused by the offence and an obligation to provide proof of compliance with such obligation, which is enforced by fulfilling a special condition requiring the return of crime-related proceeds, or payment of compensation for damage caused by the criminal offence;

h) an obligation to perform community service, which is enforced by the obligation to perform work for the benefit of the community;

i) an obligation to cooperate with a probation officer or a representative of a social service having responsibilities in respect of sentenced persons;

j) an obligation to undergo therapeutic treatment or treatment for addiction, which is enforced by custodial supervision by ordering treatment in an appropriate medical institution; and if the person consents, also for the treatment of addiction to alcohol or drugs.

Conditions for recognition and enforcement

Article 164

(1) Under the provisions of this Chapter, a national court shall recognise and enforce a final decision of the issuing State as referred to by the preceding Article:

- if the sentenced person with temporary or permanent residence in the Republic of Slovenia agrees to be returned to the Republic of Slovenia, or has already returned to the Republic of Slovenia, after a competent authority of the issuing State has informed him or her of the sanction imposed, or

- if a national court agrees that a competent authority of another Member State may forward for enforcement to the Republic of Slovenia a decision on supervision measures regarding a sentenced person who is not a temporary or permanent resident of the Republic of Slovenia.

(2) A national court may consent as per the second indent of the preceding paragraph if circumstances support the belief that the sentenced person would reside permanently or temporarily in the Republic of Slovenia during the enforcement of a sentence and that it would be possible to enforce the undertaken obligations effectively.

(3) If necessary, and prior to granting such consent, a national court may examine the sentenced person on the circumstances referred to in the preceding paragraph.

(4) A national court shall forward the consent referred to in the second paragraph of this Article to a competent authority of the issuing State.

Grounds for non-recognition and non-enforcement

Article 165

(1) A national court shall not recognise a foreign final decision if:

1. the certificate is incomplete or manifestly contrary to the judgment or probation decision, and the competent authority of the issuing State fails to supplement it accordingly, or fails to communicate additional data necessary for a decision within a time limit set by a national court;

2. the conditions laid down in Article 163 and the first paragraph of Article 164 of this Act are not met;

3. a person has already been convicted or acquitted *res judicata* for the same offence, or criminal proceedings against such person were discontinued with a final effect, or the charge against such person is dismissed as unfounded or rejected on procedural grounds with final effect;

4. a criminal offence for which a sentence was imposed is not considered a criminal offence under the national penal code, unless the act is one on the list of criminal offences provided by the second paragraph of Article 9 of this Act; if the decision which a national court is to enforce refers to criminal offences in connection with taxes, duties, customs duties and

foreign exchange, enforcement may not be refused on the grounds that the national legislation does not levy equal taxes or duties, or does not have the same regulations on customs duties and foreign exchange as the legislation of the State issuing the decision;

5. under the law of the Republic of Slovenia, the enforcement of sentence has fallen under the statute of limitations, and the act is of a type for which the law of the Republic of Slovenia provides that the competent authorities of the Republic of Slovenia have jurisdiction to prosecute.

6. the act for which the sentence was imposed was committed by a person who at that time was younger than fourteen years;

7. it follows from the certificate (indent 2 of the first paragraph of Article 169 of this Act) that the person was not present at the trial on the basis of which a decision was issued, unless the conditions are met which this Act provides for enforcing a warrant issued on the basis of a trial *in absentia* (the first paragraph of Article 13 of this Act);

8. the imposed sentence includes psychiatric treatment, health care or other measure which, under the law of the Republic of Slovenia, cannot be enforced in spite of the application of the provisions on the adaptation of sentence pursuant to this Act.

(2) A national court may refuse recognition and enforcement of a final decision if:

1. such recognition and enforcement contravenes the regulations of the Republic of Slovenia on immunity;

2. the measure is imposed for a period of less than six months;

3. the act on which the decision is based was committed, in whole or for the most part, on the territory of the Republic of Slovenia, or at a location considered part of the territory of the Republic of Slovenia. In each individual case, the court shall consider the special circumstances of the case, and in particular whether the act was committed for the most part or in its essential part in the issuing State

Consultations

Article 166

(1) The competent authorities of the issuing State and the national court may, at anytime deemed necessary, consult regarding the recognition of a decision and execution of measures.

(2) A national court shall consult with a competent foreign court or authority prior to refusing to recognise a foreign decision on the grounds under items 1, 2, 3, 7 and 8 of the first paragraph, and items 2 and 3 of the second paragraph of Article 165 of this Act, and, if necessary, request any additional information required to render a decision.

Jurisdiction

Article 167

(1) A district court having jurisdiction in the area where the person's last permanent residence was registered in the Republic of Slovenia also has jurisdiction over all consultations under this Chapter of the Act, to provide explanations regarding the enforcement of sentences and custodial supervision measures in the Republic of Slovenia, and to make decisions on the recognition of a decision issued in a foreign State, impose an alternative sanction, a suspended sentence with custodial supervision, or a conditional sentence. If the permanent residence of a person was not registered in the Republic of Slovenia, jurisdiction shall be determined according to the place of the last temporary residence.

(2) If the court having jurisdiction cannot be determined according to the first paragraph, the District Court of Ljubljana has jurisdiction in accordance with the preceding paragraph.

(3) If a national court which receives a decision for recognition and enforcement does not have jurisdiction, it shall immediately refer the case to a court having jurisdiction, and notify the competent authority of the issuing State which forwarded the decision and the certificate thereof, or the sentenced person.

(4) Proceedings shall be conducted and decisions rendered by the judge conducting the enforcement of custodial sentences.

Decision-making procedure

Article 168

Proceedings for the recognition of a final decision commence when a national court receives a certificate as referred to in the second indent of the first paragraph of Article 169 of this Act.

Documents required for conducting proceedings

Article 169

(1) A national court shall render a decision on the recognition of a foreign decision on the basis of the following instruments:

- a final judicial decision and potential decisions of another competent authority issued on the basis thereof, which, for a criminal offence and under the law of the issuing State, imposes a suspended sentence with custodial supervision, conditional sentence, alternative sanction, or conditional release under custodial supervision,

- a form provided in Annex 8 of this Act, completed and confirmed by a competent authority of the issuing State.

(2) A national court may request from the competent authority of the issuing State that it provide the original of the decision, or its authenticated copy, and the original of the certificate.

Order on recognition

Article 170

(1) A national court shall render a decision on the recognition of a foreign decision or on a refusal to recognise such decision by issuing an order within 15 days of receiving the certificate and judgment, or additional explanations.

(2) The order referred to in the preceding paragraph must contain the following data on the sentenced person; the title of the authority the decision of which is being recognised; reference number and date of the decision; date when the decision became final; duration and type of custodial supervision measure or alternative sanction imposed against the sentenced person in the issuing State, or duration of period of probation; the designation of the criminal offence for which the person was sentenced and the regulations of the issuing State which were applied; the type and duration of the custodial supervision measure imposed in the Republic of Slovenia, or duration of the period of probation; reasoning regarding potential adaptation of the duration or type of custodial supervision measure imposed in the Republic of Slovenia, or duration of the period of probation; other data necessary for enforcement. If recognition is refused, the grounds for refusal must be stated in the order.

(3) The order shall be served on the sentenced person and the state prosecutor competent before the court rendering the decision on recognition of the decision.

(4) The sentenced person and the state prosecutor may appeal the order within eight days of the service of the order. A panel must decide on the appeal within 15 days. Extraordinary legal remedies against a final order are not permitted.

Notification of exceeded time limits

Article 171

If, due to exceptional circumstances, it is impossible to render a decision on recognition within the time limits provided by the preceding Article, a national court shall immediately notify the authority of the issuing state thereof, and state the reasons for the delay, as well as the expected date by which a decision will be rendered.

Adaptation of the type or duration of measures or duration of the period of probation

Article 172

(1) Whenever the nature or duration of a custodial supervision measure (probation measure) or alternative sanction or the duration of a period of probation are incompatible with the law of the Republic of Slovenia, a national court may adapt them with regard to the nature or duration of custodial supervision measure or alternative sanction or the duration of the period of probation, as are provided by the law of the Republic of Slovenia for the criminal offences for which a person was sentenced. The adapted measure or the adapted duration of a period of probation must correspond as far as possible with the custodial supervision measure, alternative sanction or imposed period of probation determined by the State which issued the decision.

