

# **ACT ON COOPERATION IN CRIMINAL MATTERS WITH THE EUROPEAN UNION MEMBER STATES**

## **PART I**

### **BASIC PROVISIONS**

#### **Contents of the Act**

##### **Article 1**

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

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

1. Mutual recognition and enforcement of:

a) Decisions issued by judicial bodies for the purpose of arrest and surrender of persons, seizure and confiscation of items, temporary protection of the requests for seizure of financial profit and seizure of financial profit;

b) Decisions issued by courts on imprisonment sentences and other sanctions associated with deprivation of liberty;

c) Decisions of competent authorities passing financial penalties;

2. Dismissal and takeover of criminal prosecution;

3. Legal assistance in criminal matters, including the setting up of joint investigation teams and joint implementation of investigation measures;

4. Other forms of cooperation in compliance with the legislative regulation in the European Union and in its Member States.

#### **Application of this Act and other regulations**

##### **Article 2**

(1) The provisions of this Act are not applied to the issues of cooperation in criminal matters which are otherwise regulated by some directly applicable legal act of the European Union or by an international contract between the European Union Member States in compliance with Article 34 of the Treaty on the European Union.

(2) With respect to the issues of cooperation in criminal matters not regulated under this Act, the provisions of the Penal Code and the acts regulating the responsibility of legal person for criminal acts, criminal procedure, implementation of criminal sanctions and offences shall be applied *mutatis mutandis* in compliance with their nature under the law of the Republic of Slovenia.

(3) This Act shall transpose the following legal acts of the European Union into the legislation of the Republic of Slovenia:

1. Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States;
2. Council Framework Decision of 13 June 2002 on joint investigation teams;
3. Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime;
4. Joint Action of 29 June 1998 adopted by the Council on the basis of Article K. 3 of the Treaty on European Union setting up the European Judicial Network;
5. Council Framework Decision of 24 February 2005 applying the principle of mutual recognition to financial penalties;
6. Council Framework Decision of 22 July 2003 on the execution in the EU of orders freezing property or evidence;
7. Council Framework Decision of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property;
8. Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition of confiscation orders;
9. Council Decision of 21 November 2005 on the exchange of information extracted from the criminal record.

### **Mutual recognition principle**

#### **Article 3**

In the procedures under Part II and under Chapters 10, 11 and 12 of this Act, the competent authorities of the Republic of Slovenia implement the decisions of the competent authorities of other Member States based on the mutual recognition of decisions and in the process of decision-making assess only whether the appropriate documents are submitted and other conditions as determined by this Act are fulfilled.

### **Principle of specialty**

#### **Article 4**

The requested person surrendered to another Member State may be prosecuted, sentence may be enforced against the person or the person may be surrendered to another Member State only for the criminal offence that he committed before the surrender and which was the reason for his surrender, except if determined otherwise by this Act.

### **The principle of efficient assistance**

#### **Article 5**

Within their competencies and in compliance with the basic principles of the legal order of the Republic of Slovenia, the competent authorities of the Republic of Slovenia shall be obliged, in the procedures as referred to in this Act, to act in such manner as to achieve the purpose of cooperation for the benefit of another Member State as much as possible.

### **The principle of rapidity of procedure**

#### **Article 6**

Cooperation in criminal matters shall be given priority and be implemented rapidly under this Act if so stipulated by the legislation of the Republic of Slovenia concerning the matters of the same type.

### **Definitions**

#### **Article 7**

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

1. "Member State" shall mean a Member State of the European Union;
2. "third country" shall mean a non-member state of the European Union;
3. "the issuing state" or "the ordering state" is a Member State whose competent authority issued a decision that is carried out in another Member State;
4. "the administering state" is a Member State whose competent authority carries out the decision or sanction for another Member State;
5. "the requesting state" is a Member State whose competent authority makes a request for the implementation of an act of legal assistance;
6. "the requested state" is a Member State whose competent authority carries out the request for legal assistance;
7. "central authority" is the authority of a Member State that is responsible for administrative sending and receiving of the orders, requests for international legal assistance, other documents for the purpose of cooperation in criminal matters and the related official administration in accordance with the law of this country;

8. “the Ministry” is a ministry responsible for justice, the central authority for the matters as determined by this Act in the Republic of Slovenia;

