

ACT
AMENDING
THE CRIMINAL PROCEDURE ACT

Article 1

The text of Article 3 of the Criminal Procedure Act (Uradni list RS (Official Gazette of the Republic of Slovenia) nos 32/07 – official consolidated text, 102/07 – ZSKZDČEU, 23/08 – ZBPP-B, 68/08, 77/09 and 29/10 – Constitutional Court decision) shall be amended to become the first paragraph of the same Article.

A new second paragraph shall be inserted to read as follows:

"(2) The court may convict the accused only if it is convinced of the guilt of the accused."

Article 2

A new fourth paragraph shall be inserted after the third paragraph of Article 4 to read as follows:

"(4) If an apprehended suspect does not have the means to instruct counsel, the police shall, upon the request of the suspect, appoint a counsel for him at the expense of the state if this is in the interests of justice. The appointed counsel shall also discharge this duty in the proceedings under Article 204a of this Act and in the criminal proceedings against the accused, under the same conditions as a counsel appointed by the court."

Article 3

In Article 20 the word "this" shall be deleted before the word "Act".

Article 4

In the first paragraph of Article 25, point 1) shall be followed by a new point 1a) to read as follows:

"1a) in district courts, the criminal offences referred to in the preceding point in cases under point 2 of the second paragraph of Article 285f of this Act, shall be heard by a single judge".

In point 3) point b) shall be deleted.

A new second sentence shall be inserted in the fifth paragraph to read as follows: "In the annual schedule, the president of the court may authorise another judge of the court to rule in cases which fall within the competence of the president under this Act."

The seventh paragraph shall be deleted.

The current eighth paragraph shall become the seventh paragraph.

Article 5

Article 39 shall be amended to read as follows:

"Article 39

(1) A judge or lay judge may not perform judicial duties in the following circumstances:

1. if he has suffered harm through the criminal offence in question;
2. if he is or has been married to or lives or has lived in a domestic partnership with the accused, his defence counsel, the prosecutor or the injured party or his legal representative or attorney, or if he is related to the aforementioned persons by blood in direct line at any degree of kindred or collaterally up to four degrees of kindred, or related through marriage by up to two degrees of kindred;
3. if his relationship with the accused, the accused defence counsel, the prosecutor or the injured party is or has been that of a custodian or a ward, adopter or adoptee, foster parent or foster child;
4. if he has participated in the same criminal case in the capacity of prosecutor, defence counsel, legal representative or authorised representative of the injured party or the prosecutor, or if he has been heard as a witness or expert witness;
5. if in the same criminal case he took part in the passing of lower court decision or took part in the passing in the same court of a decision challenged by an appeal or a request for protection of legality;
6. if circumstances exist that may cast doubt on his impartiality.

(2) A judge or lay judge may not decide on the charge or appeal or extraordinary legal remedy against the decision that determined the charge:

1. if he had conducted acts of investigation in connection with the same criminal case or took part in determining objections to the indictment or a request of the presiding judge referred to in Articles 271 and 284 of this Act, or conducted the preparatory procedure as a judge for juvenile offenders and a motion for punishment has been submitted;
2. if in the course of determining any question within the proceedings he became acquainted with evidence which under this Act must be removed from the files (Article 83), unless the content of evidence is of such nature that it obviously could not influence his decision;
3. if he has issued a decision rejecting the confession of the accused (second paragraph of Article 285c) or a decision rejecting the agreement on the confession of guilt (Article 450c)."

Article 6

In the first paragraph of Article 40, the words "under points 1 to 4 or point 5" shall be replaced by the words "under points 1 to 5 of the first paragraph and points 1 to 3 of the second paragraph", and the words "in point 4a or 6" shall be replaced by the words "in point 6 of the first paragraph or in point 2 of the second paragraph".

Article 7

In the second paragraph of Article 41, the words "in points 4a or 6" shall be replaced by the words "in point 6 of the first paragraph or in point 2 of the second paragraph".

Article 8

In the first paragraph of Article 44, the words "in point 4a or 6" shall be replaced by the words "in point 6 of the first paragraph or in point 2 of the second paragraph".

In the first sentence of the second paragraph, the words "and assistant public prosecutor" shall be deleted; in the second sentence of the same paragraph the words "the head of the immediately higher Public Prosecutor's Office" shall be replaced by the words "State Prosecutor General"; and in the third sentence the words "Republic of Slovenia" shall be deleted.

Article 9

In the third paragraph of Article 65, the word "child" shall be replaced by the word "minor".

Article 10

At the end of the third paragraph of Article 70, the full stop shall be deleted and the following words shall be inserted "and in other cases provided for by this Act".

Article 11

The last sentence of the second paragraph of Article 83 shall be amended to read as follows: "The parties may request the exclusion of minutes and other evidence only until the end of the pre-trial hearing, and, if there was no pre-trial hearing, until the opening of the main hearing, and may request such exclusion only under the condition referred to in point 4 of the third paragraph of Article 285a of this Act."

The words "by the investigating judge or the single judge" shall be inserted in the third paragraph after the words "The decision"; at the end of the paragraph, a new second sentence shall be inserted to read as follows: "The appeal shall be decided by the court of second instance".

Article 12

The ninth paragraph of Article 84 shall be deleted.

Article 13

In point 1 of the second paragraph of Article 92 the text "or by police officers as authorised officials" shall be deleted".

In the third paragraph the text "and under point 1 of the second paragraph of this Article in relation to the service of documents by police officers as authorised officials" shall be deleted.

Article 14

In the first paragraph of Article 111 the words "by applying [...] the provisions applicable to enforcement procedure" and the words "the third person" shall be deleted.

Article 15

In the second sentence of the first paragraph of Article 117 a full stop shall be inserted after the word "agency" and the rest of the sentence shall be deleted.

Article 16

The first paragraph of Article 129 shall be amended to read as follows:

"(1) A judgment shall be considered final when no appeal is allowed. A judgment against which an appeal has been lodged shall become final on the day on which the court of first instance receives the files with certified copies of the judgment of the court of second instance. When the court of second instance pronounces its decision on the appeal, adopted following a hearing or a panel session, of which the prosecutor, the accused and the counsel had been duly notified, the judgment becomes final on the day the decision is pronounced."

Article 17

Article 129 shall be followed by a new Article 129a to read as follows:

"Article 129a

(1) The president of the panel or the single judge of the court that delivered the judgment in the first instance shall decide on the proposal that during the serving of the sentence the convicted person may, in certain days, reside at home, that the sentence of imprisonment may be substituted by house detention, that sentence of imprisonment or fine may be substituted by community service or that the fine may be paid in instalments.

(2) The proposal referred to in the preceding paragraph shall be lodged by the convicted person, his counsel or the person referred to in the second paragraph of Article 367 of this Act (the applicant) within fifteen days of the judgment becoming final.

(3) The judge shall dismiss any proposals that are belated, inadmissible or contain manifestly ill-founded reasons; with regard to other proposals, the judge shall order the examination of the facts and the submission of the evidence referred to in the proposal; where appropriate, the judge shall schedule a hearing. If the convicted person fails to attend the hearing, he shall be deemed to have withdrawn his proposal.

(4) An appeal against the decision on the proposal referred to in the first paragraph of this Article may be lodged by the applicant and by the state prosecutor.

(5) The provisions referred to in the preceding paragraphs of this Article shall apply, *mutatis mutandis*, to deliberation on the implementation of the sentence related to a breach of the rules of house detention or related to the breach of rules of community service or to deliberation on the manner of implementation of house detention or community service.

(6) The president of the panel or the single judge of the court that imposed a pecuniary fine at the first instance shall, by way of a decision, order the immediate payment of a fine in the event of the late payment of an instalment; and shall issue a judgment on a conversion of a fine, which cannot be forcibly collected, into a prison sentence."

Article 18

In the third paragraph of Article 140 the words "state prosecutor general" shall be replaced by the words "Office of the State Prosecutor General."

Article 19

Article 143 shall be followed by a new Article 143a to read as follows:

"Article 143a

(1) Any natural or legal person which, in order to meet obligations or to exert rights provided by law, or to the extent this is necessary for obtaining employment, needs a certificate proving that he is not subject to criminal proceedings for criminal offences prosecuted *ex officio*, has the right to obtain a certificate from the court containing information as to whether there are criminal proceedings conducted against him.

(2) In compliance with the provisions of this Act on territorial jurisdiction any court of first instance having general jurisdiction in the Republic of Slovenia shall issue the certificate referred to in the preceding paragraph by printing or copying from the information system for monitoring criminal proceedings in the Republic of Slovenia or from other documents held by the judiciary the information that a natural or legal person is not subject to criminal proceedings for criminal offences prosecuted *ex officio* or the information that such person or persons are subject to criminal proceedings. The certificate attesting that a natural or legal person is subject to criminal proceedings shall indicate the criminal offence only in cases where such indication or the indication of the kind of criminal offence is required by another law; otherwise it shall only be indicated that the criminal offence is prosecuted *ex officio*.

(3) In order to obtain the certificate referred to in the first paragraph a natural person shall personally present a valid identification document from which his identity may be established without doubt; the certificate for a legal person shall be obtained by its legal representative who shall present in person an adequate document on legal representation and a valid personal identification document from which his identity may be established without doubt.

(4) Natural or legal persons shall pick up the certificate in person, and their identity shall again be established in compliance with the rules referred to in the preceding paragraph. Natural and legal persons may, upon agreement, be sent the certificate by registered post. For each certificate issued, the court shall note the legal

basis for its issuing, the written statement of the natural person or legal representative that a certificate is needed and for what purpose it will be used in compliance with the first paragraph of this Article, and shall verify the indication in the application of the type, number and date of issuance of the valid personal identification document referred to in the preceding paragraph. Employers and other persons may obtain a certificate on whether their employee or other person with whom they engage or are to engage in legal relations is subject to criminal proceedings only on the basis of the explicit written consent of the natural or legal person to which such data refer, or in cases explicitly provided by law.

(5) In exceptional cases, when this is necessary for efficient and prompt protection of rights or exercising of obligations of natural or legal persons who operate in other countries and cooperate, wish to cooperate or work for an international organisation, diplomatic and consular missions of the Republic of Slovenia or diplomatic and consular missions representing the Republic of Slovenia may obtain such certificate by applying, *mutatis mutandis*, the provisions of the preceding paragraphs of this Article."

Article 20

In point 2 of the fourth paragraph of Article 149a the text "threatening the safety of another person" shall be replaced by the text "threats", the text "import and export of radioactive substances (Article 334)" shall be replaced by the text "pollution of seas or waters by ships (Article 333)".