(2) Whenever a national court adapts the duration of a custodial supervision measure or alternative sanction or the duration of a period of probation due to the fact that the duration imposed by the State which issued the decision exceeds the maximum prescribed duration of a custodial supervision measure or period of probation under the law of the Republic of Slovenia, the adapted duration of such measure or period of probation may be no shorter than the maximum duration of a custodial supervision measure or period of probation which may be imposed under the law of the Republic of Slovenia for a criminal offence for which a person is sentenced.

(3) The nature or duration of the adapted custodial supervision measure or the adapted period of probation may not be more stringent or exceed the duration of the custodial supervision measure, alternative sanction or duration of a period of probation imposed by the State which issues the decision.

Enforcement of a decision

Article 173

(1) When the decision on recognition becomes final, a national court shall order its enforcement without delay and forward it to a competent authority.

(2) Regardless of the preceding paragraph, a national court is under no obligation to enforce a foreign decision if a person cannot be found on the territory of the Republic of Slovenia after the foreign decision is recognised.

Enforcement of custodial supervision measures

Article 174

(1) A measure or instruction imposed by a national court in the course of proceedings for recognising a foreign decision shall be enforced in accordance with the law of the Republic of Slovenia.

(2) The law of the Republic of Slovenia and the law of the issuing State shall apply to amnesty and pardon.

(3) Only the State which issued the judgment is competent to deciding on reopening a case.

Competence to take subsequent decisions and the applicable law

Article 175

(1) A national court has jurisdiction over all subsequent decisions in connection with the enforcement, amendment, revocation and discontinuance of custodial supervision measures if such are imposed in the course of the proceedings of recognising a foreign decision whereby a foreign authority imposed a suspended sentence with custodial supervision on a sentenced person, or issued a decision on conditional release under custodial supervision, or imposed an alternative sanction, whenever a decision contains a custodial sentence which is to be imposed on the sentenced person in the event of a violation of the measure imposed by the alternative sanction.

(2) A national court also has jurisdiction over amendments to the duration of a period of probation, as determined by a suspended sentence with custodial supervision.

(3) A national court shall decide on the enforcement, amendment, revocation and discontinuance of the measures referred to in the first paragraph in accordance with the law of the Republic of Slovenia.

(4) A national court may declare lack of jurisdiction over all subsequent decisions referred to in the first paragraph of this Article by issuing an order if:

- the sentenced person absconds or is no longer a permanent or temporary resident registered in the territory of the Republic of Slovenia, or

- a competent authority of the issuing State, due to criminal prosecution for a new criminal offence committed in the territory of the issuing State, requests a transfer of jurisdiction.

(5) A national court shall issue an order declaring lack of jurisdiction and refer the case back to an authority of the issuing State if an alternative sanction is imposed by a foreign decision without determining a custodial sentence in the event of a violation of instructions, or if a conditional sentence is imposed by a foreign decision and the national court establishes that the imposed sanction must be amended or revoked due to a failure to follow instructions.

Discontinuance of enforcement

Article 176

Enforcement shall immediately be discontinued if:

- a national court declares lack of jurisdiction under the fourth and fifth paragraphs of the preceding Article;

- a national court receives a notice from a competent authority of the issuing State that enforcement must be discontinued immediately.

Notifying the issuing State

Article 177

(1) A national court must immediately notify a competent authority of the issuing State of the following:

1. if, in accordance with the third paragraph of Article 167 of this Act, the court forwards a judgment and certificate to an authority which is competent to recognise it;

2. if a custodial supervision measure cannot be executed due to the fact that the sentenced person cannot be found on the territory of the Republic of Slovenia after the certificate and judgment are forwarded;

3. a decision on the recognition of a foreign decision becoming final, including the date of its becoming final;

4. on refusing to recognise a foreign decision on the basis of Article 165 of this Act, with the reasoning for such decision;

5. a potential decision to adapt the nature or duration of a custodial supervision measure or alternative sanction or the duration of a period of probation, in accordance with Article 172 of this Act, with the reasoning for such decision;

6. a potential decision not to enforce a custodial supervision measure due to a pardon or amnesty, with the reasoning for such decision;

7. amending a custodial supervision measure imposed by a decision of a foreign authority;

8. on the revocation of a suspended sentence with custodial supervision, and the revocation of a decision imposing one or more custodial supervision measures on an offender;

9. on custodial supervision measures being served as soon as it is served;

10. returning jurisdiction to the issuing State on the basis of the fourth and fifth paragraphs of Article 175 of this Act.

(2) Notification as referred to in item 10 of the preceding paragraph shall be performed using the form provided in Annex 9 of this Act.

Chapter 17

Forwarding a decision of a national competent authority imposing a suspended sentence with custodial supervision or a decision on conditional release under custodial supervision for recognition and enforcement to another Member State

Conditions for forwarding a decision of a national competent authority

Article 178

(1) If a national court or another competent authority imposes a suspended sentence with custodial supervision or a decision on conditional release under custodial supervision against a person, a national court may forward such decision for recognition and enforcement:

a) to a Member State where the sentenced person is a permanent or temporary resident; or

b) to any other Member State a competent authority of which agrees the forwarding of a judgment and certificate, if the execution of a measure in such State will facilitate the social rehabilitation of the sentenced person.

(2) A national court or other competent authority may forward a decision for recognition and enforcement to another member State only if the sentenced person expresses consent to the decision being forwarded to such Member State.

Forwarding the certificate and the decision

Article 179

(1) A final decision imposing a suspended sentence with custodial supervision, or a decision on conditional release under custodial supervision, and a completed and confirmed form as referred to in the second indent of the first paragraph of Article 181 of this Act, shall be forwarded to a competent executing authority of another Member State by a national court having jurisdiction over enforcement of sentence if the conditions provided by the preceding Article are met.

(2) When deciding on whether to forward a decision imposing a suspended sentence with custodial supervision, or a decision on conditional release under custodial supervision, for recognition and enforcement to another Member State, if such state is one of those referred to in item b of the first paragraph of Article 178 of this Act, a national court must take into account the possibility of the successful social rehabilitation of the sentenced person. In so doing, the court shall especially take into account the person's family, linguistic, cultural, economic or social and other ties with the executing State.

Consultations

Article 180

(1) A national court may request explanations from the competent authority of the executing State regarding the provisions of the legislation of such State concerning the enforcement of the imposed sentence.

(2) Prior to forwarding a certificate and decision to the State referred to in item b) of the first paragraph of Article 178 of this Act, a national court must obtain consent from a competent authority of the executing State to forward the certificate and the decision.

Procedure

Article 181

(1) A national court shall forward the following to a competent authority of the executing State:

- a final decision imposing a measure as referred to in Article 163 of this Act which is to be enforced;
- a completed and confirmed form as provided in Annex 8 of this Act;
- translation of the certificate into the official language of the executing State, or into any other language deemed acceptable by such State.

(2) The certificate and accompanying instruments may at any one time be forwarded to one Member State only.

Withdrawal of instruments

Article 182

If a foreign country has not yet taken control of the execution of measures, a national court may withdraw the certificate within 10 days of the following:

1. receipt of a notice on the maximum duration of deprivation of liberty for a criminal offence which under the law of the executing State may be imposed on the sentenced person in the event of a violation of the obligations imposed;
2. receipt of a notice from a foreign authority on a potential decision to adapt the nature or duration of a custodial supervision measure or alternative sanction or the duration of a period of probation.

Notifying the executing State

Article 183

A national court must immediately notify the competent authority of the executing State of the following, and provide reasons:

1. all circumstances which could result in an amendment to, or revocation of, a custodial supervision measure or alternative sanction or a revocation of a decision on conditional release under custodial supervision;

2. if the enforcement of the decision must be discontinued due to acts of amnesty or pardon issued in the Republic of Slovenia.

Jurisdiction of authorities of the Republic of Slovenia and application of the law of the Republic of Slovenia after transfer of supervision abroad

Article 184

(1) The jurisdiction of the authorities of the Republic of Slovenia for the enforcement of custodial supervision measures or alternative sanction ceases after receiving notice that the decision in the executing State is final.