9. “the ordering judicial authority” or “the competent authority of the issuing state ” is a judicial authority of the ordering state or the competent authority of issuing state that is responsible for issuing the decision or sanction to be implemented under this Act;

10. “the enforcement judicial authority” is a judicial authority of the administering state that is competent under the law of this state for deciding on the enforcement or for enforcement of decision or sanction implemented under this Act;

11. “national court” is the competent court of the Republic of Slovenia;

12. “European Arrest Warrant” (hereinafter referred to as the warrant) is a decision issued by the judicial authority of a Member State with the purpose of another Member State arresting and surrendering to it the person concerned in order to implement the criminal procedure or imprisonment sentence or precautionary or another sanction of the criminal court that is carried out by means of deprivation of liberty;

13. “surrender” is enforcement of the warrant in a Member State by surrendering the requested person to the competent authority of another Member State that issued the warrant;

14. “arrest” is deprivation of liberty to the person against whom the warrant is made;

15. “the requested person” is an individual against whom the warrant is issued and should be surrendered to the Member State that issued the warrant or should be transported across the territory of the Member State;

16. “foreigner” is a citizen of a third country;

17. “decision on the protection” is any decision or measure adopted by the competent authority of the issuing state in the criminal procedure or on account of the criminal procedure in order to prevent any use, concealment, destroying, change, transfer, encumbrance or disposal of the property with the purpose of temporary protection of the request for seizure of financial profit, or in order to prevent such conduct for the purpose of securing evidence concerning the items that might constitute the evidence or must be seized in the criminal procedure.

18. “property” shall mean assets of any kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, income and legal documents or instruments in any form evidencing title to or an interest in such assets and possessing monetary value;

19. “Eurojust” is a legal entity of the European Union that was established by the Decision of the European Union of 28 February 2002 on the accelerated prevention of serious criminal acts.

20. "The European Judicial Network in Criminal Matters" or "EJN" is made up of the national judicial contact points of the Member States, aimed at facilitating judicial cooperation in criminal matters and set up by the Council Joint Action on creation of the European Judicial Network of 29 June 1998.

## **PART II**

### **EUROPEAN ARREST WARRANT AND SURRENDER PROCEDURES BETWEEN MEMBER STATES ACT (ZENPP)**

#### **Chapter I** **General provisions**

#### **Admissibility of the enforcement of warrant in the Republic of Slovenia**

##### **Article 8**

(1) Surrender of a person shall be admissible if the warrant is issued for a criminal offence prosecuted *ex officio* and punishable in the issuing Member State by a sentence of imprisonment of at least one year or for the purpose of enforcement of imprisonment sentence or precautionary or other sanction of the criminal court that is carried out by deprivation of liberty of at least four months, and if the offence for which the surrender is requested is also punishable according to the national criminal legislation (double criminality).

(2) Notwithstanding the double criminality, surrender shall be admissible if the warrant is issued for the criminal offence sanctioned by the law of the issuing Member State by imprisonment of not less than three years as the maximum sentence of deprivation of liberty and if such offence is classified under the law of this Member State as one of the following types of criminal offences:

- participation in a criminal organization;
- terrorism;
- trafficking in human beings;
- sexual exploitation of children and child pornography;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit trafficking in arms, ammunition and explosives;
- corruption;
- fraud, including fraud that threatens the financial interests of the European Communities within the context of the Convention on the Protection of the Financial Interests of the European Union of 26 July 1995;
- money laundering;
- forgery of money;
- computer-related crime;
- criminal acts against environment and natural goods, including unlawful trade in threatened animal species and plant species and varieties;

- facilitation of unlawful crossing of the state border and residence within the state;
- murder and grievous bodily injury;
- illicit trade in human organs and tissue;
- kidnapping, unlawful deprivation of liberty and hostage taking;
- racism and xenophobia;
- group robbery or armed robbery;
- illicit trafficking in cultural goods, including antiquities and works of art;
- deception,
- racketeering and extortion;
- forgery of industrial products and sale of such products;
- forgery of official documents and trading in them;
- forgery of payment instruments;
- illicit trafficking in hormonal substances and other growth promoters;
- illicit trafficking in nuclear and radioactive substances;
- trafficking in stolen vehicles;
- rape;
- arson,
- criminal acts within the jurisdiction of the International Criminal Court, established by the Rome Statute,
- hijacking of an aircraft or ship;
- sabotage.