The thirteenth paragraph shall be followed by a new fourteenth paragraph to read as follows:

"(14) In cases where the criminal offences referred to in the fourth paragraph of this Article arise, for which the perpetrator is prosecuted by private action, the injured party may submit to the police or the state prosecutor a motion for the submission of a written proposal for the authorisation or ordering of the measures provided for in the preceding paragraphs, and may examine reports on their implementation and the evidence collected on the criminal offence which served as the basis for ordering the measures."

Article 21

In the first paragraph of Article 149b the words "using electronic communication networks" shall be deleted, and the word "him" shall be replaced by "the competent body".

In the third paragraph the words "of the electronic communications network" shall be deleted after the word "operator".

In the fourth paragraph the words "electronic communications" shall be deleted, the words "investigating judge" shall be replaced by the words "competent body".

Article 22

In point 2 of the second paragraph of Article 150 after the words "Article 134" a comma shall be put and the words "the recruitment of persons under fifteen years of

age for sexual purposes (Article 173a), exploitation through prostitution (Article 175" shall be inserted after the words "Article 250" a comma shall be put and the words "harm to public funds (Article 257a" shall be inserted; the words "causing of danger with nuclear substances (third paragraph of Article 316" shall be replaced by the words "illegal management of nuclear and other radioactive substances (Article 334)".

Article 23

In the first paragraph of Article 156 the words "or savings-credit service" shall be replaced by a comma and the words "payment institution or an electronic money company".

In the second paragraph the words "or savings-credit service" shall be replaced by a comma and the words "payment institution or an electronic money company".

In the first sentence of the third paragraph the words "or savings-credit service" shall be replaced by a comma and the words "payment institution or an electronic money company", the words "or savings-credit service" in the second sentence of the third paragraph shall be replaced by a comma and the words "payment institution or an electronic money company".

After the fourth paragraph a new fifth paragraph shall be inserted to read as follows:

"(5) If there are reasonable grounds for suspecting that the criminal offence for which a perpetrator is being prosecuted *ex officio* has been committed or is being prepared, and in order to uncover this criminal offence or the perpetrator thereof it is necessary to obtain information on the holder or the authorised person of a certain payment account, savings account or cash deposit, on the renter or the authorised person of a safety deposit box and on the period in which they were or are being used, the police may, by a written request, order the bank, savings bank, payment institution or the electronic money company to furnish them without delay such information even without the consent of the person to whom these information refers."

The current fifth paragraph shall become the sixth paragraph and amended to read as follows:

"(6) The bank, savings bank, payment institution or an electronic money company may not disclose to their clients or third persons that they have sent, or will send, the information and documents to the investigating judge or the police (preceding paragraph)."

Article 24

At the end of the fifth paragraph of Article 157 the following words shall be inserted: "If a detained person who is on mission abroad may not be brought without delay before the investigating judge competent in compliance with the first paragraph of Article 29 of this Act for reasons of distance or other extraordinary objective reasons, the person deprived of freedom and the state prosecutor shall be informed forthwith, and when the person is brought before the judge, the delay shall be justified in writing."

Article 25

In the first paragraph of Article 160a after the words "police work" the words "and work of the statutory competent body within the ministry responsible for defence (Article 158)," shall be inserted.

Article 26

In point 4) of the first paragraph of Article 162, the full stop shall be replaced by a semicolon and new points 5) to 7) shall be inserted to read as follows:

"5) medical treatment in an appropriate health institution;
6) attendance of psychological or other types of counselling;
7) complying with restraining orders to keep away from the victim, some other person or certain places."

In the second paragraph after the words "(Article 187)" the following words shall be inserted "family violence (second and fourth paragraphs of Article 191), neglect and maltreatment of a minor (second paragraph of Article 192)"; the words "embezzlement and unauthorised use of another's property (first paragraph of Article 209" shall be deleted, the words "issuing a bad cheque and the abuse of debit or credit card (first and)" shall be replaced by the words "abuse of non-cash means of payment".

The fourth paragraph shall be amended to read as follows:

"(4) If within a time limit defined by the state prosecutor the suspect fulfils the obligation undertaken and pays the costs the criminal complaint shall be dismissed."

After the fifth paragraph new sixth and seventh paragraphs shall be inserted to read as follows:

"(6) General instructions issued by the state prosecutor general shall define the payment of costs of deferred prosecution, manner and time limits for fulfilling the obligations referred to in the first paragraph of this Article, control over the implementation; they shall also define in detail special circumstances referred to in the second paragraph of this Article which affect the decision of the state prosecutor to defer prosecution.

(7) The provisions of this Act on the costs of criminal proceedings shall apply, *mutatis mutandis*, to costs incurred and to be borne by the State Prosecutor's Office in deliberating on the deferred prosecution. Costs of fulfilment of obligations referred to in the first paragraph of this Article are not the costs of the criminal proceedings."

Article 27

In the second paragraph of Article 163a after the words "(Article 161a)" the words "or conclude an agreement on the confession of guilt" shall be inserted.

Article 28

At the beginning of the first sentence of the sixth paragraph of Article 170 the words "in case" shall be deleted and the following words shall be inserted: "If the state prosecutor concluded with the accused an agreement on the confession of guilt or in case".

Article 29

In the sixth paragraph of Article 178 the words "state prosecutor general" shall be replaced by the words "Office of the State Prosecutor General."

Article 30

In the fourth paragraph of Article 184 the words "state prosecutor general" shall be replaced by the words "Office of the State Prosecutor General."

Article 31

In the first paragraph of Article 202 a new sentence shall be inserted to read as follows: "Motions for ordering and extension of remand shall state the reasons on which they are based".

Article 32

The fourth and fifth sentences of the second paragraph of Article 205 shall be replaced with the following text: "The decision on the extension of remand shall be issued by the court on the basis of a proposal by the state prosecutor who shall file the proposal at least five days before the expiry of the period of remand. The accused and his defence counsel must be informed of the proposal without delay, and they may submit their statement on the declarations in the proposal. The accused and his defence counsel may take note of the proposal and submit their observations during a special hearing."

After the second paragraph a new third paragraph shall be inserted to read as follows:

"(3) The investigating judge shall submit the proposal for extension of remand and the relevant file to the panel of the competent court, indicating which procedural acts he intends to carry out during the investigation and the envisaged timeframe for the conclusion of the investigation."

In the current third paragraph, which shall become the fourth paragraph, the words "from the preceding paragraph" shall be replaced by the words "from the second paragraph of this Article".

Article 33

The first sentence of the first paragraph of Article 207 shall be amended to read as follows: "Unless otherwise provided by this Act (third paragraph of Article 272), after the filing of the indictment until the pronouncement of the judgment by the court of first instance, remand shall be decided by the panel."

In the second paragraph the words "by which remand is extended or lifted" shall be replaced by the words "by which it establishes that grounds for remand still exist, or lifts the remand order."

Article 34

Article 211 shall be amended to read as follows:

"Article 211

(1) For the purposes of lawful and proper execution of remand and of protection of human rights and fundamental freedoms the Prison Administration of the Republic of Slovenia shall, for each prison, manage a remand prisoner database and shall process data from this database.

(2) The database referred to in the preceding paragraph shall comprise:

1. - data on the identity of the remand prisoner and his or her personal circumstances;
 - first name and family name, and alias, if any;
 - date and place of birth;
 - residence data,
 - personal registration number;
 - tax identification number,
 - personal photograph,
 - fingerprints,
 - basic physical characteristics;
 - information on family conditions;
 - data on citizenship;
 - data on general medical condition of the person when received into prison on remand and on possible disabilities;
 - data on the legal representative;
2. data on the decision on remand,
 - the court deciding on the remand;
 - number and issuing date of the decision;
 - criminal offence the person is charged with;
 - legal grounds for remand;
3. data on the work performed while on remand,
 - type of work performed;
 - post to which the person has been assigned;
 - duration of work and of any absences from work;
 - payment received for work performed;
4. data on reception to a remand prison and the duration, extension and lifting of remand,
 - datum and hour of reception to a remand prison;
 - hour when the person was served the decision;
 - data on the decision on extension of remand;
 - data on the decision on lifting of remand prison;
 - date and hour of release from remand prison;
5. data on behaviour of the remand prisoner and on any disciplinary measures taken;
 - data on the prisoner's personality and behaviour;
 - data necessary for the preparation of the safety assessment and for ensuring the safety of the remand prisoner;
 - type of disciplinary offence;
 - type of disciplinary sanction;
 - duration of disciplinary sanction.

(3) The Prison Administration of the Republic of Slovenia shall collect personal data for the purpose of the remand prisoner database referred to points 1 to 5 of the preceding paragraph directly from the remand prisoner to whom they refer, it shall collect such data from other persons only on the basis of the remand prisoner's written consent. Notwithstanding the provisions of the preceding sentence the data on

the remand prisoner, whenever possible, shall be collected from judicial bodies, the police and other government bodies and public institutions.

(4) Data in the database shall be stored and used for the duration of the remand; after the remand is lifted the data shall be kept for ten years in the archives of the Prison Administration of the Republic of Slovenia, whereupon they shall be deleted.

(5) The Prison Administration of the Republic of Slovenia, in its capacity as the manager of the remand prisoner database referred to in the second paragraph of this Article, shall transmit the data from this database to users who, in compliance with the law, require the data in order to deliberate in proceedings, or on the basis of the written consent or request of the person to whom such data refer.

Article 35

After Article 211 a new Article 211a shall be inserted to read as follows:

"Article 211a

(1) For the purposes of the lawful and proper execution of remand, and in order to ensure safety in remand prisons, the protection of human rights and fundamental freedoms, supervision of the implementation of decisions of courts, and cooperation with the police and the State Prosecutor's Office in compliance with the law, the Prison Administration of the Republic of Slovenia shall manage the central records of remand prisoners for each prison, and process the data from this database.

(2) The central record of remand prisoners of the Republic of Slovenia shall contain data from the remand prisoner database referred to in the second paragraph of Article 211.

(3) The records shall be managed using information technology.

(4) In order to ensure that the data in the records of the Prison Administration of the Republic of Slovenia are accurate and up to date, the managers of the Central Population Register, of the records of the Tax Administration and of the Health Insurance Institute and of the data on social transfers shall transmit without charge the necessary data or shall allow the Prison Administration, without compensation, direct electronic access to such data, so that data may be viewed, transcribed, printed or copied. The Administration shall collect data or access to the records and in other databases by indicating the full name and address of the remand prisoner, the legal basis and reason for access, and the number of the file or by unique identifiers.

(5) The data in the records shall be stored and used for the duration of the remand; after the remand is lifted data shall be kept for ten years in the archives of the Prison Administration of the Republic of Slovenia, whereupon they shall be deleted.