(2) The competent authorities of the Republic of Slovenia shall resume jurisdiction over the execution of a custodial supervision measure or alternative sanction if the competent authorities of the executing State, due to the convicted person absconding or because such person no longer resides in the executing State, notifies a national court of jurisdiction being returned to the authorities of the Republic of Slovenia.

(3) The competent authorities of the Republic of Slovenia shall also resume jurisdiction over the enforcement of custodial supervision measure or alternative sanction if the competent authority of the executing State grants a request from a national court to return jurisdiction to the Republic of Slovenia due to the fact that new criminal proceedings are being conducted in the Republic of Slovenia against the sentenced person.

(4) If the execution of a measure continues in the Republic of Slovenia in accordance with the second and third paragraphs of this Article, a national court shall deduct the duration of custodial supervision measure or alternative sanction already served in the executing State.

Chapter 18

Recognition and enforcement of a decision imposing a financial penalty in another Member State

Conditions for recognition and enforcement

Article 185

(1) A national court shall, pursuant to provisions of this Chapter, enforce a final decision of a competent authority of the issuing State which imposes a financial sanction in criminal or minor offence proceedings on a natural or legal person (hereinafter: a person) for a violation of regulations.

(2) Under the preceding paragraph, the following shall be recognised and enforced:

1. a decision of a court imposing a financial sanction for a criminal offence under the law of the issuing State;

2. a decision of another authority imposing a financial sanction for a criminal offence under the law of the issuing State if, under the law of such State, the person had the opportunity to file a legal remedy against such decision with the court having jurisdiction in particular in criminal matters;

3. a decision of another authority imposing a financial sanction for an act which under the law of the issuing State is considered a minor offence or other violation of regulations if under the law of such State the person had the opportunity to file a legal remedy against such decision with a court having jurisdiction in particular in criminal matters;

4. a decision of a court having jurisdiction in particular in criminal matters in connection with the legal remedy filed against the decision referred to in the preceding item.

(3) The financial sanction referred to in preceding paragraphs of this Article shall mean the obligation to pay:

1. a financial penalty or a fine;
2. an indemnity claim of the injured person which is awarded in the final decision referred to in the preceding paragraph, either in whole or in part;
3. the costs of proceedings in which the decision referred to in the preceding paragraph was issued;
4. a financial contribution imposed for the benefit of a public institution, for a charitable purpose, or for the compensation of damage to victims of criminal offences imposed by the decision referred to in the preceding paragraph.

(4) The following cannot be enforced as a financial sanction under the preceding paragraph:

1. decision on the confiscation of crime-related proceeds;
2. decision on the confiscation of objects intended for criminal offences or acquired by a criminal offence;
3. decision on tort claims awarded for compensation, and on *restitutio ad integrum* which is enforceable in accordance with the valid Council Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Reasons for refusal

Article 186

A national court shall refuse recognition and not enforce a decision of a competent authority of the issuing State which imposed a financial sanction if:

1. the financial sanction does not exceed EUR 70 or the equivalent according to the exchange rate on the day the decision is issued;
2. the act on which the decision is based was committed in whole or in part in the territory of the Republic of Slovenia or outside the territory of the issuing State if under the law of the Republic of Slovenia prosecution is not admissible for such acts committed outside the territory of the Republic of Slovenia;
3. a final decision has been delivered in the Republic of Slovenia against the same person for the same act, or if such final decision has been delivered and enforced in another Member State;
4. the act in respect of which the financial sanction is imposed is not considered a criminal offence nor a minor offence under the law of the Republic of Slovenia, regardless of its statutory elements and its description in the decision, unless if it is one of the violations referred to in Article 188 of this Act;
5. an act for which a financial sanction is imposed was committed by a person who at that time was younger than fourteen years;
6. the enforcement of a financial sanction for an act considered a criminal offence or a minor offence under the law of the Republic of Slovenia that has fallen under a statute of limitations;
7. the person has been granted amnesty or pardon for the same act in the Republic of Slovenia or in the issuing State;

8. the enforcement contravenes the regulations of the Republic of Slovenia on immunity;

9. according to the form provided in Annex 10 of this Act and in the course of written proceedings in which a decision was issued, a person was not, in accordance with the law of the issuing State, in person or through a representative appointed in accordance with the national law, informed of the right to contest the decision and of the time limits on filing such legal remedy;

10. it follows from the form provided in Annex 10 of this Act that the person was not present at the trial on the basis of which a decision was issued, unless the conditions are met whereby this Act provides for the enforcement of a warrant issued on the basis of a trial *in absentia* (the first paragraph of Article 13 of this Act);

11. there are reasonable grounds to conclude that the decision was issued for the purpose of punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political belief or sexual orientation, or that the person's position could have been prejudiced for any of these reasons;

12. the enforcement of the decision would be in contravention of the provisions of the Constitution of the Republic of Slovenia concerning the right to trial without undue delay, the right to association or freedom of expression;

13. a competent authority of the issuing State fails to provide or appropriately supplement the certificate, or fails to communicate additional any information necessary for making a decision.

Consultation

Article 187

Before a national court renders a decision in the cases referred to in items 6, 9, 10 and 13 of the preceding Article to refuse, either in whole or in part, recognition and enforcement of a decision, the court shall consult with a competent authority of the issuing State in any appropriate manner, and, when such is necessary, request that any additional information the court requires to make a decision be communicated without delay.

Inadmissibility of refusal

Article 188

Without establishing double criminality, the financial sanctions imposed for the violations which the law of the issuing State determine as follows shall be recognised and enforced if the conditions provided by this Act are met:

1. criminal offences referred to in the second paragraph of Article 9 of this Act;
2. conduct which infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods;
3. smuggling of goods;
4. infringement of intellectual property rights;
5. threats and acts of violence against persons, including violence during sports events;
6. criminal damage;
7. theft;

8. offences established by the issuing State and serving the purpose of implementing obligations arising from instruments adopted under the EC Treaty or under Title VI of the EU Treaty.

Jurisdiction

Article 189

(1) An investigating judge has jurisdiction over the recognition of a decision imposing a financial sanction as referred to in items 1 and 2 of the second paragraph of Article 185 of this Act, and a local court judge has jurisdiction over the recognition of decisions referred to in items 3 and 4 of the second paragraph of Article 185 of this Act.

(2) The territorial jurisdiction of a national court shall be determined according to the permanent or temporary residence of the person upon whom a financial sanction is imposed; for a legal person, territorial jurisdiction shall be established according to the registered office entered in the register or other prescribed record, and if such legal person has a branch office in the Republic of Slovenia according to the location of the branch office.

(3) If territorial jurisdiction cannot be determined according to the preceding paragraph, it shall be determined according to the place in which the person has property or income which is subject to enforcement. If more assets or objects are indicated in the request concerning property, territorial jurisdiction shall be determined according to the first item indicated for enforcement.

(4) If territorial jurisdiction cannot be determined according to the provisions of the preceding paragraphs, the District Court of Ljubljana shall have jurisdiction in accordance with the first paragraph of this Article.

(5) If the national court which received the decision for recognition and enforcement does not have jurisdiction, it shall immediately refer the case to a court having jurisdiction.

(6) A national court or another authority which, under the law of the Republic of Slovenia, is competent to perform certain implementing acts for the enforcement of a financial sanction of the same type imposed in the Republic of Slovenia shall have jurisdiction over the direct enforcement of a decision.

(7) National courts and other authorities may seek assistance from the Ministry in obtaining explanations on the foreign law which are required in the course of enforcing financial sanctions.

Decision-making procedure

Article 190

(1) A national court shall render a decision on recognition on the basis of the following instruments:

1. a decision imposing a financial sanction to be enforced;
2. a form provided by Annex 10 of this Act, completed and confirmed by a competent authority of the issuing State.

(2) A national court may request from the competent authority of the issuing State that it provide the original of the decision, or its authenticated copy, and the original of the certificate.

(3) A national court may invite the person against whom a financial sanction is being enforced to make a statement at a hearing on the admissibility of enforcement, on the amount

to be enforced, and on an alternative sanction if such was not determined in the decision which is to be enforced.