(3) Legal definition of a criminal offence and the prescribed sentence for the types of criminal offences listed in the preceding paragraph shall be in the exclusive jurisdiction of the issuing judicial authority.

### **Grounds for refusing the surrender of a requested person**

#### **Article 9**

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

1. If a warrant has been issued for a criminal offence covered by an amnesty in the Republic of Slovenia, if the authorities of the Republic of Slovenia were competent for prosecution of and adjudication to the perpetrator of this Act;
2. If the warrant has been issued for a criminal offence for which the requested person has already been finally acquitted or convicted in the Republic of Slovenia or in another Member State or in a third country, on condition that, in the event that a sentence was passed, the sentence has already been served or is being served, or that, according to the legislation of the country that passed the sentence, the sentence can no longer be executed;
3. If the warrant has been issued for a criminal offence for which criminal proceedings against the requested person in the Republic of Slovenia were finally halted or the charge was finally rejected, or if the competent state prosecutor rejected the criminal charge because the suspect met the agreed conditions in the settlement procedure, or because he has fulfilled the tasks imposed to lessen or rectify the damaging consequences of the criminal offence in accordance with the instructions of the state prosecutor and with the provisions of the act regulating the criminal procedure;

4. If a warrant has been issued for a criminal offence committed by a requested person who is under 14 years of age;
5. If a warrant has been issued for a criminal offence for which prosecution or execution of a sentence have become statute-barred, if a national court was competent to prosecute or to execute the sentence;
6. If a warrant has been issued for a criminal offence that is not punishable in the national criminal legislation and the exception as referred to in the second paragraph of the preceding article may not be applied. If the warrant has been issued for criminal offences linked to tax, duties, customs duties and currency exchange operations, surrender may not be refused on the grounds that the national legislation does not charge equal taxes or duties or have the same regulations on customs duties and currency exchange operations as the legislation of the issuing Member State;
7. If criminal proceedings are taking place against the requested person in the Republic of Slovenia for the same criminal offence for which the warrant was issued, if the criminal offence was committed against the Republic of Slovenia or against a citizen of the Republic of Slovenia but no protection has been given for the enforcement of pecuniary claim of the victim;
8. If there are reasonable grounds for concluding that the warrant was issued for the purpose of instigating criminal prosecution against and sentencing the requested person because of their sex, race, faith, ethnic origin, nationality, language, political convictions or sexual orientation, or if their position would be made significantly worse for these reasons;
9. If the issuing judicial authority did give the assurances laid down in Article 11 of this Act.

### **Facultative grounds for refusal of surrender of a requested person**

#### **Article 10**

(1) The surrender of the requested person may be refused in the following cases:

1. If criminal proceedings are taking place against the requested person in the Republic of Slovenia for the same criminal offence for which the warrant was issued, even if the grounds from point 6 of the preceding Article have not been adduced and if it would clearly be easier for criminal proceedings to be held in the Republic of Slovenia;
2. If a request for investigation has been rejected in the Republic of Slovenia by a final decision because no reasonable grounds were adduced for suspecting that the requested person had committed the criminal offence for which the warrant was issued and the state prosecutor declared that he would make another motion for the purpose of instituting the criminal prosecution;

3. If the warrant has been issued for the execution of a sentence of imprisonment and the requested person is a citizen of the Republic of Slovenia or of a Member State of the European Union residing in the territory of the Republic of Slovenia, or a foreign person with a permit for permanent residence in the Republic of Slovenia, if the requested person declares that he wants to serve sentence in the Republic of Slovenia and if the national court undertakes to execute the sentence of the court of the issuing state in compliance with the national legislation (Article 72 hereof);

4. If the warrant was issued for criminal offences that, according to the national criminal law, are dealt with as if they had been committed wholly or in part in the Republic of Slovenia and if the state prosecutor declared that he would make a motion for the purpose of conducting a criminal prosecution;

5. If the warrant has been issued for criminal offences committed outside the territory of the issuing Member State but the national criminal law does not permit prosecution for the same offence when committed outside the territory of the Republic of Slovenia.