(6) The Prison Administration of the Republic of Slovenia as the manager of the records on remand prisoners referred to in the second paragraph of this Article shall transmit data from these records to users who, in compliance with the law, require the data in order to deliberate in proceedings, or on the basis of the written consent or request of the person to whom such data refer.

(7) At the proposal of the Director-General of the Prison Administration of the Republic of Slovenia the minister responsible for justice shall prescribe more detailed

rules on the management and processing of central record data on remand prisoners of the Republic of Slovenia.

Article 36

In the first paragraph of Article 227 the words "his mother's maiden name" shall be replaced by the words "also previous personal name, if it has been modified", the words "if and when he did military service" shall be deleted.

Article 37

After Article 235, new Articles 235a and 235b shall be inserted to read as follows:

"Article 235a

(1) If the head of the competent body (head) who has received a reasoned request of the court to absolve a witness (witness) from the obligation to protect confidential data referred to in the first paragraph of Article 235 of this Act considers that such absolve is not possible in part or in full, as disclosure of confidential data would put at serious risk the life or personal safety of such witness or individual who had cooperated with the competent body, or a person close to them or the national safety or the effectiveness of the tactics and methods of work of the competent body, or there are other lawful reasons or interests or rights protected by the constitution or by the law, he shall submit, within fifteen days of receipt of such request, a reasoned written justification (opinion) to the president of the higher court (president) of the district to which the court issuing the request belongs.

(2) The head shall allow the president to view all information which he considers may not be absolved from the obligation of protection of confidential data. If the head invokes special reasons for protection of confidentiality, the head shall allow the president to view confidential data on the premises and in a manner and at a time determined by him.

(3) The president shall inform the parties and the counsel not only that proceedings shall be carried out in compliance with this Article, but also of the opinion of the head of the competent body, and shall allow them to express their opinion, within three days and in writing, on the soundness of reasons for confidentiality.

(4) When deliberating on the absolution from the obligation of confidentiality the president shall decide if the principle of respect of legal guarantees in the criminal proceedings may prevail over the reasons for not disclosing confidential data. In his deliberation the president shall not be bound by reasons provided by the head, but shall be obliged to consider also other important reasons for not disclosing confidential data. The president shall take his decision by applying, *mutatis mutandis*, the provisions of the fifth paragraph of Article 240a of this Act.

(5) If the president orders that the witness shall be absolved from the obligation of confidentiality, in his decision he shall, *ex officio*, define the scope and the conditions of disclosure and any security measures by applying, *mutatis mutandis*, the provisions of the first paragraph of Article 240a of this Act.

(6) The parties and the counsel may appeal against the decision of the president to absolve or not a witness from the obligation of confidentiality within three days of the serving of a copy of the decision. The appeal shall be decided by the president of the supreme court by applying, *mutatis mutandis*, the provisions of this Article.

Article 235b

(1) When in a criminal proceedings there is the necessity to hear a witness for which security measures have been put in place in compliance with the fifth paragraph of Article 235a of this Act, the investigating judge, the single judge or the president of the panel shall examine the necessary data relating to the identity of the witness by viewing the file at the premises of the president of the court referred to in the first paragraph of Article 235a of this Act or shall verify the identity of the witness with the witness's assistance by applying, *mutatis mutandis*, the provisions of the sixth paragraph of Article 240a of this Act.

(2) During the hearing of the witness referred to in the first paragraph of this Article the judge shall not allow any questions where the witness, in his answers, could disclose confidential data he is obliged to keep secret, in a scope larger than permitted."

Article 38

In the third paragraph of Article 240 the words "his age" shall be replaced by the words "the day, month and year of birth". At the end of the second sentence, the full stop shall be deleted and the following words shall be inserted "or place of employment". The third sentence shall be amended to read as follows: "A police officer or the authorised official of another state body authorised by the police who appears as a witness may, instead of his place of residence tell the name of the unit to which he belongs, while the persons referred to in point 5 of the first paragraph of Article 236 of this Act may provide their address and job title when invited as witnesses in relation to their work."

Article 39

Point 6) of the first paragraph of Article 269 shall be amended to read as follows:

"6) exposition giving a description of the facts of the case to be substantiated by the evidence proposed, and the position of the public prosecutor on the arguments of the defence.

A new second paragraph shall be inserted after the first paragraph to read as follows:

"(2) In the indictment, the state prosecutor may propose the type and duration of the sentence to be imposed on the accused if the accused, when he first makes a statement on the charge, confesses his guilt; the state prosecutor may propose a lenient sentence, the manner of implementing the sentence, or an admonitory sanction instead of a sentence, in compliance with the conditions and scope provided for by criminal law.

The current second and third paragraphs shall become the third and fourth paragraphs respectively.

Article 40

In the first paragraph of Article 272 the words "or the motion for his release" shall be deleted.

The second paragraph shall be amended to read as follows:

"(2) If the accused has been kept on remand and an extension of remand is proposed in the indictment, the court shall examine the proposal and respond to it within 24 hours. The panel referred to in the preceding paragraph shall decide on the proposal within three days of receipt of the proposal or by the time limit set for the response, and issue a decision on the extension or on the lifting of remand."

New third and fourth paragraphs shall be inserted after the second paragraph to read as follows:

"(3) If the accused has been on remand and the indictment does not contain the proposal for extension of remand, the president of the panel shall issue a decision lifting the remand without delay.

(4) An appeal against the decision referred to in the preceding paragraphs shall not stay its execution."

Article 41

In the second paragraph of Article 276 the words "state prosecutor general" shall be replaced by the words "Office of the State Prosecutor General."

Article 42

In the second paragraph of Article 284 the words "main hearing has been fixed" shall be replaced by the words "the pre-trial hearing has been fixed".

Article 43

In Article 285 the words "scheduled the trial" shall be replaced by the words "scheduled the pre-trial hearing".

Article 44

After the title "B. MAIN HEARING AND JUDGMENT" a new Chapter XIX and Articles 285a to 285f shall be inserted to read as follows:

"Chapter XIX PRE-TRIAL HEARING

Article 285a

(1) After the indictment becomes final the president of the panel shall call a pre-trial hearing, where the defendant shall give a statement of guilt and on the further course of the criminal proceedings. The parties and the counsel are summoned to the hearing. Concerning the summons and publicity of the hearing the provisions on summons and publicity of the main hearing shall be applied *mutatis mutandis*.

(2) Minutes of the hearing shall be made and signed by all persons present.

(3) In the summons referred to in the first paragraph the accused shall be instructed of the following:

1. at the hearing the defendant may plead guilty or not guilty (of the criminal offence) as charged;
2. attendance at the pre-trial hearing is mandatory, except in cases referred to in the fourth paragraph hereto; a defendant who fails to attend without a justified reason may be forcibly brought to court or remanded to prison;
3. if the defendant does not plead guilty as charged, the defendant has the right to propose the exclusion of the president of the panel and exclusion of evidence, propose what evidence the court should examine at the main hearing and submit other procedural motions, and may give a statement on the course of the main hearing;
4. in the further course of the criminal proceedings the defendant will have the right to provide evidence and to submit other motions, to request exclusion of the president of the panel and of evidence subject to providing valid reasons why such evidence had not been produced at the current hearing;
5. that by giving a statement of guilt which may not be retracted, the defendant renounces to his right of his guilt be deliberated by the court at the main hearing, and that evidence will be taken only with reference to the circumstances that are relevant to the sentence;
6. of the defendant's right to have a counsel who may attend the hearing.

(4) If the defendant who filed an objection to the charges does not attend the pre-trial hearing, the pre-trial hearing shall not be held and it shall be deemed that the defendant does not plead guilty as charged, that he renounces to the possibility to negotiate the course of the main hearing that shall be called on the basis of the final indictment, and that he shall be subject to consequences referred in points 3 and 4 of the preceding paragraph.

(5) If there are several defendants, a pre-trial hearing may be held separately for each.

Article 285b

(1) A hearing at which the accused gives a statement of guilt shall only be held in the presence of both parties and, in cases when the presence of defence counsel is mandatory, of the counsel.

(2) If the state prosecutor fails to attend the hearing, the hearing shall be adjourned and the Office of the State Prosecutor General shall be notified thereof.

(3) If the defendant or the counsel fails to attend the hearing, the hearing shall be adjourned. To ensure attendance at a mandatory hearing the president of the panel has the right to order that the defendant be forcibly brought to court or remanded to prison subject to the same conditions that apply to the main hearing; if the counsel fails

to attend the hearing, the president of the panel may impose on him the fine provided for in Article 78 of this Act.

(4) At the hearing, the president of the panel shall establish that the defendant has understood the contents of the indictment and shall instruct him in compliance with points 3 to 5 of the preceding paragraph; then he shall ask the defendant to plead guilty or not guilty as charged.

(5) If the president of the panel establishes that the defendant did not understand the instructions referred to in the preceding paragraph he shall appoint to the defendant a counsel *ex officio* for the duration of the pre-trial hearing, and shall adjourn the hearing.

(6) The defendant's counsel may not give a statement of guilt in the name of the defendant.

Article 285c

(1) If the defendant pleads guilty, the president of the panel shall consider the following:

1. whether the defendant understood the nature and consequences of the plea;
2. whether the confession of guilt was given of his own free will;
3. whether the confession of guilt was clear and full and supported by other evidence in the file.

(2) After the evaluation of the requirements referred to in the first paragraph, the president of the panel shall decide, by way of a decision, to either accept or reject the defendant's confession of guilt. No appeal shall be allowed against this decision, which shall be noted in the minutes.

(3) The defendant may not retract the statement of guilt that has been accepted by the president of the panel. However, the defendant may, in the continuation of the proceedings, modify his statement that he is not guilty, and may confess his guilt.

(4) When pleading guilty, the defendant may declare to acknowledge or not the claim of the injured party.

(5) Following the confession of guilt the president of the panel shall request the parties propose which evidence shall be examined at the hearing for the pronouncement of the sentence, to submit their proposal as to the composition of the court at the said hearing, and fix the date of the said hearing. He shall advise that the hearing will be held in the absence of the parties and the counsel if they fail to attend the hearing without justification. This instruction shall be entered in the minutes.

(6) At the proposal of the parties and if the president of the panel deems that all conditions have been met, the hearing for the pronouncement of the sanction may be held immediately after the confession of guilt has been accepted.

(7) If the defendant is charged with several criminal offences and pleads guilty for only some, the indictment shall be decided by way of a single decision after the main hearing had been held. When reasonable the president of the panel may decide that proceedings concerning criminal offences for which the defendant had pleaded guilty and the confession was accepted shall be continued in compliance with the

provisions of Article 285č, while the proceedings concerning the criminal offences for which the defendant did not plead guilty shall be excluded and conducted separately.