(4) A national court must set an appropriate time limit, which may not exceed one month, to the authority of the issuing State which issued the decision, within which such authority must provide the court with, or supplement, the certificate, or communicate additional information needed to make a decision, as well as caution the authority that, upon the expiry of the time limit, enforcement will be refused in whole or in part, if:

1. a certificate is not sent, is incomplete in its essential parts, or is manifestly contrary to the decision;

2. there are reasonable grounds to conclude that reasons exist for refusing recognition and enforcement under items 6, 9, 10 and 11 of Article 186 of this Act;

3. the person against whom financial sanction is to be enforced submits a certificate stating that the entire amount due as financial sanction, or part thereof, has been paid or enforced in some other manner in any Member State.

(5) In the cases referred to in the preceding paragraph, a national court may consult in an appropriate manner with a competent authority of the issuing State.

(6) If, in order to make a decision on the enforcement, a translation of the decision whereby the financial sanction was imposed is required, such shall be obtained at the expense of a national court.

(7) If the information contained in the certificate does not suffice for a successful enforcement, a national court shall acquire through official channels any additional information necessary to determine means of enforcement and subjects of enforcement.

(8) With the exception of establishing the potential inadmissibility of enforcement, a national court shall recognise a decision without special consideration, and shall take all measures necessary without delay to enforce the decision.

(9) Unless otherwise provided by this Act, the regulations which under the law of the Republic of Slovenia apply to the enforcement of sanctions of the same type shall also apply *mutatis mutandis* to the procedure for enforcing financial and alternative sanctions.

Postponement of decision-making

Article 191

(1) A national court shall postpone rendering a decision on the enforcement of a decision imposing a financial sanction until it receives additional information (the fourth paragraph of Article 190 of this Act) or until it receives a translation of the decision (the sixth paragraph of Article 190 of this Act).

(2) In the case referred to in the preceding paragraph, the court shall *ex officio* secure the recovery of a financial sanction until the reasons for postponement cease to apply.

Enforcement order

Article 192

(1) A national court shall issue an order on the recognition and enforcement of a decision, or on refusal of enforcement.

(2) The order referred to in the preceding paragraph must contain information on the natural or legal person against whom a financial sanction is to be enforced, the title of the authority the decision of which shall be enforced, the reference number of the decision, a brief

description of facts (including the place and time of the act), the title of the act and regulations applied by the issuing State, the amount of financial sanction to be enforced, the means and subjects of enforcement, and other data necessary for enforcement. If enforcement is refused, such decision must be reasoned in the order. The order shall be attached with a copy of the decision and of the translation.

(3) The information referred to in the preceding paragraph referring to a natural person comprises: name, nationality, the personal identity number or other identification number, date and place of birth, last known address and address of residence in the Republic of Slovenia if known; while for a legal person: title, organisational form of the legal person, the number of the register or other identification number of entry in official records, registered office and address.

(4) The amount to be enforced shall be determined by a national court in accordance with the amount imposed by the decision to be enforced. If the amount is not stated in euros, it must be calculated by means of an exchange rate on the day the decision is issued. Payments already made or amounts enforced in any other Member State shall be deducted.

(5) If the act was committed outside the territory of the issuing State and the law of the Republic of Slovenia can be applied thereto, the amount to be enforced, regardless of the provisions of the preceding paragraph, shall be reduced to the maximum permissible amount for such acts under the law of the Republic of Slovenia.

(6) In the event that a financial sanction cannot be enforced in whole or in part, and if the certificate includes permission to replace such sanction in the executing State with another sanction, a national court shall impose in the order an alternative custodial sentence or other corresponding sanction under the law of the Republic of Slovenia. The duration or amount of the alternative sanction shall be determined in a manner that corresponds to the number of monetary units of the financial sanction according to regulations of the Republic of Slovenia which apply to the same or corresponding type of acts, but may not exceed the maximum possible sentence as indicated in the certificate by the issuing State.

(7) The order shall be served on the person against whom a financial sanction is to be enforced, and on the state prosecutor competent before the court rendering a decision on the recognition of the decision.

(8) The state prosecutor and the person against whom the financial sanction is to be enforced may appeal the order within eight days of the service of the order. An admissible appeal filed within good time shall suspend enforcement of the order until the decision on the appeal becomes final. Extraordinary legal remedies against a final order are not permitted.

(9) Reopening a case in which the decision imposing a financial sanction was issued is not permitted in the Republic of Slovenia.

Revenue from enforcement

Article 193

Funds obtained through the enforcement of decisions shall be collected by the Republic of Slovenia, unless otherwise agreed with the issuing State.

Discontinuance of enforcement

Article 194

If a competent authority of the issuing State gives notice that the decision imposing a financial sanction or its enforceability is abrogated, or that the authority no longer requires the

enforcement due to other reasons, the enforcement proceedings must be discontinued immediately.

Notice to the issuing State

Article 195

A national court must immediately notify the competent authority of the issuing State if:

1. the court refers the case to another competent court (the fifth paragraph of Article 189 of this Act);
2. an alternative sanction is imposed and its enforcement is ordered (the sixth paragraph of Article 192 of this Act);
3. the decision is enforced;
4. enforcement is refused in whole or in part, or enforcement is discontinued, in which case, reasoning must be provided;
5. the decision cannot be enforced due to amnesty or pardon granted in the Republic of Slovenia.

Chapter 19

Forwarding a decision of a national competent authority imposing a financial penalty for recognition and enforcement to another Member State

Enforcement of a financial sanction in another Member State

Article 196

(1) The financial sanction referred to in the third paragraph of Article 185 of this Act imposed on a natural or legal person by a competent authority of the Republic of Slovenia may be enforced in another Member State where such person is a resident or a registered office, property, or where such person receives income.

(2) A request for the recognition and enforcement of a decision imposing a financial sanction shall be forwarded to a competent executing authority of another Member State by the court which imposed the sanction at first instance. If a financial sanction is imposed at first instance by a minor offence authority, a competent local court may file a request on the basis of a reasoned motion of the minor offence authority.

(3) When deciding on whether to file a request, the court shall take into account the possibility of successful recovery, the rationality of recovery with regard to the amount of the sanction imposed, and the gravity of violation or the gravity of threat to protected rights.

Enforcement procedure

Article 197

(1) A national court must forward the following to a competent authority of the executing State:

1. the decision to be enforced;
2. a completed and confirmed form as provided in Annex 10 of this Act, completed and confirmed by a competent authority of the issuing State;
3. a translation of the certificate into the official language of the executing State, or into any other language deemed acceptable by such State.

(2) Article 6 of this Act applies *mutatis mutandis* to communications. If the decision and certificate are not sent via post, the competent authority of the executing State must be, at its

request, subsequently forwarded by post a copy or authenticated copy of the decision and the original of the certificate.

(3) Request for enforcement may at any one time be forwarded to one Member State only.

Notification of withdrawal of request

Article 198

A national court must immediately inform the competent authority of the implementing State if:

1. on the basis of the decision imposing a financial sanction, the person has already paid such sanction;
2. the decision imposing a financial sanction or its enforceability is later abrogated, amended, or the amount of financial sanction reduced;
3. enforcement is no longer required for other reasons.

Enforcement of financial sanctions in the Republic of Slovenia

Article 199

(1) If a request is submitted for the enforcement of a financial sanction in another Member State, enforcement in the Republic of Slovenia is not permitted.

(2) In the event referred to in the preceding paragraph, enforcement may be resumed in the Republic of Slovenia:

1. after the competent authority of the executing State has been given notice that the enforcement is no longer required;
2. if enforcement is discontinued in the executing State due to a pardon or amnesty;
3. if enforcement in the executing State is impossible due to the impossibility of recovery;
4. if the implementing State refuses enforcement, except for the reason referred to in item 3 of Article 186 of this Act.

Chapter 20

Recognition and enforcement of a decision to seize objects and temporarily secure the confiscation of proceeds in another Member State

Enforcement conditions

Article 200

(1) A national court shall enforce a decision to seize objects or to temporarily secure the confiscation of crime-related proceeds issued by a judicial authority of another Member State in the course of criminal proceedings for a criminal offence which is considered a criminal offence under the law of both the issuing State and of the Republic of Slovenia.

(2) Without establishing double criminality, a national court shall enforce the decision referred to in the preceding paragraph if rendered for a criminal offence referred to in the second paragraph of Article 9 of this Act.