## **Assurances**

### **Article 11**

(1) Before taking a decision on the surrender, the court shall request the following assurances from the issuing judicial authority:

1. If the warrant has been issued for the execution of a sentence, that a requested person convicted *in absentia* but not personally summoned nor informed in any other way of the place and date of the hearing will have the right to demand a retrial or a new trial in the issuing Member State and to be present when the judgement is passed;

2. If the warrant has been issued for a criminal offence for which a sentence of life imprisonment is prescribed in the issuing Member State, that the legislation of the issuing Member State contains the possibility of clemency or of a review of the sentence passed, either at the request of the convicted person or *ex officio*, not later than within twenty years of the judgement becoming final;

3. That the requested person will be returned to the Republic of Slovenia after the concluded proceedings if the warrant has been issued for implementation of criminal procedure and the requested person is a citizen of the Republic of Slovenia or of a Member State of the European Union residing in the territory of the Republic of Slovenia, or a foreign person with a permit for permanent residence in the Republic of Slovenia, and if the national court undertakes by a written statement to execute the sentence of the court of the issuing state in compliance with the national legislation.

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

## **Expenses**

### **Article 12**

(1) Costs that arise on the territory of the Republic of Slovenia on the account of procedures executed pursuant to this Chapter are the costs of criminal proceedings.

(2) Other costs shall be covered by the issuing Member State.

## **Chapter 2** **Decision procedure on the enforcement of the warrant**

### **Jurisdiction**

#### **Article 13**

(1) An investigating judge from the district court covering the area in which the requested person has permanent or temporary residence or where he is to be found shall be competent to execute the procedure for surrendering the person to another Member State.

(2) If the investigating judge who receives the warrant does not have territorial jurisdiction, he shall immediately send the warrant to the competent judge and inform about it the issuing judicial authority.

### **Communication between the competent authorities**

#### **Article 14**

(1) The issuing and enforcement judicial authorities shall communicate directly as a rule.

(2) If the issuing or administering state determined a central authority in the warrant, the communication shall be carried out via this authority. The Ministry shall keep a list of central authorities of Member States.

(3) Eurojust and contact points of the European judicial network may be consulted in order to determine the competent issuing or enforcement authority.

(4) The warrant and other writings related to the implementation of this Act will be sent in its original form, in a certified copy or in another written form via mail, fax, electronic mail or another secure technical means that protects the secrecy of the data during the transfer and allows the enforcement judicial authority to check the authenticity of the sender and the data.

(5) If there are difficulties in sending or verifying the authentic character of documentation that cannot be directly eliminated, the warrant and other writings can also be sent via the ministry.

## **Language**

### **Article 15**

If the warrant is not drawn in the Slovenian language or if translation in the Slovenian or English language is not enclosed, the investigating judge shall inform the issuing judicial authority about it and determine an appropriate time limit not exceeding ten days to submit the translation to the Slovenian or English languages. If the requested person is deprived of liberty, the investigating judge may order that the warrant be translated into the Slovenian or English languages.

## **The rights of the requested person**

### **Article 16**

(1) The requested person shall have a counsel during the entire surrender procedure from the bringing to the investigating judge or from the first hearing involving decision on the surrender until the execution of the surrender. If the requested person does not take a defence counsel, the president of the court shall appoint him *ex officio*.

(2) The requested person shall be entitled to interpretation in compliance with the provisions regulating the criminal procedure. Upon the request of the requested person, the warrant shall be translated in writing into his language or into another language that is understood by this person.

## **Starting the procedure**

### **Article 17**

(1) When the investigating judge receives the warrant on a prescribed form and its translation into the Slovenian and English languages, he shall check if it contains the data required for taking a decision on its execution and if it complies with the terms as stated in Article 8 hereof. If the warrant is incomplete in its essential elements, the investigating judge shall fix a suitable time limit to the state authority within which the latter should send him the additional data required for starting the decision-making procedure.

(2) If all conditions as referred to in the preceding paragraph are complied with, the investigating judge shall issue an order on forced production of the requested person.

(3) If an arrest warrant has been issued, police officers may arrest the requested person also without a prior order on forced production as referred to in the preceding paragraph if there is a risk that he will abscond or go into hiding.