Article 285č

(1) The hearing for the pronouncement of the sanction shall be conducted by the court in the same composition as when deliberating on the indictment at the main hearing, unless the parties agree that the president of the panel may carry out the hearing.

(2) The injured party who has not been summoned as witness and has not yet been advised of his right to file a claim shall be informed of his right to attend the hearing and to exercise his rights in compliance with the provisions of this Act at the main hearing. The court may advise the injured party before the pre-trial hearing of his right to file such a claim.

(3) The hearing shall be public. The public may be excluded subject to the conditions and procedure that apply to the exclusion of the public from main hearings.

(4) The hearing shall be conducted by applying, *mutatis mutandis*, the provisions of this Act on the main hearing; however, the president of the panel shall read the decision accepting the confession of guilt, and, only the evidence relevant to the pronouncement of the sanction shall be examined in the taking of evidence. The defendant shall be given the opportunity to express himself on all circumstances that are relevant for the pronouncement of the sanction.

(5) In his concluding speech the state prosecutor may modify his proposal for the imposition of the sanction in favour of the defendant.

(6) In a judgment where the defendant was found guilty, the court may not impose a heavier penalty than that proposed by the state prosecutor. The provisions of Chapter XXII of this Act shall apply, *mutatis mutandis*, to the judgment, but not to the explanation of statement of guilt, which shall be limited to the statement that the defendant had pleaded guilty before the president of the panel who accepted the confession.

Article 285d

(1) If the defendant pleads not guilty at the hearing referred to in Article 285b he may indicate the facts with which he agrees in the indictment. If the defendant refuses to make a statement concerning guilt – or if the court refuses to accept his confession – it shall be deemed that the defendant pleads not guilty.

(2) After the defendant has given his statement on guilt the president of the panel shall ask him to propose evidence to be examined at the main hearing, to give other procedural proposals, and propose the exclusion of inadmissible evidence.

(3) The proposals referred to in the preceding paragraph shall be specified, and reasons for them provided. If exclusion of evidence is proposed the reasons why a piece of evidence included in the indictment should be inadmissible; for evidence examined by the court at the main hearing it shall be indicated which facts they are supposed to prove.

(4) The state prosecutor shall have the right to respond to the proposals of the defence.

Article 285e

(1) The president of the panel shall decide on the defence's proposals for exclusion of evidence after the hearing referred to in Article 285b. If this is not possible owing to the complexity of the case or lack of data in the written documents in the file, the president of the panel may examine the relevant evidence before taking a decision.

(2) The president of the panel shall decide on the proposal referred to in the preceding paragraph by way of a special decision. An appeal shall be allowed against this decision; the appeal shall be decided by a court of second instance. After the decision becomes final, the excluded evidence shall be sealed in a separate envelope and kept apart from other files.

(3) If the parties do not propose exclusion of evidence but the president of the panel establishes that the file contains minutes, information or other evidence which, in compliance with Article 83 of this Act shall be excluded, he shall act in accordance with the provisions of the preceding paragraph.

(4) The president of the panel shall decide on other procedural proposals given by the parties on condition that he has jurisdiction to do so and if such decision is reasonable considering the situation of the case.

Article 285f

(1) The president of the panel shall instruct the defendant who pleaded not guilty at the pre-trial hearing on the possibility of concluding an agreement in order to accelerate the course of the main hearing and its termination, on the condition that he waives certain rights granted by this Act.

(2) On the basis of the statement by the defendant and after hearing the opinion of the State prosecutor, the president of the panel shall have the right to decide the following:

1. that the date, hour and venue of the main hearing be promptly determined and that it shall be deemed that parties and counsel have been duly summoned to the main hearing;
2. that the defendant shall be judged by a single judge of the district court instead of the court sitting in the prescribed composition;
3. that in cases where the defendant fails to attend the main hearing without valid reason the main hearing may be held in his absence, unless the panel establishes that the defendant's presence is imperative;
4. that a certain witness or a certain expert witness shall not be summoned to the main hearing but that the minutes of their hearing or the written report and opinion shall be read.

Article 45

The first sentence of the second paragraph of Article 286 shall be amended to read as follows: "The president of the panel shall schedule the main hearing within two months of the termination of the hearing referred to in Article 285b of this Act."

The third and fourth paragraphs shall be deleted.

Article 46

In the second sentence of the first paragraph of Article 288 after the words "in his objection to the indictment" the following words shall be inserted "or after the hearing referred to in Article 285b of this Act".

Article 47

In the first sentence of the first paragraph of Article 289 after the word "parties" the following words shall be inserted "on the condition they provide substantial grounds (well-founded reasons) as to why they had not made such a request at the pre-trial hearing."

Article 48

The second paragraph of Article 299 shall be amended to read as follows:

(2) It shall be the duty of the president of the panel to see to it that the case is elucidated from all aspects and that whatever might protract proceedings without contributing to elucidation of the case be eliminated."

Article 49

The first, second and fourth paragraphs of Article 304 shall be deleted.

Article 50

In the first paragraph of Article 306 the words "state prosecutor general" shall be replaced by the words "Office of the State Prosecutor General."

Article 51

In the first paragraph of Article 321, the words "with the reading" shall be replaced by "with the presentation"; in the second paragraph, the word "read" shall be replaced by "presented".

A new sixth paragraph shall be inserted after the fifth paragraph to read as follows:

"(6) After the commencement of the main hearing, the state prosecutor may put forward a new proposal (motion) referred to in the second paragraph of Article 269 of this Act."

Article 52

The third paragraph of Article 329 shall be amended to read as follows:

"(3) Unless the panel decides otherwise, in the taking of evidence, the evidence proposed by the state prosecutors shall be heard first, followed by the evidence proposed by the defence and finally the evidence ordered by the panel *ex officio* to be taken. If the injured party present has to be heard as a witness, he shall be questioned immediately after the defendant."

In the fourth paragraph after the word "parties" a comma and the following words shall be inserted "under the condition referred to in point 4 of the third paragraph of Article 285a of this Act".

Article 53

Article 330 shall be amended to read as follows:

"Article 330

If during the main hearing the defendant pleads guilty as charged and the confession is accepted by the panel, the hearing shall be continued by applying, *mutatis mutandis*, the provisions of Articles 285c and 285č of this Act."

Article 54

The first paragraph of Article 344 shall be amended to read as follows:

(1) If when taking evidence the prosecutor finds that the evidence taken indicates that the factual situation as described in the indictment has changed, he may modify the indictment orally and may also propose to adjourn the main hearing in order to prepare a new indictment. The modified indictment may only refer to actions that are the subject of the original indictment."

Article 55

In the first paragraph of Article 345 the words, "If the defendant commits a criminal offence while the court is in session for the main hearing, or" shall be deleted, the word "if" shall be replaced by "If" and the words "by him" shall be replaced by the words "by the defendant".

Article 56

After the second paragraph of Article 359 a new third paragraph shall be inserted to read as follows:

"(3) The court may decide in its judgment that the convicted person may serve his sentence at home on certain days, that the sentence of imprisonment may be substituted by house detention, and that the sentence of imprisonment or fine may be substituted by community service."

The current third paragraph shall become the fourth paragraph.

Article 57

Article 361 shall be amended to read as follows:

"Article 361

(1) In passing a judgment by which the defendant is sentenced to imprisonment, the panel shall, on the basis of a reasoned proposal by the state prosecutor and following a hearing of the defendant and his counsel, order remand; or, in cases where the defendant is already held on remand, order the remand to be extended if any of the reasons referred to in points 1 to 3 of the first paragraph of Article 201 of this Act exist.

(2) The provisions of the preceding paragraph shall be applied, *mutatis mutandis*, to the restraining measures concerning a specific place or person in the event of a suspended sentence with custodial supervision and specific instructions to keep away from the victim or another person, or to stay away from specified places.

(3) The panel shall always lift remand and order the release of the defendant if the state prosecutor does not request extension of remand before the pronouncement of the judgment, if the defendant was acquitted or he was found guilty but his sentence was remitted, if he was only sentenced to a fine or received a judicial admonition or his sentence was suspended, if due to the inclusion of remand in custody in the extent of punishment he has already served the sentence, if the charge was rejected or the indictment was dismissed, save where the latter was dismissed on the grounds that the court did not have the necessary jurisdiction.

(4) After the issuing of the judgment and until the judgment becomes final or until the commencement of serving of the sentence the decision to order or to lift the remand in custody shall be adopted by the panel of the court of first instance (sixth paragraph of Article 25). Remand to custody shall be ordered on a reasoned proposal by the state prosecutor, and shall be lifted *ex officio* or on the proposal of the parties and hearing the opinion of the state prosecutor, if the proceedings were initiated at his request.

(5) The panel shall decide on the ordering, extension or lifting of remand referred to in the preceding paragraphs by way of a special decision. An appeal against this decision shall not stay its execution.

(6) Detention ordered or extended under the provisions of the preceding paragraphs of this Article may last until the commencement of the serving of sentence, but no longer than until the expiry of the term of sentence pronounced in the judgment of the court of first instance.

(7) A defendant in remand prison who has been sentenced to imprisonment may, upon his request, be transferred to a prison under a decision of the president of the panel even before the judgment has become final."

Article 58

In the fifth paragraph of Article 367 the words "second paragraph of Article 75" shall be replaced by the words "Articles 75, 77a and 77b".

Article 59

The text of Article 370 shall become the first paragraph of this Article.

A new second paragraph shall be inserted to read as follows:

"(2) A judgment pronounced on the basis of the accepted confession of guilt and an agreement on the confession of guilt may not be challenged on the ground referred to in point 3 of the preceding paragraph; while a judgment pronounced on the basis of a concluded agreement on the confession of guilt may not be challenged on the ground referred to in point 4 of the preceding paragraph, if the judgment was pronounced in compliance with conditions set by the state prosecutor for the confession of guilt in his indictment or with the concluded agreement on the confession of guilt."

Article 60

In point 2 of the first paragraph of Article 371 the words in brackets shall be replaced by the following words "points 1 to 5 of the first paragraph and points 1 to 3 of the second paragraph of Article 39".

Article 61

In the first paragraph of Article 374 the words "as to which penal institution the defendant should be placed in" shall be replaced by the words "as to the method of its execution".

Article 62

The second sentence of the first paragraph of Article 377 shall be deleted.

The second paragraph shall be deleted.

The current third paragraph shall become the second paragraph and shall be amended to read as follows:

"(2) At the proposal of the judge acting as rapporteur the president of the panel shall schedule the session of the panel."