Grounds for non-recognition and non-enforcement

Article 201

(1) A national court shall not enforce a decision of a competent authority of another Member State on the seizure of objects or temporary securing of confiscation of crime-related proceeds if:

1. the conditions laid down in the preceding Article are not met;

2. the enforcement contravenes the regulations on immunity or privileges;

3. it follows clearly from the form referred to in item 2 of the first paragraph of Article 203 of this Act that the enforcement would violate the prohibition of double jeopardy.

(2) In criminal matters in relation to duties, taxes, customs duties and foreign exchange, the enforcement of a decision may not be refused only on the grounds that the law of the Republic of Slovenia does not levy the same kind of duties or taxes, or does not contain the same type of provisions on duties, taxes, customs duties or foreign exchange as the law of the ordering State.

Jurisdiction

Article 202

(1) An investigating judge has jurisdiction over the recognition and enforcement of a decision on the seizure or temporary securing issued by another Member State.

(2) The territorial jurisdiction of a national court shall be determined according to the place where the object or property to be seized or temporarily secured are located. If more objects of types of property are indicated in the request concerning property, the court having jurisdiction over the first object or property indicated also has territorial jurisdiction to render a decision.

(3) If territorial jurisdiction cannot be determined according to the provisions of the preceding paragraphs, the District Court of Ljubljana shall have jurisdiction.

(4) If the court which receives a decision does not have territorial jurisdiction, it shall forward the decision to a court having jurisdiction immediately, and inform the ordering authority thereof.

Procedure and order

Article 203

(1) A national court shall render a decision on recognition and enforcement by issuing an order on the basis of the following instruments:

1. a decision ordering seizure or temporary securing which should be enforced;

2. the form provided in Annex 11 of this Act, completed and confirmed by a competent authority of the issuing State;

3. translation of the certificate into Slovenian or English;

(2) If the certificate is not forwarded, is incomplete or is manifestly contrary to the decision, a competent national court may:

1. set an appropriate time limit within which the authority of the ordering State which issued the decision can provide the court with, or supplement or correct, the certificate;

2. accept another appropriate instrument forwarded by the authority of the ordering State;

3. endorse the request if the submitted data is sufficient to render a decision.

(3) If, in order to ensure the validity of evidence, a competent authority of the ordering State requests the decision to be enforced according to the rules and procedure provided by the law of the ordering State, a national court shall endorse such request if this does not contravene the fundamental legal principles in force in the Republic of Slovenia.

(4) Additional coercive measures indispensable for the enforcement of the decision shall be subject to the law of the Republic of Slovenia.

(5) A national court must render a decision as soon as possible, within 24 hours of receiving the decision if possible.

(6) The order shall be forwarded to the competent authority or person that is to enforce it.

(7) The order shall be served on persons whose property rights and legal interests are thus infringed upon, and on a state prosecutor.

(8) Persons referred to in the preceding paragraph may file an appeal against the order within eight days of receiving the order. The subject-matter basis of the order resulting from the decision on seizure or securing may not be contested by the appeal. The appeal shall not suspend the enforcement of the order. A higher court panel must decide on the appeal within three days. Reopening a case and a request for protection of legality are not permitted.

(9) If, in the same case, the confiscation of an object or of proceeds is also requested at the same time as seizure and securing, a national court shall also render a decision on such request and enforce it in accordance with the provisions of Chapter 15 of this Act.

Postponement of enforcement

Article 204

(1) A national court shall postpone enforcement if:

1. such could jeopardise the interests of an ongoing investigation of a criminal offence, for as long as such risk exists;

2. the object has been seized, or the confiscation of proceeds already secured in the course of other criminal proceedings, until such seizure or securing are abrogated.

3. the property which the ordering State requests to be secured for the confiscation of proceeds has already been secured under other proceedings in the Republic of Slovenia, and such securing has priority over the securing of confiscation of crime-related proceeds in the Republic of Slovenia, until such securing is abrogated.

(2) When the reasons for postponement referred to in the preceding paragraph no longer apply, a national court shall immediately render a decision on the enforcement of a decision on seizure or temporary securing.

Duration of seizure or securing

Article 205

(1) Seizure of an object or temporary securing of confiscation of proceeds shall continue until a decision is made on the confiscation of objects or proceeds. A renewal of temporary securing under the provisions of the law governing criminal procedure is not necessary.

(2) If a competent authority of the ordering State does not indicate the envisaged date for forwarding the final decision on confiscation, or if such authority does not request the confiscation when requesting seizure or temporary securing, a national court, after having consulted with a competent authority of the ordering State, shall determine the maximum admissible duration of securing of confiscation of proceeds with regard to the permissible total duration of temporary securing for a certain phase of proceedings under the law of the Republic of Slovenia, provided that the conditions for temporary securing under this Act are still met.

(3) A national court shall also act as per the preceding paragraph if the date of the envisaged final decision on confiscation exceeds the time limits of permissible total duration of temporary securing for a certain phase of proceedings under the law of the Republic of Slovenia.

Notifying the ordering State

Article 206

A national court must immediately notify a competent authority of the ordering State if:

1. it refers the case to another competent court;
2. the enforcement is refused in whole or in part;
3. an order on enforcement is issued;
4. the decision is enforced, with a report on the enforcement;
5. the enforcement is postponed, in the event of which the court shall indicate the reasons and the envisaged duration of postponement;
6. the reasons for postponement of enforcement no longer apply, in the event of which the court shall indicate the measures to execute enforcement;
7. an appeal has been filed, and on the result of appellate proceedings.

Chapter 21

Forwarding a decision of a national court imposing the seizure of objects and temporary securing of confiscation of proceeds for recognition and enforcement to another Member State

Enforcement of seizure and temporary securing in another Member State

Article 207

(1) The seizure of objects or temporary securing of the confiscation of crime-related proceeds imposed by a competent court of the Republic of Slovenia may be enforced in another Member State where objects or property are located.

(2) Such a request shall be forwarded to a competent foreign authority by the court which issues the decision at first instance.

Enforcement procedure

Article 208

(1) A national court shall forward the following to a competent authority of the executing State:

1. the decision to be enforced;
2. a completed and signed form as provided in Annex 11 of this Act;
3. a translation of the certificate into the official language of the executing State, or into any other language deemed acceptable by such State.

(2) If the decision and certificate are not sent by post, a competent authority of the executing State, at its request, must subsequently be sent a copy or authenticated copy of the decision and the original of the certificate by post.

Chapter 22

Recognition and enforcement of a decision imposing the confiscation of objects and proceeds in another Member State

Conditions for enforcement

Article 209

(1) Pursuant to the provisions of this Chapter, a national court shall enforce a final decision on the confiscation of objects or crime-related proceeds, or of property or amount corresponding to the proceeds, issued by a court of another Member State in the course of proceedings for a criminal offence.

(2) Under the provisions of this Chapter, a national court shall also enforce a final decision on the confiscation of property which a court establishes has been gained by criminal activity committed prior to a conviction for a criminal offence committed in a crime syndicate.

(3) If a competent authority of the ordering State, in accordance with the law of such State, requests that the decision on the confiscation of certain property is to be enforced by payment of an amount corresponding to the value of such property, a national court shall enforce the decision by applying, *mutatis mutandis*, the provisions of the law of the Republic of Slovenia on the methods of confiscating proceeds.

Grounds for non-recognition and non-enforcement

Article 210

(1) A national court shall not enforce a decision of a competent authority of another Member State on the confiscation of objects or proceeds if:

1. the objects included in the decision form part of the cultural heritage of the Republic of Slovenia;

2. the following applies to the criminal offence regarding which the decision was issued, or a criminal offence committed prior to that and examined together with a criminal offence of money laundering:

a) it was committed on the territory of the Republic of Slovenia,

b) it was committed outside the territory of another Member State which issued the decision referred to in the preceding Article, if for such acts committed outside the territory of the Republic of Slovenia prosecution is not permitted under the law of the Republic of Slovenia.