## **Legal advice to the requested person and forced production**

### **Article 18**

(1) Upon making the arrest, the police must advise the requested person that he is deprived of liberty pursuant to a warrant and inform him of the country that is

requesting his arrest and surrender and the reasons for it. He must be instructed immediately that he is not obliged to make any statement, that he has the right to immediate legal representation of his own free choice and that the competent authority must, on his request, notify his relatives or those close to him of the deprivation of his liberty. If the requested person is not a citizen of the Republic of Slovenia, he must also be advised that the competent authority is obliged, upon his request, to inform his country's consulate of his detention.

(2) Police officers must take the arrested person without delay, or in the case as described in the third paragraph of the preceding Article, not later than within forty eight hours, to the competent investigating judge. Upon bringing the arrested person before the investigating judge, the police officers must inform the investigating judge of the reason and the time of the person's deprivation of liberty. In the case as referred to in the third paragraph of the preceding Article, police officers must submit the warrant or a copy thereof to the investigating judge.

### **Examination of the requested person**

#### **Article 19**

(1) The investigating judge shall check the identity of the person brought before him and then advise him of his rights as referred to in the first paragraph of the preceding Article.

(2) The investigating judge must examine the person brought before him without delay and not later than within 48 hours of his arrest, in terms of admissibility of the enforcement of warrant as referred to in Article 8 and reasons for refusing the surrender as referred to in Articles 9 and 10 hereof and inform him of the contents of the warrant, and advise him of the possibility of his consent to surrender. The competent state prosecutor must be present at the examination.

(3) The investigating judge may, where this is necessary in order to perform the examination from the preceding paragraph and in order to ensure or appoint a counsel for him, order that the requested person be detained for a required period of time pursuant to a decision, but not for longer than 48 hours from the time the person was brought before him. The provisions of the law governing the criminal procedure shall apply *mutatis mutandis* to the appeal against this decision.

### **Hearing to take a decision on the surrender**

#### **Article 20**

(1) After the examination as referred in the preceding Article, a hearing shall be fixed to take a decision on the surrender of the requested person. At the request of the requested person, his legal counsel, the competent state prosecutor or pursuant to a decision of the investigating judge, the hearing to decide on surrender may be adjourned in order to allow a defence to be prepared, the case records to be examined, or translations and other required documents to be obtained.

(2) The investigating judge must advise the requested person that the consent to

surrender is voluntary and that he cannot revoke consent once given, and warn him that in such a case a decision on surrender will be taken within ten days, using a summary procedure.

(3) The investigating judge shall advise the requested person on the meaning of the speciality rule (Article 4 hereof), that he may renounce the entitlement to this principle, on the consequences of renunciation and on the fact that the renunciation is voluntary and may not be revoked.

(4) If the requested person declares that he consents to his surrender, he shall give his consent and any renunciation of entitlement to the speciality rule before the investigating judge. The advice from the preceding paragraphs, consent, the renunciation of entitlement to the speciality rule and the statement of the person to the effect that consent or renunciation of entitlement to the speciality rule was given voluntarily and in the presence of the person's legal counsel shall be entered in the records.

(5) If the investigating judge did not give the advice as referred to in the first paragraph of the preceding Article and in the second and the third paragraphs of this Article, or if this advice was not entered in the records or if the person gave a statement without the presence of his legal counsel, the court may not base its decision on surrender on the statement of the requested person.

### **Decision on the surrender with consent**

#### **Article 21**

(1) If the requested person consents to his surrender, the investigating judge must, without delay and not later than within 48 hours, make a decision on surrender.

(2) Surrender shall be permitted on the basis of a decision containing:

- a) name, surname, date and place of birth and citizenship of the requested person,
- b) the Member State to which the requested person is being surrendered;
- c) description of the criminal offence for which the person is being surrendered;
- č) a statement to the effect that the requested person has consented to surrender;
- d) a statement to the effect that the requested person has consented to renunciation of his entitlement of the speciality rule;
- e) an indication that the requested person may not be extradited to a third country for a criminal offence committed prior to his surrender;
- f) indication as to when the requested person was deprived of liberty on the basis of the warrant and how long did the deprivation of liberty take.