The current fourth and fifth paragraphs shall become the third and fourth paragraphs.

Article 63

The first paragraph of Article 378 shall be amended to read as follows:

"(1) If any party or counsel requests to be informed of the session of the panel or if the president of the panel or the panel consider that their presence at the session is useful for the clarification of the case, the court shall inform of the session all parties and counsels."

The third paragraph shall be amended to read as follows:

(3) A panel session shall be chaired by the president of the panel. The session shall open with the report of the judge acting as rapporteur on the facts and presentation of the appeals to be deliberated. If the party which had lodged the appeal is present at the session, this party shall present the main points of the appeal, and the opposing party may respond to the appeal. The panel may ask the parties present at

the session to give the necessary explanations concerning their statements, and concerning the allegations in the appeal and in the response to the appeal. The parties may, on the basis of their reasoned proposal, be allowed, in order to be able to complement the statements in their appeal, to read certain documents or writings from the file, or to view certain files. After the parties have concluded their interventions the president of the panel shall declare the session concluded and the panel shall withdraw for consultation and voting."

After the fourth paragraph a new fifth paragraph shall be inserted to read as follows:

"(5) The panel may decide that after a session of which the parties and counsels had been duly notified it shall pronounce its decision publicly. The public pronouncement of the decision is made by the judge rapporteur who reads the statement of grounds and gives a brief explanation of reasons."

The current fifth paragraph shall become the sixth paragraph.

After the current sixth paragraph which shall become the seventh paragraph, a new eighth paragraph shall be inserted to read as follows:

"(8) If the court of the second instance carried out a panel session, of which the parties had been duly notified, and the pronouncement of the decision was postponed, the court shall not be required to inform the parties not present at the session of the day and place of the pronouncement.

The current seventh paragraph shall become the ninth paragraph.

Article 64

The seventh paragraph of Article 392 shall be amended to read as follows:

"(7) If the defendant is under detention, the court of second instance shall examine whether the grounds for detention still exist and shall extend or lift the detention orders by a ruling. An appeal against the ruling shall not stay its execution."

Article 65

The third paragraph of Article 394 shall be amended to read as follows:

"(3) Where owing to the affirmation or modification of the judgment of the court of first instance, grounds exist for ordering, extending or lifting detention orders under the first or third paragraph of Article 361 of this Act, the court of second instance shall render a separate ruling thereon. An appeal against this ruling shall not stay its execution."

Article 66

In point 4 of the first paragraph of Article 410, the words "if a person has been tried repeatedly for the same offence or" shall be deleted.

Article 67

In chapter XXIV, the title of point 2, "Extraordinary mitigation of punishment", and Articles 417 to 419 shall be deleted.

Article 68

In the first paragraph of Article 420, the words "by which the criminal proceedings were concluded, and against the second decision only if the Supreme Court may be expected to issue a decision on a legal issue which is important for providing legal certainty, the uniform application of the law or development of the law through case-law" shall be inserted after the words "judicial decision".

In the third paragraph the words "state prosecutor of the Republic of Slovenia" shall be replaced by the words "State Prosecutor General".

A new fifth paragraph shall be inserted after the fourth paragraph to read as follows:

"(5) The applicant may not refer to the violations specified in the first paragraph of this Article unless he could not draw attention to these violations in his appeal, or if he drew attention to these violations, but the court of second instance failed to take notice thereof."

Article 69

In the first paragraph of Article 421, the words "state prosecutor of the Republic of Slovenia" shall be replaced by the words "State Prosecutor General."

In the second paragraph, the words "state prosecutor of the Republic of Slovenia" shall be replaced by the words "State Prosecutor General."

Article 70

In the second paragraph of Article 423, after the words in brackets in the first sentence shall be inserted the words "or fails to meet the requirements from the first or fifth paragraph of Article 420". In the second sentence, the words "state prosecutor of the Republic of Slovenia" shall be replaced by the words "Office of the State Prosecutor General".

Article 71

The title of point "D." after Article 428 shall be amended to read as follows:
"D. SUMMARY PROCEEDINGS, SIMPLIFIED PROCEEDINGS AND SPECIAL PROVISIONS ON THE PRONOUNCING OF JUDICIAL ADMONITIONS AND PROCEEDINGS FOR MINORS".

Article 72

In the first paragraph of Article 432, the word "may" shall be followed by the words "upon a reasoned motion of the state prosecutor".

Article 73

The first paragraph of Article 434 shall be amended to read as follows:

(1) The indictment proposal or the private action shall contain the following: the full name of the accused with his personal data if known, the description of the criminal offence and its statutory definition, the court before which the main hearing is to be held, which evidence is to be taken at the main hearing, the motion that the accused be found guilty and sentenced in accordance with the law and the statement of grounds. The statement of grounds shall state the facts and evidence justifying the suspicion that the accused committed a criminal offence which is the subject of the indictment or the private action".

A new third paragraph shall be inserted after the second paragraph to read as follows:

"(3) The provision of the second paragraph of Article 269 hereof shall be applied *mutatis mutandis* to lodging a motion on the type and length of sentence or some other criminal sanction in the state prosecutor's indictment proposal."

Article 74

In the second paragraph of Article 435, the words "If the judge issues a decision referred to in the third paragraph of Article 286 of this Act" shall be replaced by the words "If the judge establishes *ex officio*, or on the motion of a party, that the files contain records or notices referred to in Article 83 hereof, he shall issue a decision on their exclusion".

In the first sentence of the third paragraph, a comma shall be inserted after the words "the accused" and the words "shall instruct him in writing on the possibility of pleading guilty to the criminal offence under the indictment and on its consequences (point 5 of the third paragraph of Article 285a)".

The third paragraph shall be followed by a new fourth paragraph to read as follows:

"(4) Should a judge assess that, in order to accelerate the course of criminal proceedings, a pre-trial hearing would be advisable before calling the main hearing, the provisions of chapter XIXa hereof shall apply."

Article 75

Article 437 shall be amended to read as follows:

"Article 437

(1) The judge shall dismiss the indictment proposal or private action by a reasoned decision if he finds that grounds exist to discontinue the proceedings specified in Article 277 of this Act.

(2) The decision shall be served on the prosecutor and the accused".

Article 76

The second paragraph of Article 445 shall be deleted.

Article 77

. A new Chapter XXVIa shall be inserted after Article 450 and shall bear the title "Agreement on the confession of guilt" - Articles 450a to 450č shall also be inserted to read as follows:

"Chapter XXVIa Agreement on the Confession of Guilt

Article 450a

(1) In the criminal proceedings, the accused, the counsel and the state prosecutor may propose to the opposing party to conclude an agreement on the accused person's confession of guilt for the criminal offence committed. A state prosecutor may propose the conclusion of such agreement even before the commencement of the criminal proceedings, if a reasoned suspicion exists that the suspect has committed a criminal offence which will be the subject of the proceedings. In this case, a state prosecutor who proposes the conclusion of such agreement must notify the suspect in writing on the description of the offence and legal qualification of the criminal offence which is the subject of the proposed conclusion of the agreement. If the accused person has not yet been examined, the prosecutor shall instruct him about his rights referred to in the fourth paragraph of Article 148 of this Act.

(2) If the parties agree with the alternative of concluding the criminal proceedings on the basis of an agreement on the confession of guilt and the suspect or the accused does not have legal representation, the president of the court may appoint legal representation for him *ex officio* on the proposal of the state prosecutor. In concluding the agreement, the appointed counsel shall perform this duty until the criminal proceedings are finally concluded. However, he shall be dismissed if the state prosecutor notifies the president of the court that the negotiations were not successful. The remuneration and the necessary expenses of the counsel appointed for negotiations shall be the costs of the criminal proceedings and the court shall decide on their provisional advance payment on the basis of the third paragraph of Article 92 of this Act.

(3) If a proposal is given pursuant to the first paragraph of this Article, the parties may negotiate on the conditions for confessing guilt for a criminal offence which is the subject of the preliminary criminal or criminal proceedings against the suspect or the accused, and on the contents of the agreement. The state prosecutor may also negotiate with the counsel only with the agreement of the suspect or the accused.

(4) The agreement on the confession of guilt shall be concluded in writing and shall be signed by the parties and the counsel. The criminal offence for which the agreement is concluded shall be described in the manner as required for the description of the offence in the indictment (point 2 of the first paragraph of Article 269). The agreement shall be enclosed with the indictment or indictment proposal filed. If the agreement is concluded later, the state prosecutor shall submit it to the court immediately but not later than by the beginning of the main hearing.

(5) If the agreement is not concluded, all documents referring to the negotiations shall be removed from the file.

Article 450b

(1) In the agreement by which the accused confesses the guilt for all or some criminal offences that are the subject of the indictment, the accused and the state prosecutor may agree on the following:

1. the penalty and/or the admonitory sanction and the manner of executing the penalty;
2. the state prosecutor's abandonment of criminal prosecution referring to the criminal offences of the accused which are not covered by the confession of guilt;
3. the costs of criminal proceedings;
4. fulfilment of some other tasks.

(2) The subject of the agreement on the confession of guilt may not be a legal definition of a criminal offence, security measures when mandatory and forfeiting the proceeds of crime, except the method of forfeiting.

(3) The court shall decide on what is not or may not be the subject of agreement at the hearing as referred to in Article 285č of this Act.

Article 450c

(1) The agreement on the penalty shall contain the type and length of the sentence to be passed on the accused for the criminal offence committed. The agreed upon sentence shall be within the limits of the prescribed sentence; Imposition of a reduced sentence and the method of executing the sentence may be proposed in the agreement only under the conditions and within the limits prescribed within the criminal act.

(2) If the relevant legal requirements are met, the parties may agree that an admonitory sanction instead of a sentence is issued to the accused. The agreed admonitory sanction must contain all components that are required for issuing such a sanction according to the provisions of the criminal act.

(3) The state prosecutor may agree with the accused on abandoning the prosecution of criminal offences not included in the agreement on the confession of guilt only if the criminal offences referred to in the first and second paragraphs of Article 162 are involved and if the injured party agrees with it. A criminal offence whose criminal prosecution is abandoned by the state prosecutor shall be described in much detail in the agreement and its legal definition shall be indicated. The injured party's consent shall be enclosed to the agreement.

(4) In the agreement on the confession of guilt, the parties may agree that the accused person, notwithstanding the provisions of Articles 94, 95 and 97 of this Act, shall be exempted from the payment or refund of all or part of the costs of the criminal proceedings. In this case, the costs of the criminal proceedings shall be covered by the budget.

(5) By the agreement on the confession of guilt, the accused may also undertake to settle the damage caused by a criminal offence to the injured party not

later than by the date of submission of the agreement to the court, to settle his maintenance obligation or fulfil some other task referred to in the first paragraph of Article 162 hereof.