3. a final decision on confiscation has been issued against the same person for the same act in the Republic of Slovenia, or if such final decision has been issued and already enforced in another Member State;

4. the act for which confiscation is requested is not a criminal offence under the law of the Republic of Slovenia, unless it is one of the offences referred to in the second paragraph of Article 9 of this Act;

5. the enforcement of confiscation in the Republic of Slovenia would fall under the statute of limitations if authorities of the Republic of Slovenia had jurisdiction over the criminal offence under the law of the Republic of Slovenia;

6. the same person has been granted amnesty or a pardon regarding confiscation in the ordering State or in the Republic of Slovenia;

7. enforcement under the law of the Republic of Slovenia contravenes the regulations on immunity or privileges;

8. enforcement infringes on the rights of *bona fide* third persons;

9. it follows from the certificate provided in Annex 12 of this Act that the person was not present at the trial on the basis of which a decision on confiscation was issued, unless the conditions are met which this Act provides for enforcing a warrant issued on the basis of a trial *in absentia* (the first paragraph of Article 13 of this Act);

10. objective reasons exist for believing that the decision was issued for the purpose of punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political belief or sexual orientation, or that such person's position may have been prejudiced for any of these reasons;

11. the subject of the decision is confiscation which under the law of the Republic of Slovenia cannot be ordered in criminal proceedings.

(2) In criminal matters in relation to duties, taxes, customs duties and foreign exchange, the enforcement of a decision may not be refused only on the grounds that the law of the Republic of Slovenia does not levy the same kind of duties or taxes, or does not contain the same type of provisions on duties, taxes, customs duties or foreign exchange as the law of the ordering State.

Jurisdiction

Article 211

(1) An investigating judge has jurisdiction over recognition of a confiscation order.

(2) The territorial jurisdiction of a court shall be determined according to the place where the property which is the subject of enforcement is located. If more assets or objects are indicated in the request concerning property, territorial jurisdiction shall be determined according to the first item indicated for enforcement.

(3) If territorial jurisdiction cannot be determined according to the preceding paragraph, it shall be determined according to the permanent or temporary residence of the person against whom confiscation is ordered; for a legal person it shall be determined according to its registered office, or, if such legal person has a branch office, according to the place of its branch office.

(4) If territorial jurisdiction cannot be determined according to the provisions of the preceding paragraphs, the District Court of Ljubljana has jurisdiction.

(5) If the court which receives the decision for enforcement does not have jurisdiction, it shall immediately refer the case to a competent court and inform the competent authority of the ordering State thereof.

(6) The competent court or another authority which, under the law of the Republic of Slovenia, has jurisdiction to enforce the confiscation of an object or property if imposed in the Republic of Slovenia, has jurisdiction over enforcement of the decision.

Procedure

Article 212

(1) A national court shall render a decision on recognition by issuing an order on the basis of the following instruments:

1. the decision to be enforced;
2. a form as provided in Annex 12 of this Act, completed and confirmed by a competent authority of the issuing State;
3. translation of the certificate into Slovenian or English;

(2) A national court may invite the person whose property is subject to confiscation to make a statement at a hearing on the admissibility of enforcement, on the amount to be enforced, and on the already enforced confiscation.

(3) A competent national court must set an appropriate time limit within which the authority of the ordering State which issued the decision may provide the court with or supplement the certificate, or communicate additional data needed to make a decision, and notify such authority that when the time limit expires enforcement shall be refused in whole or in part, if:

1. a certificate is not sent, is incomplete in its essential parts, or is manifestly contrary to the decision;

2. reasonable grounds exist for concluding that one of the reasons for the inadmissibility of enforcement provided by items 2, 3, 8, 9, 10 and 11 of the first paragraph of Article 210 of this Act apply;

3. the person presents evidence that confiscation has already been enforced, in whole or in part, in any other State, or that the value of the proceeds has already been confiscated or paid.

(4) If, in order to make a decision on enforcement, a translation of the decision imposing confiscation is required, such shall be obtained at the expense of a national court.

(5) If the data in the certificate do not suffice for successful enforcement, a national court shall obtain through official channels the additional data needed to enforce confiscation.

Order on recognition

Article 213

(1) A national court shall issue an order on whether a decision is to be enforced or whether enforcement is refused.

(2) The order referred to in the preceding paragraph must include: the title of the authority which issued the decision to be enforced, the decision reference number, brief description of facts (including the place and time of the act), designation of the act, regulations of the ordering State which were applied, and indication of imposed measures; if enforcement is refused, also reasons for refusal. The order shall be attached by a copy of the decision.

(3) If the confiscation of proceeds refers to a certain amount of money, a court shall determine the amount to be confiscated so the amount is equal to the amount stated in the order to be enforced. If the amount is not stated in euros, it should be calculated by means of an exchange rate in force on the day when the decision which is to be enforced is issued. Payments already made or amounts enforced in any other Member State shall be deducted.

(4) The order shall be served on the person against whom confiscation is enforced, on persons whose rights are being infringed upon, and on the competent state prosecutor.

(5) The persons referred to in the preceding paragraph may appeal the order within eight days of the service of the order. The appeal may not challenge the subject-matter basis of the decision of a competent authority of the ordering State on confiscation. An admissible appeal filed within good time shall suspend enforcement of the order until the decision on the appeal becomes final. Reopening a case and a request for protection of legality are not permitted.

(6) If enforcement is finally dismissed as unfounded on the basis of the first paragraph of Article 210 of this Act, a competent state prosecutor's office shall notify the Ministry and the State Prosecutor General of the Republic of Slovenia by attaching a copy of the order.

(7) The enforcement of confiscation is *mutatis mutandis* subject to the regulations which apply in the Republic of Slovenia to the enforcement of the confiscation of objects or proceeds in criminal proceedings.

Postponement of enforcement

Article 214

(1) A national court shall postpone the enforcement of confiscation:

1. until the decision on an admissible appeal against the order referred to in the preceding Article becomes final;

2. if the ordering State also requests confiscation to other Member States and the total confiscated amount could exceed the amount imposed by the decision;

3. if the object or sum of money which is to be confiscated is already subject to seizure, temporary securing, or confiscation in the Republic of Slovenia.

(2) A national court may postpone the enforcement of confiscation if:

1. it could jeopardise the interests of an ongoing investigation of a criminal offence, for as long as such risk exists;

2. a translation of the decision is required, until such translation is provided;

3. additional data is necessary, until such data are obtained from a competent authority of the ordering State.

(3) A national court must *ex officio* secure confiscation by means of any permissible measures under the law of the Republic of Slovenia until the reasons for postponement cease to apply.

Decisions of several Member States

Article 215

(1) If two or more Member States forward decisions on the confiscation of the same object or property, a national court shall decide which decision or decisions are to be enforced, taking into account all the circumstances, especially whether the object or property has already been confiscated under the preceding Chapter of this Act, the gravity of the criminal offence(s) which represent the basis for confiscation, the location of criminal offences, the date when decisions were issued and when they were submitted.

(2) A national court shall also act in accordance with the preceding paragraph if it receives two or more decisions on the confiscation of sums of money of proceeds, or proceeds in monetary value issued against the same natural or legal person who, in the Republic of Slovenia, does not have sufficient means for all decisions to be enforced.

Revenue obtained by confiscation

Article 216

(1) An amount of money obtained by confiscation which does not exceed EUR 10,000 or the equivalent amount in another currency is considered in its entirety revenue of the budget of the Republic of Slovenia. An amount of money which exceeds EUR 10,000 shall be distributed in such a manner as to allocate one half to the budget of the Republic of Slovenia and the other half to the ordering State.

(2) Objects and property other than money shall be disposed of in one of the following ways, to be decided by a national court:

1. sold in accordance with the law of the Republic of Slovenia; in this case, the proceeds of the sale shall be disposed of in accordance with the preceding paragraph;

2. transferred to a competent authority of the ordering State; if the confiscation order covers an amount of money, the objects or property may only be transferred to the ordering State when that State has given consent;

3. disposed of in another way in accordance with the law of the Republic of Slovenia if apply the preceding items cannot be applied.

(3) The preceding two paragraphs apply only if not agreed otherwise with the ordering State.

Termination of enforcement

Article 217

If a competent authority of the ordering State gives notice that a decision on confiscation is no longer enforceable, or that it no longer requires enforcement for other reasons, a court shall terminate the enforcement.

Notifying the ordering State

Article 218

A national court must immediately notify a competent authority of the ordering State if:

1. it refers the case to a competent national court;
2. the enforcement was refused, in whole or in part; a national court shall provide reasons for such decision;
3. a decision cannot be enforced because amount of money or object to be confiscated has disappeared, been destroyed, is not enforceable, or cannot be found in the location indicated in the certificate since the location of the amount of money or item is not indicated in a sufficiently precise manner, or since another decision has been enforced regarding such amount of money or item; a national court shall provide reasons for such decision;
4. the decision on confiscation cannot be enforced in its entirety due to the fact that confiscation requests were submitted by the competent authorities of two or more Member States;
5. enforcement was postponed; a national court shall provide reasons for such decision and, if possible, the envisaged duration of postponement;
6. the decision is enforced.