(3) If the requested person has not renounced entitlement to the speciality rule, the decision must also state that the requested person may not be prosecuted, sentenced or surrendered to another Member State for another criminal offence committed prior to his surrender.

(4) The decision shall be served on the requested person, his legal counsel and the state prosecutor.

(5) The requested person and his legal counsel may appeal against the decision of the investigating judge before a non-trial panel of a district court within 24 hours of the decision having been served on them. The panel shall take a decision on the appeal within forty-eight hours.

### **Decision on the surrender without consent**

#### **Article 22**

(1) If the requested person does not consent to his surrender, the investigating judge shall immediately examine him as to the possible reasons for the refusal of the surrender. The counsel and the responsible state prosecutor who may present their proposals and positions shall be present during the examination.

(2) The examination shall be carried out *mutatis mutandis* by applying the act governing the criminal procedure in terms of examination of defendant.

(3) The investigating judge may request from the issuing judicial authority additional data or assurances, in particular with regard to the provisions of Articles 9, 10 and 11 and the first paragraph of Article 17 hereof and shall determine an appropriate time limit for their submission, and he may also perform other investigating acts in order to establish whether the conditions for the surrender of the requested person are given. If a criminal procedure is carried out in the Republic of Slovenia for the same or for some other criminal act, the investigating judge will state this fact in the records.

(4) The non-trial panel of the district court shall issue a decision on the dismissal or admission of surrender on the substantiated motion of the investigating judge.

(5) The written decision on the admission of surrender shall include the following data:

- a) name, surname, date and place of birth, residence and citizenship of the requested person;
- b) the Member State to which the requested person is being surrendered;
- c) description of the criminal offence for which the person is being surrendered;
- e) indication that the requested person may not be prosecuted, sentenced or surrendered to another Member State or extradited to a third country for a criminal offence committed prior to his surrender;
- f) indication as to when the requested person was deprived of liberty on the basis of the warrant and how long did the deprivation of liberty take.

(6) The decision shall be served on the requested person, his legal counsel and the state prosecutor.

(7) The requested person, his legal counsel and state prosecutor may appeal against the decision within eighty-four hours of the time when the decision was served on them. The panel of the Higher Court shall rule on the appeal within three days.

(8) Grounds shall be given for every refusal of the surrender and shall be communicated to the issuing judicial authority.

## **Detention before trial**

### **Article 23**

(1) The European arrest warrant or entry of the alert into the Schengen Information System in compliance with the provisions of Article 95 of the Convention on the Gradual Abolition of Checks at their Common Borders shall be considered as requests for arrest warrant and execution of surrender procedure.

(2) In order that the procedures for the surrender of a requested person might be executed smoothly and if circumstances exist indicating that there is a risk of the requested person absconding, the investigating judge shall decide, following a decision of the issuing judicial authority or on the motion of the competent state prosecutor, either to order detention of the requested person or any of the other measures for ensuring his presence by applying, *mutatis mutandis*, the provisions of the act regulating the criminal procedure.

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

(4) The requested person, his legal counsel or state prosecutor may appeal against the decision as referred to in the second paragraph of this Article before a non-trial panel of the district court within twenty-four hours of the time when the decision was served on the requested person. The panel shall take a decision on the appeal within forty-eight hours. The appeal shall not avert the enforcement of the decision.

(5) The investigating judge shall immediately inform the issuing judicial authority on the adopted measure.

(6) After the investigating judge has issued the respective decision, the requested person may be held in detention no for any longer than a month from the date when he was deprived of liberty. Following this time he shall be detained in custody only on the basis of the decision on the extension of detention.

(7) The detention may be extended under the decision of the non-trial panel of the district court, but it shall not take more than nine months. The decision on the extension of detention shall be issued by the panel on the grounded proposal of the investigating judge or the competent state prosecutor. The requested person and his counsel must be acquainted with the proposal at least three days before the expiry of the time term as set in this paragraph in order to make a statement concerning the allegations prior to the decision. The panel may extend the detention each time by two months.

(8) The requested person and his legal counsel may appeal against the decision on the extension of detention within three days of the time when the decision was served on them. The Higher Court shall rule on the appeal within three days.