Article 450č

(1) The agreement on the confession of guilt concluded by the accused with the state prosecutor shall be decided on at a pre-trial hearing by the court before which the criminal proceedings are pending, and if the agreement was concluded subsequently, it shall be decided on at the main hearing.

(2) When deciding on the concluded agreement on the confession of guilt, the court shall assess the following:

1. whether the agreement is in compliance with the provisions of Article 450a, 450b and 450c hereof; and
2. whether the requirements referred to in the first paragraph of Article 285c hereof have been met with respect to the confession of guilt.

(3) Should the court establish that any of the requirements referred to in the preceding paragraph has not been met, or that the accused failed to meet the obligations referred to in the fifth paragraph of the preceding Article, the agreement shall be refused by way of decision and the proceedings shall continue as if the defendant has declared not to plead guilty under the indictment. If the court assesses that all requirements have been met, it shall pass a decision that the agreement on the confession of guilt be adopted and shall carry on with the proceedings *mutatis mutandis* as if the defendant declared himself guilty under the indictment (Article 285č).

(4) There shall be no appeal against the decision referred to in the preceding paragraph".

Article 78

A new second sentence shall be inserted in the first paragraph of Article 451 to read as follows: "The provisions of chapter XXVIa hereof shall not be applied in the proceedings against the minors".

In the second paragraph the words "under Article 94 of the Penal Code" shall be replaced by the words "as penal sanctions for minors".

Article 79

In the first paragraph of Article 491, the words "by Articles 64 and 65 of the Penal Code" shall be replaced by the words "by the Penal Code".

A new sentence shall be inserted in the second paragraph to read as follows: "The provisions of this Act on detention shall be applied *mutatis mutandis* to the length, testing and elimination of the placement of the accused in this institution".

After the third paragraph, new fourth, fifth and sixth paragraphs shall be inserted to read as follows:

"(4) The accused shall be entitled to submit an objection against the proposal referred to in the first paragraph of this Article. The panel of the district court (sixth paragraph of Article 25) shall decide on the objection against the indictment by *mutatis mutandis* application of the provisions of this Act. The same applies to the proceedings within the jurisdiction of the local court.

(5) Unless otherwise stipulated by this Act and by regulations issued pursuant thereto, the provisions of the act governing the execution of security measures of compulsory psychiatric treatment and confinement and the regulations issued pursuant thereto shall be applied *mutatis mutandis* to the institution where the persons referred to in the second paragraph of this Article are placed, their treatment, monitoring, following, supervising, maintaining order and discipline, use of coercive means, personal search and house searches and other specifics of execution.

(6) The court shall proceed with particular promptness in the procedure for the use of security measure."

Article 80

In the second paragraph of Article 492, a new third sentence shall be inserted after the second sentence to read as follows: "If the accused may not be interrogated or if his speech is unintelligible, it shall be considered that he opposes the motion for imposition of security measure".

The fourth paragraph shall be amended to read as follows:

"(4) Should the court establish on the basis of the evidence taken that the reasons have been given owing to which the indictment is dismissed or the defendant is acquitted of the charge, and it does not involve the case referred to in the sixth paragraph of this Article, the criminal proceedings shall be suspended by way of a decision".

At the end of the fifth paragraph, a new sentence shall be inserted to read as follows: "An appeal may be lodged to the advantage of the accused even against his will."

The sixth paragraph shall be amended to read as follows:

"(6) If the state prosecutor withdraws the motion for the imposition of a security measure at the main hearing or if the court establishes that the accused was mentally incapable at the time of committing the criminal offence, the motion for the application of the security measure shall be dismissed. In this case the state prosecutor may file an indictment or indictment proposal within fifteen days after the decision on the dismissal of the motion has become final, for the same criminal offence.

Article 81

The text of Article 493 shall become the first paragraph of this Article.

After the first paragraph a new second paragraph shall be inserted to read as follows:

"(2) If an objection is filed against the motion or if this is required for the preparation of defence or for the taking of evidence, the main hearing shall be

postponed, either until the decision on the objection is taken or for an appropriate period of time".

Article 82

In Article 494, the words "statutory conditions (Article 64 of the Penal Code)" shall be replaced by the words "conditions pursuant to the Criminal Code".

Article 83

The current text of Article 495 shall become the first paragraph of this Article.

A new second paragraph shall be inserted to read as follows:

(2) The court shall, not later than three months before the expiry of the security measure of the compulsory psychiatric treatment and confinement in a health institution or compulsory psychiatric treatment at liberty, notify on the imminent expiry the social assistance body and the closest relatives pursuant to the act regulating the mental health, if it establishes, on the basis of the received reports on the implementation of the measure, that this is necessary for the purpose of continuing the treatment of the sentenced person".

Article 84

In the first paragraph of Article 496, the words "the measure referred to in Articles 64 and 65 of the Penal Code" shall be replaced by the words "this measure referred to in the Criminal Code," and after the word "motion" the words "of the perpetrator or" shall be inserted.

In the fourth paragraph, the words "third paragraph of Article 64" shall be deleted.

After the fourth paragraph a new fifth paragraph shall be inserted to read as follows:

"(5) The provisions of the fifth paragraph of Article 492 hereof shall be applied *mutatis mutandis* to an appeal against the decisions issued under the provisions of this Article".

Article 85

In Article 497, the first and third paragraphs shall be deleted.

Article 86

In the first paragraph of Article 500, the words "Articles 75 and 77" shall be replaced by the words "Articles 75, 77, 77a and 77b".

Article 87

In the first paragraph of Article 502b, the words "(first paragraph of Article 272" shall be replaced by "(first paragraph of Article 271, first paragraph of Article 272".

Article 88

Article 502d shall be amended to read as follows:

"Article 502d

The provisions on interim orders of the act governing the execution of judgments in civil matters and insurance of claims shall be applied *mutatis mutandis* to the procedure of temporary securing the forfeiture of proceeds, unless otherwise provided by this Act.

Article 89

A new Article 502e shall be inserted after Article 502d, to read as follows:

Article 502e

(1) The court shall notify *ex officio* the competent tax authority by a copy of its decision on the ordering, changing and cancellation of temporary securing the forfeiture of proceeds.

(2) If upon receipt of the notice referred to in the preceding paragraph the competent tax authority notifies the court that in relation to the temporary secured assets, a procedure is planned to be introduced for which it is authorised by the statute, the court shall order in a decision on a change or cancellation of the temporary security that the authority competent to execute the security must not change or cancel it prior to receiving a written notice by the court that a month has expired from the date of serving on the competent tax authority the decision on the change or cancellation of the security".

Article 90

In the first paragraph of Article 503, the words "referred to in Articles 64 and 65 of the Penal Code" shall be replaced by the words "of compulsory psychiatric treatment and confinement in a health institution and compulsory open psychiatric treatment in compliance with the Criminal Code."

Article 91

In the third paragraph of Article 506a, a comma and the words "companies, sole proprietors" shall be inserted after the words "enforcement officers".

The fourth paragraph shall be amended to read as follows:

(4) The procedure for managing the items, assets and securities referred to in the first paragraph of this Article, and the requirements that must be met by companies and sole proprietors for the performance of activities pursuant to the third paragraph of this Article, the rules and tariff for their operation and the rules of selection among

several bidders of such services shall be prescribed by the Government of the Republic of Slovenia".

Article 92

In the second paragraph of Article 507, the words "Articles 75 and 77" shall be replaced by the words "Articles 75, 77, 77a and 77b".

Article 93

In the first paragraph of Article 515, the words "and state prosecutor's offices" shall be inserted after the word "courts".

Article 94

A new last sentence shall be inserted in the first paragraph of Article 516 reading as follows: "If the request refers to the implementation of an act which, according to the national law, falls under the jurisdiction of the state prosecutor's office, the Ministry of Justice shall send the request into the consideration of the state prosecutor's office in whose territory of jurisdiction the act needs to be implemented".

After the first paragraph, a new second paragraph shall be inserted to read as follows:

"(2) If several courts have the relevant jurisdiction, the territorial jurisdiction shall be acknowledged to the court which is competent to implement the first act stated in the request". If several state prosecutor's offices have the relevant jurisdiction, the territorial jurisdiction shall be acknowledged to the state prosecutor's office which is competent to implement the first action stated in the request". If a foreign authority makes a request for the implementation of several acts, some of which, according to the national law, fall under the court's jurisdiction, and some under the state prosecutor's office's jurisdiction, the request shall be sent to the state prosecutor's office which shall implement the acts under its jurisdiction and shall propose to the court to implement the acts within the jurisdiction of the court."

In the current second paragraph, which shall become the third paragraph, the words "or to the state prosecutor's office" shall be inserted after the words "to the court".

The current third paragraph, which shall become the fourth paragraph, shall be amended to read as follows:

"(4) The permissibility of the act requested by a foreign authority and the manner of its implementation shall be decided on by the competent national authority pursuant to national regulations and international agreements. The request for international criminal assistance may be granted if the implementation of the act of assistance is not in conflict with the legal order of the Republic of Slovenia and does not prejudice its sovereignty and security".

The current fourth paragraph, which shall become the fifth paragraph, is to be amended to read as follows:

"(5) Notwithstanding the provision of the fourth paragraph of this Article, the act of assistance can be implemented in a manner as determined in the legislation of

the requesting country if such manner of implementing the act is in compliance with the main principles of the national criminal proceedings".

A new sixth paragraph shall be inserted to read as follows:

"(6) The competent authority in the Republic of Slovenia shall, on the request of the competent authority of the requesting country, notify the latter on the time and place of implementing a certain procedural act. The representatives of competent authorities of the requesting country and other participants in the proceedings and their counsels may be present in implementing the act of assistance if it is probable that their presence and/or cooperation are useful for the appropriate implementation of legal assistance. The authority competent to implement the act of assistance shall decide upon it".

Article 95

After Article 516, new Articles 516a, 516b and 516c, shall be inserted to read as follows:

"Article 516a

(1) At the request of a foreign authority, a person who has been deprived of his liberty in the Republic of Slovenia may, irrespective of its citizenship, be temporarily extradited to a foreign judicial authority with a view to implementing procedural acts of examining a witness, hearing an expert or for the purpose of a confrontation. A temporary extradition shall be implemented under the condition that the person will be returned to Slovenia within a time limit determined by the competent Slovenian authority.

(2) Temporary extradition shall be permitted under the following conditions:

- if the person to be extradited agrees with the temporary extradition;
- if the presence of the person in a foreign criminal proceedings is urgently needed;
- if the presence of the person in a national criminal proceedings is not urgently required;
- if the temporary extradition will not prolong the detention;
- if no other reasonable grounds exist to exclude the temporary extradition.