Costs

Article 219

If considerable or extraordinary costs are incurred due to enforcement, the court shall propose to the competent authority of the ordering State that the costs be shared, and attach a detailed list thereof.

Chapter 23

Forwarding a decision of a national court imposing confiscation of objects and proceeds for recognition and enforcement to another Member State

Enforcement of confiscation in another Member State

Article 220

(1) A decision on confiscation issued by a competent court of the Republic of Slovenia in the course of criminal proceedings may be forwarded for enforcement to another Member

State in which the person has property or income, or in which objects to which the decision on confiscation refers are located.

(2) If the State in which the person has property or income, or in which objects are located is unknown, the decision on confiscation may be forwarded for enforcement to the Member State where the natural or legal person against whom the decision is issued has their residence or registered office.

Enforcement procedure

Article 221

(1) A national court must forward the following to a competent authority of the executing State:

1. the decision to be enforced;
2. a completed and signed form provided by Annex 12 of this Act;
3. a translation of the certificate into the official language of the executing State, or into any other language deemed acceptable by such State.

(2) If the decision and certificate are not sent by post, a competent authority of the executing State, at its request, shall subsequently be sent a copy or authenticated copy of the decision and the original of the certificate by post.

Forwarding a decision to several Member States

Article 222

(1) Request for enforcement may at any one time be forwarded to one Member State only.

(2) Regardless of the preceding paragraph, a decision on the confiscation of certain objects or property may be forwarded to several Member States at a time if:

1. reasonable grounds exist for believing that the objects or property to which the decision refers are located in such Member States;
2. enforcement of the decision on confiscation of property requires action to be taken in several Member States;
3. reasonable grounds exist for believing that the objects or certain property to which the decision refers are/is located in one of the two or more known Member States.

(3) Regardless of the first paragraph of this Article, a decision made out to an amount of money may be forwarded to several Member States simultaneously, if this is necessary to enforce the decision, in particular if the amount is not secured pursuant to the provisions of the preceding Chapter, or if enforcement in one Member State is not expected to suffice for the payment of the total amount specified in the decision on confiscation.

Enforcement at home

Article 223

Enforcement of the decision on confiscation may be resumed in the Republic of Slovenia even if a decision is forwarded to one or several Member States. The total amount acquired by enforcing the decision on confiscation made out to an amount of money may not exceed the amount imposed by the decision.

Notifying the executing State

Article 224

The national court which issues the decision on confiscation at first instance shall immediately notify the competent authority of the executing State if:

1. there is a risk that enforcement could exceed the total amount imposed by the decision made out to an amount of money; and that such risk has ceased;
2. the decision was enforced at home or in another State, in whole or in part, by indicating the potential amount regarding which confiscation has not yet been completed;
3. on the basis of the decision, the person has already paid the amount;
4. the decision or its enforceability is subsequently abrogated or amended, or enforcement is no longer required for other reasons.

PART V EXCHANGE OF INFORMATION FROM CRIMINAL RECORDS BETWEEN MEMBER STATES

Purpose of exchanging information from criminal records between Member States

Article 225

(1) The competent authorities of the Republic of Slovenia and other Member States shall directly exchange information from records on *res judicata* criminal convictions and on the consequences of such convictions (hereinafter: criminal record) in order for state authorities or bearers of public authority of the Republic of Slovenia and public authorities of Member States to legally and effectively take action or take decisions regarding the rights or obligations of certain individuals entered in a criminal record, especially concerning a temporary or permanent loss of such persons' certain rights, or the performance of obligations by such individuals.

(2) Information exchanged or otherwise processed under Part V of this Act may also be processed for the purpose of enforcing or protecting rights and the obligations of the individual to whom it refers, especially concerning his or her employment, provided that such individual so requests.

Central authority of the Republic of Slovenia

Article 226

The central authority of the Republic of Slovenia for the exchange of information from a criminal record of the Republic of Slovenia with the competent authorities of other Member States which manage criminal records of such Member States is the department of the ministry responsible for justice which manages the criminal record containing information on *res judicata* criminal convictions of natural or legal persons in the Republic of Slovenia, and on *res judicata* criminal convictions of nationals of the Republic of Slovenia abroad.

Transmission of information to other Member States without prior request

Article 227

(1) The central authority of the Republic of Slovenia shall immediately transmit to the central authority of another Member State information from a criminal record on a *res judicata* criminal conviction regarding a national of such Member State, after having entered such information in the criminal record.

(2) The central authority of the Republic of Slovenia shall also immediately transmit information on the deletion of an entry in a criminal record, as well as other changes to information which affect the rights or obligations or the personal status of a national of another Member State, which have already been transmitted to a central authority of such Member State pursuant to the first paragraph of this Article.

(3) When an individual who is *res judicata* convicted is a national of two or more Member States, the central authority of the Republic of Slovenia shall transmit information to each of such Member States, regardless of whether the individual is also a national of the Republic of Slovenia.

(4) In individual cases and upon the request of a central authority of another Member State to which the central authority of the Republic of Slovenia has transmitted information from a criminal record pursuant to the first, second or third paragraph of this Article, the central authority of the Republic of Slovenia shall forward a copy of a final criminal conviction, related information from a criminal record, and all subsequent measures, if provided by law, regarding the national of such Member State.

Transmission of information to other Member States on request

Article 228

(1) The central authority of the Republic of Slovenia shall, upon the request of a central authority of another Member State completed as a form provided in Annex 13 of this Act and constituting an integral part thereof, transmit information from a criminal record regarding an individual entered therein, under the conditions provided by this Act, or the law regulating the exchange of information from a criminal record. The central authority of the Republic of Slovenia shall send the reply to the request of the central authority of another Member State immediately, within 10 working days of receiving the request at the latest, by means of the form provided in Annex 13 of this Act.

(2) If the request of the central authority of another Member State is based on an application of an individual who has or had his or her permanent residence in the Republic of Slovenia or in the requesting State, or who is or was a national of the Republic of Slovenia or the requesting State, the central authority of the Republic of Slovenia shall transmit information from a criminal record regarding an individual entered therein under the conditions provided by the law regulating the transmission of information from a criminal record. The central authority of the Republic of Slovenia shall send the reply to the request of the central authority of another Member State immediately, within 20 working days of receiving the request at the latest, by means of the form provided in Annex 13 of this Act.

(3) If the central authority of the Republic of Slovenia requires more information in order to identify the person to whom the request applies, it shall immediately consult with the State which issued the request, so that it may transmit information from the criminal record within 10 working days of receiving such additional data.

Reply to a request for the transmission of information to other Member States

Article 229

(1) Upon a request of a central authority of another Member State and for the purpose of conducting criminal proceedings against a national of the Republic of Slovenia entered in a criminal record, the central authority of the Republic of Slovenia shall transmit the following information:

a) on *res judicata* criminal convictions pronounced in the Republic of Slovenia which are entered in a criminal record;

b) on *res judicata* criminal convictions pronounced in other Member States which were communicated to the central authority of the Republic of Slovenia pursuant to Article 225 of this Act after 27 April 2012;

c) on *res judicata* criminal convictions pronounced in other Member States which were communicated to the central authority of the Republic of Slovenia prior to 27 April 2012;

d) on *res judicata* criminal convictions pronounced in third countries which were further communicated to the central authority of the Republic of Slovenia and entered in a criminal record.

(2) Upon a request of a central authority of another Member State for purposes other than criminal proceedings, the central authority of the Republic of Slovenia shall transmit information from a criminal record on *res judicata* criminal convictions pronounced in the Republic of Slovenia, and on *res judicata* criminal convictions pronounced in third countries, in accordance with the law of the Republic of Slovenia regulating the transmission of information from a criminal record.

(3) Upon a request of a central authority of another Member State for the purpose of conducting criminal proceedings or for other purposes such as criminal proceedings against nationals of third countries or stateless persons, the central authority of the Republic of Slovenia shall transmit information on *res judicata* criminal convictions pronounced in the Republic of Slovenia, and *res judicata* criminal convictions further communicated to the central authority of the Republic of Slovenia and entered in a criminal record, within the scope provided by Article 13 of the European Convention on Mutual Assistance in Criminal Matters. The central authority of the Republic of Slovenia shall send the reply to the request of the central authority of another Member State by using the form provided in Annex 14 of this Act.

Request for the transmission of information from a criminal record of another Member State

Article 230

(1) Upon a request of authorities or persons eligible under the law regulating the transmission of information from a criminal record in order to obtain information from a criminal record of another Member State, the central authority of the Republic of Slovenia shall forward the request for data and related information from a criminal record to the central authority of such Member State. The request shall be forwarded using the form provided by Annex 13 of this Act.

(2) If the central authority of another Member State requires additional data in order to establish the identity of the individual who is subject of the request, the central authority of the Republic of Slovenia shall communicate these as soon as possible.

Notifying central authorities

Article 231

(1) The central authority of the Republic of Slovenia shall communicate directly with the central authorities of other Member States.

(2) Requests, replies and additional or other appropriate data may be transmitted by any means capable of producing a written record, under the conditions which enable the central authority of the Republic of Slovenia to verify the authenticity of the provided data and the sender. When transferring requests, replies and additional and other appropriate data via an electronic communication network, the data is considered to be adequately protected if it is transferred by using cryptographic methods and electronic signature so as to ensure their illegibility or non-recognisability during transfer.

Processing of transmitted personal data

Article 232

(1) The Republic of Slovenia may process personal data transmitted by a central authority of another Member State to the central authority of the Republic of Slovenia pursuant to the

provisions of this part of the Act for the purposes of criminal proceedings only for criminal proceedings regarding which such data were requested, and as specified in the form provided in Annex 13 of this Act.

(2) The Republic of Slovenia may process personal data transmitted by a central authority of another Member State to the central authority of the Republic of Slovenia pursuant to the provisions of this part of this Act for purposes other than criminal proceedings, if another law so provides, only for the purpose for which such data were requested, and within the restrictions determined by the Member State which transmitted such data, in accordance with the data from the form provided in Annex 13 of this Act.

(3) The provisions of the first and the second paragraph also apply *mutatis mutandis* when a central authority of another Member State requests from the central authority of the Republic of Slovenia information from a criminal record of the Republic of Slovenia for the purpose of making decisions regarding rights or obligations, or for the detection or prosecution of offenders, or for making decisions on the institution of proceedings, or as part of criminal proceedings.

(4) In exceptional circumstances, personal data transmitted by a central authority of another Member State to the central authority of the Republic of Slovenia pursuant to the first and second paragraphs of this Article may also be processed for the purpose of preventing direct and serious threats to public safety, in accordance with the law regulating the police, or the law regulating defence, or the law regulating the Slovene Intelligence and Security Agency. The state authority which processed such data for additional purposes pursuant to the preceding sentence is required to enter the information on such use in the appropriate database of personal data for a period of 10 years.

Transmission of information to a third country

Article 233

(1) The central authority of the Republic of Slovenia may transmit information and data from Part V of this Act to a third country if they refer to nationals of such country, and on the basis of a binding treaty, or if the data and information have been sent by a third country concerning its national. If the transmission of **information** would cause a risk to the life or health of an individual, or cause torture, inhuman or degrading punishment or treatment, such information or data shall not be sent.

(2) If the central authority of the Republic of Slovenia obtained data or information referred to in the preceding paragraph concerning a national of the Republic of Slovenia from a central authority of another Member State, such data or information may be transmitted only to a competent authority of a third country for the purpose of criminal proceedings in the third country, and on condition of abiding by the prohibition provided by the second sentence of the preceding paragraph.

Rights of an individual to access his or her personal data entered in a criminal record, and cross-border cooperation

Article 234

(1) When a national of another Member State with permanent residence in another Member State, or a national of the Republic of Slovenia with permanent residence in another Member State, or a former national of another Member State or the Republic of Slovenia requests information on the entry or deletion of **information** concerning him or her from a criminal record of the Republic of Slovenia, a central authority of another Member State where such request is filed may, in accordance with the national law, forward a request to the central

authority of the Republic of Slovenia for a transcript of information on such individual and the related information from a criminal record.

(2) When an individual files a request for information on the entry or deletion of data concerning him or her with a central authority of another member State of which he or she is not a national, the central authority of the Republic of Slovenia shall reply to the received request of a central authority of another Member State by providing information and related data from a criminal record of the Republic of Slovenia for the purpose of including such information and data in an extract to be sent to such individual.

(3) When an individual residing in the Republic of Slovenia files a request for information on the entry or deletion of data concerning him or her with the central authority of the Republic of Slovenia, and such individual is not a national of the Republic of Slovenia, the central authority of the Republic of Slovenia shall, as soon as possible or within 10 working days at the latest, forward the received request to a central authority of another Member State. When the central authority of the Republic of Slovenia receives an extract from another Member State, it shall immediately send it to such individual.

(4) The sending of information and data, and extracts thereof, is free of charge pursuant to the provisions of Part V of this Act.

European Criminal Records Information System

Article 235

(1) The European Criminal Records Information System (hereinafter: ECRIS) is a system of information links using information technology to exchange of data and information from the independent criminal records of each Member State.

(2) In accordance with the provisions of this Part of the Act, the electronic exchange of data and information from the criminal record of the Republic of Slovenia and criminal records of other Member States is conducted in the ECRIS system by means of a single standardised code determined in the form provided by Annex 16 of this Act.

(3) Data and information referred to in Part V of this Act may not be exchanged by means of direct online access.

(4) In accordance with the provisions of Part V of this Act, an appropriate code must be affixed in the criminal record of the Republic of Slovenia to each criminal offence, sanction or measure provided as such by the law, for the purpose of implementing this Article. If a criminal offence does not correspond to any specific code, the 'open category' code of the relevant or closest category of criminal offences or, in the absence of the latter, an 'other offences' code, shall be used for that particular criminal offence. The codes are provided in the form in Annex 16 of this Act.

(5) If available, the criminal record of the Republic of Slovenia also ensures information on the manner in which a criminal offence was committed, and the type of participation in the criminal offence, and if necessary, also information on the exclusion of guilt, partial exclusion of guilt or recidivism of the sentenced person.

PART VI

TRANSITIONAL AND FINAL PROVISIONS

Article 236

The Ministry shall notify the competent authorities of the European Union as to which authorities are competent for certain forms of cooperation under this Act, and shall

communicate other data necessary to implement such cooperation within three months of this Act coming into force.

Article 237

(1) On the day this Act becomes applicable, the Cooperation in Criminal Matters with the Member States of the European Union Act (Official Gazette of the Republic of Slovenia, No 102/07 and 9/11 – ZP-1G) ceases to apply.

(2) Regardless of the provision of the preceding paragraph, cases of cooperation in which proceedings were initiated prior to the date when this Act became applicable shall continue and be concluded by applying the provisions of the Act referred to in the preceding paragraph.

(3) The provisions of this Act regarding surrender proceedings to the Republic of Iceland and the Kingdom of Norway shall begin to apply on the day of enforcement of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway, signed on 28 June 2006.

(4) On the day this Act becomes applicable, the second paragraph of Article 206 of the State Prosecutor's Office Act (Official Gazette of the Republic of Slovenia, No 58/11, 21/12 – ZDU-1F and 47/12) ceases to be valid, while the words 'and contact point' are deleted from the title of the said Article.

Article 238

(1) When the technical conditions for the electronic communication of data and information are met for the use of a standardised electronic format as referred to in Part V of this Act, the minister responsible for justice shall issue an order setting a date from which the electronic exchange of information from criminal records of Member States shall begin. The Ministry shall notify the competent authorities of the European Union on the date from when the electronic exchange of information from a criminal record of the Republic of Slovenia will be possible. Such order shall be published in the Official Gazette of the Republic of Slovenia.

(2) Registered mail shall be used to transmit to other Member States data and information which after the date referred to in the preceding paragraph do not meet the technical conditions for the electronic transmission of information, upon request or without request, pursuant to Part V of this Act .

Article 239

This Act shall come into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia, and shall begin to apply three months it enters into force.