(3) The person who has been temporarily extradited to a foreign judicial authority on the basis of the first paragraph of this Article, shall remain in detention during this entire period, except if the sanction of deprivation of liberty in compliance with the national regulations is cancelled, which the authority cancelling the sanction shall immediately notify to the competent foreign authority. A criminal proceedings may not be instituted against a person in the state where the person has been temporarily extradited nor the sentence be executed for an offence committed before the temporary extradition.

(4) The authority competent for executing the sentence before which the criminal proceedings is conducted shall decide on permitting the temporary extradition. Before permitting the temporary extradition, the authority shall obtain the warranties referred to in the third paragraph.

Article 516b

(1) If a person is deprived of his liberty abroad but his presence is urgently required in the criminal proceedings conducted in the Republic of Slovenia for the purpose of implementing the procedural acts of examining a witness, hearing an expert or cross-examining, the court competent for the performance of this procedural act may request that this person be temporarily extradited to the Republic of Slovenia.

(2) When a person has been temporarily extradited to the Republic of Slovenia on the basis of the first paragraph of this Article, he shall remain in detention for the entire period of his stay in the territory of Slovenia, except if the sanction of detention is cancelled on the basis of a decision of a foreign authority which ordered this sanction. The act which necessitates the presence of the person in the territory of the Republic of Slovenia shall be implemented as promptly as possible and the person, irrespective of his citizenship, shall be returned to the state which has temporarily extradited him.

(3) The provisions of Articles 209 to 213d hereof shall apply *mutatis mutandis* to the implementation of deprivation of liberty in Slovenia.

Article 516c

(1) If so stipulated by an international treaty, the courts or state prosecutor's offices may, without a prior request to the competent authorities of another country, exchange criminal offence data with them that they have obtained during the implementation of their tasks, should they assess that such data could be useful for the implementation of a pre-trial criminal or criminal procedure or that they could serve as the basis for a legal assistance request.

(2) The exchange of data referred to in the preceding paragraph shall not affect the institution or conduct of criminal proceedings and/or shall not affect the implementation of other tasks of the authority transmitting the data.

(3) If the authority, when transmitting the data, has set up some conditions for their application, they shall be binding upon the authority receiving the data".

Article 96

Article 517 shall be amended to read as follows:

"Article 517

(1) National courts may grant the motion of the state prosecutor or request of the competent foreign authority for the execution of the prison sentence, security or other sanction of the criminal court which is implemented through deprivation of liberty or a fine under the final criminal judgment of a foreign court, if so stipulated by an international treaty or on the basis of reciprocity and if the following requirements are complied with:

- the person agrees with the execution of the sentence in the Republic of Slovenia, except in the cases referred to in the second paragraph of this Article;
- the judgment does not entail a violation of the main principles of the legal order of the Republic of Slovenia;
- the decision was issued on an offence punishable by a prison sentence or a fine pursuant to the national law;

- the decision was not issued on the political or military criminal offence;
- That the execution of sentence has not become statute-barred pursuant to the national legislation;
- the person has not been sentenced for the same offence by a final judgment or acquitted under a final decision or the criminal proceedings against this person has been stopped under a final decision or the indictment against the person was dismissed under a final decision;
- this person in question is a Slovenian citizen and has permanent or temporary residence in the Republic of Slovenia;
- in cases where a criminal court's safety precaution or some other measure is implemented by deprivation of liberty, the national law prescribes the same measure;
- the judgment was issued in the presence of the person, unless the requesting state submits the relevant evidence that the person has been invited personally or that the person has been notified on the time and venue of the proceedings through the counsel authorised in accordance with the national law, which was the reason why the judgment was issued in the person's absence, or if the person declared to the competent authority that he did not object to the decision.

(2) The consent of the person referred to in the first indent of the preceding paragraph shall not be required if the person has avoided the execution or further execution of the criminal judgment referred to in the preceding Article through his arrival or abscondment to the Republic of Slovenia.

Article 97

After Article 517 new Articles 517a, 517b and 517c shall be inserted to read as follows:

"Article 517a

(1) Based on the proposal of the state prosecutor, the investigating judge may order a temporary deprivation of liberty against the person referred to in the preceding Article for the purpose of securing the execution, if the following requirements are met:

1. that the state issuing the judgment sent a request for implementing the criminal judgment or order for the execution of criminal judgment;
2. that the circumstances exist indicating the risk that the person could avoid the execution procedure and/or serving the sentence or the measure by absconding;
3. that the person's consent to the execution is not necessary or has been given, and
4. that the request for execution is not manifestly inadmissible.

(2) The temporary deprivation of liberty referred to in the preceding paragraph shall be ordered, implemented or prolonged in compliance with the provisions of this Act on the ordering, implementation and/or prolonging of detention.

Article 517b

(1) The national court shall execute the criminal judgment referring to the sanction issued by a foreign court by issuing a criminal sanction pursuant to the criminal law of the Republic of Slovenia. In so acting, the national court shall be fully bound to the judgment of the foreign court when establishing criminal responsibility, the permissibility of prosecution and the imposed sentence. If the sentence may be

executed only with respect to certain criminal offences, the sentence may be imposed in compliance with the rules of the national legislation.

(2) When the criminal sanction is incompatible with national regulations because of its length, it may only be adapted if it exceeds the maximum sentence determined for such criminal offence under national legislation. The adapted criminal sanction may not be less than the maximum sentence prescribed by national law for the same type of criminal offences.

(3) When the criminal sanction is incompatible with the national regulations by its nature, it may be adapted depending on the sentence or the sanction which is determined for such criminal offence under the national legislation. Such sentence or sanction shall match as far as possible the criminal sanction which was issued in the issuing state.

(4) The adapted criminal sanction shall not be more severe in its nature or length than the criminal sanction imposed by the issuing state.

Article 517c

(1) The district court in the territory of the latest permanent residence of the person in the Republic of Slovenia shall be competent to issue a decision on the execution of the criminal judgment. If the person has no permanent residence in the Republic of Slovenia, the jurisdiction shall be determined by the place of the last temporary residence.

(2) The panel referred to in the sixth paragraph of Article 25 hereof shall decide by way of judgment on the implementation of a criminal judgment issued by a foreign court or shall refuse the request by a decision. The state prosecutor and defence counsel shall be informed about the session of the panel.

(3) In the operative part of the judgment referred to in the second paragraph of this Article, the court shall enter in full the operative part of the judgment and the name of the court referred to in the foreign judgment and shall pronounce sanction. In the grounds for the judgment, the court shall state the reasons which were followed when imposing the sanction.

(4) The decision shall be served on the state prosecutor, the person in question and the counsel who may lodge an appeal against the decision.

(5) National regulations shall be applied to the execution, release on parole and the right to pardon or amnesty.

Article 517č

(1) The alien who serves the prison sentence in the Republic of Slovenia on the basis of a national court's judgment may file a request to serve the sentence in the country of his citizenship or residence. The request may be lodged with the prison's director, the court which passed the sentence at the first instance or the Ministry of Justice.

(2) The competent court or the prison director shall inform the person of the possibility of serving his prison sentence in the country of his citizenship or residence.

(3) The court which ruled at the first instance shall decide on the request of the sentenced person by way of decision. The request may be granted if the following requirements are complied with:

- No other criminal procedure is conducted against the sentenced person in the Republic of Slovenia;
- The person has settled the fine and/or the property claim.

(4) The decision and other relevant documentation shall be submitted to the minister responsible for justice, who shall notify thereon the state to which the person wants to be relocated, and shall carry out the procedure for the transfer of the sentenced person on the basis of an international treaty or reciprocity.

Article 98

The fourth paragraph of Article 519 shall be deleted.

The current fifth, sixth and seventh paragraphs shall become the fourth, fifth and sixth paragraphs.

Article 99

The second paragraph of Article 521 shall be deleted.

Article 100

Article 522 shall be amended to read as follows:

"Article 522

(1) The requirements for extradition shall be as follows:

1. that the person whose extradition is requested is not a Slovenian citizen;
2. that the offence for which the extradition is requested has not been committed in the territory of the Republic of Slovenia, against the Republic of Slovenia, or against a Slovenian citizen;
3. that the offence for which the extradition is requested is a criminal offence both within the meaning of domestic law and the law of the country where the offence was committed;
4. that in the event of extradition for the purpose of criminal prosecution, a prison sentence of one year or more or a security measure lasting over a year may be imposed for the offence under the law of both states;
5. that in the event of extradition for the purpose of the execution of a final sentence or security measure, the sentence or the security measure and/or their remainder which needs to be carried out shall be at least four months;
6. that under national law, the criminal prosecution or execution of punishment had not become statute-barred before the person was detained or examined as an accused;
7. that the person whose extradition is requested has not been acquitted on the same offence by a final judgment or sentenced in the Republic of Slovenia or another country provided that he has already served the sentence or is serving the

sentence if the sentence was passed, or that according to the law of the state which passed the sentence the latter may not be executed any more or that the criminal proceedings against him was stopped under a final decision; or that the indictment against the person was dismissed under a final decision; or that in the Republic of Slovenia criminal proceedings have not been instituted against the alien for the same offence committed against the Republic of Slovenia, and – in the event that criminal proceedings have been instituted for an offence committed against a Slovenian citizen – that the indemnification claim of the injured party has been secured;

8. that against the person whose extradition is sought, no procedure before the extraordinary court is pending in the requesting state if a request for extradition is involved for the purpose of implementing the procedure, and/or that such court did not impose a criminal sanction if a request for extradition is involved for the purpose of executing the sentence;
9. that the requesting state submits the relevant warranties that the death penalty will not be imposed and/or carried out if the extradition is requested for a criminal offence which is punishable by the death penalty in the requesting state;
10. That in cases involving the execution of a criminal sanction imposed by a final judgment in a court proceedings in the absence of the person whose extradition is requested, the requesting party shall submit the necessary evidence that the person was personally invited or that the person was notified on the time and venue of the proceedings through the counsel authorised in compliance with the law of the issuing state, which is the reason why the judgment was issued in the person's absence, or that the person made a statement to the competent authority that he did object to the decision; or that the requesting state shall grant that the criminal proceedings after the extradition will be repeated in the presence of the extradited person;
11. that the request for extradition is not submitted for a criminal offence committed by the requested person when he was not yet 14 years of age;
12. that the identity of the person whose extradition is requested has been established;
13. that there is sufficient evidence for reasonable suspicion that the alien whose extradition is requested has committed a certain criminal offence, or that a final judgment exists thereon.

(2) If the request for extradition refers to several criminal offences which both pursuant to the law of the requesting state and the law of the Republic of Slovenia are punishable by a sentence of deprivation of liberty or a security measure, but some of them in terms of the severity of the prescribed penalty do not reach the threshold of the prescribed penalty as determined in points 4 and 5 of the preceding paragraph, the extradition may also be permitted for these criminal offences if it is permitted for the rest of criminal offences".

Article 101

After the third paragraph of Article 524, new fourth, fifth and sixth paragraphs shall be inserted to read as follows:

"(4) The provisions of the second paragraph of Article 200, Articles 202, 203, Articles 209 to 213d, and Articles 420 and 421 of this Act shall be applied *mutatis mutandis* to detention in the extradition procedure.

(5) Notwithstanding the provision of Article 205 of this Act, detention in the extradition procedure after receipt of the request for extradition without special decisions on the extension may last until the extradition to a foreign country and/or the decision of the minister responsible for justice refusing the extradition, but the total

length of detention determined before receipt of the request for extradition and after its receipt shall not exceed 30 months.

(6) Notwithstanding the preceding paragraph, the detention shall be lifted immediately when its length meets or exceeds the imposed criminal sanction of a foreign country or the maximum prescribed sentence that the law of the requesting state prescribes for the criminal offence for which the extradition is requested".

The current fourth and fifth paragraphs shall become the seventh and eighth paragraphs".

Article 102

After the third paragraph of Article 527, a new fourth paragraph shall be inserted to read as follows:

"(4) In the event that the extradition is refused because the person is a Slovenian citizen, the extradition documents shall be handed over to the competent state prosecutor's office for the purpose of eventually instituting criminal prosecution in the Republic of Slovenia".

Article 103

528. Article 528 shall be amended to read as follows:

"Article 528

Should the district court's panel find that legal requirements for extradition (Article 522) have been met, or that the requirements for the deferral of extradition pursuant to Article 530 hereof have been complied with, it shall confirm such finding by a decision. The alien shall have the right to lodge an appeal against the decision with the court of second instance".

Article 104

The first paragraph of Article 529a shall be amended to read as follows:

"(1) The extradition of an alien may be permitted on a request of a foreign extradition or remand authority with the purpose of effecting extradition without implementation of the procedure pursuant to the provisions of Articles 526 to 529 of this Act if the alien, after being instructed by the investigating judge, states that he agrees with his extradition".

The third paragraph shall be deleted.

The current fourth paragraph shall become the third paragraph.

The current fifth paragraph, which shall become the fourth paragraph, shall be amended to read as follows:

"(4) After examining the requirements referred to in points 1 to 13 of the first paragraph of Article 522 of this Act, the investigating judge shall decide on extradition by way of decision. The decision shall be served on the person whose extradition is requested, on his counsel and the state prosecutor. The appeal to the district court's

panel shall be allowed within 24 hours (sixth paragraph of Article 25), which shall decide on it within 48 hours".

A new fifth paragraph shall be inserted to reads as follows:

"(5) After the decision has become final, the investigating judge shall communicate his decision to the minister responsible for justice, who shall immediately notify the requesting state on the court's decision. If any of the requirements referred to in points 1 to 13 of the first paragraph of Article 522 of this Act has not been fulfilled or if the alien has withdrawn his consent, the regular extradition procedure shall take place".

Article 105

In Article 530, a new second paragraph shall be inserted to read as follows:

"(2) In the event that in the requesting state, the criminal prosecution could be statute-barred or its course severely obstructed as a result of the postponed extradition referred to in the first paragraph, temporary extradition for the purpose of criminal procedure may be granted on a reasoned request submitted by the requesting state. The minister responsible for justice shall decide on the permissibility of temporary extradition after the preliminary opinion of the authority before which the criminal proceedings are pending and who is responsible for the implementation of criminal sanctions. Temporary extradition may be allowed if it does not threaten the course of criminal proceedings conducted against the person in the Republic of Slovenia and if the requested state granted that the person in the requesting state will be detained for the entire period and also that he shall be returned to the Republic of Slovenia within the time limit determined by the Republic of Slovenia".

The current second paragraph, which shall become the third paragraph, shall be amended to read as follows:

"(3) The minister responsible for justice shall not permit the extradition of an alien if the latter enjoys the right of asylum in the Republic of Slovenia, if a political or military criminal offence is involved or when there is a serious risk that the person whose extradition is requested would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment in the country requesting the extradition".

Article 106

After the first paragraph of Article 531, a new second paragraph shall be inserted to read as follows:

"(2) The requirements referred to in the first paragraph shall cease to apply if:

- If the extradited person waives them;
- If the extradited person, despite the warning of the requesting state about the possible consequences, does not leave the territory of the requesting state within 45 days of being released to freedom provided he could have done that;
- If the person leaves the territory of the state to which he was extradited but returns there voluntarily or is returned there by a third country".

The current second paragraph shall become the third paragraph.

Article 107

Article 532 shall be followed by a new Article 532a to read as follows:

"Article 532a

(1) Based on the request of a foreign judicial authority or when stipulated so in the national law, seized items may be turned over to a foreign country within the context of extradition and may be used as evidence – or items obtained by a criminal offence and found on the requested person during the arrest or discovered subsequently.

(2) The items referred to in the first paragraph of this Article shall be turned over also when extradition may not be effected due to the death or escape of the requested person.

(3) If the national court seized the items in pending criminal proceedings, it shall retain them or temporarily hand them over to the requesting state on the condition that they will be returned".

Article 108

Article 533 shall be followed by a new Article 533a, to read as follows:

"Article 533a

(1) The minister responsible for justice shall decide on a request for consent submitted by a foreign judicial authority to prosecute or execute the sentence against the person extradited by the Republic of Slovenia or to extradite this person to a third country due to another criminal offence committed before the extradition, on the basis of a panel's decision referred to in the sixth paragraph of Article 25 hereof issued by the court which decided whether the requirements for extradition were complied with.

(2) The panel referred to in the sixth paragraph of Article 25 shall examine whether the requirements referred to in Article 522 hereof have been met on the basis of documents submitted by the foreign country. Should the panel establish that the legal requirements for extradition have not been met, it shall issue a decision refusing the request for consent to criminal prosecution, execution of sentence or extradition to a third party. The court shall send this decision *ex officio* to the court of second instance, which, after hearing the opinion of the state prosecutor, may affirm, set aside or amend the decision. Should the panel referred to in Article 25 establish that the legal requirements for granting consent to criminal prosecution, execution of sentence or extradition or surrender to a third country have been met, it shall issue a decision to that effect. The alien shall have the right to lodge an appeal with the court of second instance against the decision. The final decision shall be sent to the minister responsible for justice, who, in accordance with the provision of the second paragraph of Article 530, shall decide on the request or notify the other country that the requirements for granting consent have not been complied with.

(3) The decision shall be forwarded in the manner determined in the first paragraph of Article 532 hereof".

Article 109

The first paragraph of Article 536 shall be amended to read as follows:

"(1) A person who has been extradited to the Republic of Slovenia shall not be subject to criminal prosecution, be sentenced or detained in order to execute the judgment or detention order for any other criminal offence committed prior to his extradition, nor shall he be extradited or surrendered to another country without the consent of the state extraditing the person. A proposal for the submission of request for consent to prosecute other criminal acts or for execution of sentence or extradition or surrender to a third country shall be made by the competent court before which the proceedings are pending or which is in charge of executing the sentence. Documents referred to in Article 523 hereof shall be enclosed to the proposal".

After the first paragraph, a new second paragraph shall be inserted to read as follows:

"(2) Notwithstanding the first paragraph of this Article, a person may be subject to criminal prosecution or a sentence may also be executed against such person for other criminal offences committed prior to his extradition in the following cases:

1. when the person having had an opportunity to leave the territory of the Republic of Slovenia has not done so within 45 days of his final release, or has returned to the Republic of Slovenia after leaving it;
2. when only a fine is prescribed for the other criminal offence committed by the person before the extradition;
3. when the person has expressly waived the benefit of the rule of specialty before his extradition;
4. when a Member State that extradited the person consents to the prosecution, execution of sentence or extradition to a third country for another criminal offence committed by the person prior to his extradition".

The current second, third and fourth paragraphs shall become third, fourth and fifth paragraphs respectively.

Article 110

In point 1 of the first paragraph of Article 538, after the words "imposed for this reason" shall be inserted the words "because the prosecution is no longer permissible for being statute-barred through the fault of the sentenced person or".

Article 111

After the fourth paragraph of Article 551, a new fifth paragraph shall be inserted to read as follows:

"(5) If the wanted notice is issued against a Slovenian citizen by a foreign authority, the police shall submit the wanted notice, including all available documents, to the responsible state prosecutor, who shall decide on the basis thereof whether to request the institution of prosecution or, if the wanted notice is issued for the purpose of executing a criminal sanction, whether he shall propose the execution of a penal sanction to the competent court".

The current fifth paragraph shall become the sixth paragraph.

TRANSITIONAL AND FINAL PROVISIONS

Article 112

(1) The State Prosecutor General shall, within three months of the application date of this Act, harmonise the General Instructions on the Uniform Application of Provisions of Article 162 of the Criminal Procedure Act on the Deferral of Criminal Prosecution (Ur. l. RS, no. 24/2011) with the provisions of this Act.

(2) The Government of the Republic of Slovenia shall harmonise the Decree on the management procedure on seized items, assets and securities (Ur. l. RS, nos 22/02, 8/07 and 48/07) with the provisions of this Act within three months of the application date of this Act.

Article 113

Proceedings in which a request for extraordinary mitigation of punishment has been filed by the application date of this Act shall be concluded according to the regulations applicable hereto.

Article 114

The amended first paragraph of Article 420 shall be applied to the requests for protection of legality filed after the application date of this Act, whereas the fifth paragraph of Article 420 hereof shall be applied to procedures in which the judgment of first instance has not yet been issued by the application date of this Act.

Article 115

The hitherto applicable provisions of Articles 434 and 437 of this Act shall be applied to proceedings in which the indictment was filed before the application date of this Act.

Article 116

In the sixth paragraph of Article 86 of the Act Amending the Criminal Procedure Act (Ur. l. RS, no. 68/08), the words "in accordance with the instructions under Article 84(9) hereof" shall be deleted.

Article 117

In the first and second sentence of the first paragraph of Article 87 of the Act Amending the Criminal Procedure Act (Ur. l. RS, no. 68/08), the words "84(9)" shall be deleted.

Article 118

This Act shall enter into force on the fifteenth day following the day of its publication in Uradni list Republike Slovenije and shall begin to apply six months after its entry into force.