## **Seizure of items and temporary protection of the request for the seizure of financial profit**

### **Article 24**

- (1) If the issuing judicial authority so orders in a warrant or when so determined by the national penal code, the investigating judge shall seize and hand over the items that might serve as evidence in criminal proceedings to the issuing judicial authority.
- (2) If the issuing judicial authority orders a temporary protection of the request for the seizure of financial profit, the investigating judge shall order temporary protection of the property in the Republic of Slovenia.
- (3) The court shall decide on the seizure as stated in the preceding paragraphs in a decision whereby it decides on the surrender.
- (4) When deciding as referred to in the first or second paragraph of this Article, the court does not establish double criminality if the issuing judicial authority stated in the warrant that the case concerns one of the types of criminal acts as referred to in the second paragraph of Article 8 hereof.
- (5) Items, financial benefit or property as referred to in the preceding paragraphs shall be seized and handed over also in the case when the surrender cannot be carried out because the requested person has died or absconded.
- (6) If the domestic court seized items or financial benefit or property from the first and second paragraphs of this Article in criminal proceedings that is underway, it shall retain the items or hand them over temporarily to the issuing Member State, on condition that they are returned.
- (7) The issuing state shall return items from the first and second paragraphs of this Article if the administering state or a third person is entitled to them. The costs of the seizure, storage and return of items shall be borne by the issuing Member State.

### **Time limits for decision on the surrender of requested person**

#### **Article 25**

- (1) The surrender procedure shall be rapid.
- (2) If the requested person consents to his surrender, the final decision on surrender must be taken within 10 days after the given consent.
- (3) If the requested person does not consent to his surrender, a final decision on the surrender shall be taken within sixty days after the arrest or after the first examination of the requested person.
- (4) If a decision on the surrender cannot be taken within the time limits determined in the second and third paragraphs of this Article, the national court shall immediately

inform the issuing judicial authority thereon and explain the reasons for the delay. In such case the time limit can be extended by the additional thirty days.

(5) If a decision on the surrender cannot be taken within the time limits determined in this Article because of exceptional circumstances, the national court shall immediately inform Eurojust thereon and explain the reasons for the delay. If the other Member State keeps being late in the enforcement of the warrant, the court shall inform the Council of the Union thereon. Informing will be carried out through the Ministry.

(6) Until the surrender has been carried out, the court shall do everything in its power, by applying the appropriate measures to ensure the presence of the requested person, to make the surrender of the requested person possible.

### **Examination or temporary relocation of the requested person during the surrender procedure**

#### **Article 26**

(1) On the proposal of the issuing judicial authority and under the condition that the warrant is issued for the purpose of conducting a criminal procedure, the investigating judge shall, during the time until the surrender:

- a) examine the requested person on the criminal act for which the warrant is issued, or
- b) allow a temporary relocation of the requested person into the issuing state.

(2) Details related to the examination and conditions and duration of the temporary relocation of the requested person shall be determined by the investigating judge and the issuing judicial authority in a mutual written agreement that must be binding on all authorities in the issuing state.

(3) The investigating judge shall examine the requested person in compliance with the provisions of the law that regulates the criminal procedure and in compliance with the agreement from the preceding paragraph. The counsel and the state prosecutor shall be present during the hearing, however, another person who was determined in compliance with the legislation of the issuing state may be present as well.

(4) Should the investigating judge assess that the examination of the requested person will be evidently carried out more easily and more efficiently in the issuing state or if other important reasons exist, he shall allow a temporary relocation of the requested person by a written order. Based on the proposal of the requested person, the issuing state shall provide for its return into the Republic of Slovenia in order that he may participate in the actions relating to the surrender procedure.

#### **Immunity**

#### **Article 27**

(1) If the requested person enjoys immunity, the investigating judge shall request that the competent authorities commence a procedure to revoke that immunity.

(2) If a requested person that enjoys immunity is a citizen of another country or a member of an international organisation, the procedure to revoke immunity must be requested by the issuing judicial authority.

(3) The time limits as referred to in Article 25 shall start to run on the day when the investigating judge receives a notification that immunity has been revoked.

(4) If the requested person's immunity is revoked, the national court must, using appropriate measures for ensuring the presence of the requested person, do everything in its power to ensure that the requested person is in a position to be surrendered.

### **Surrender of the extradited person**

#### **Article 28**

(1) If the surrender of a person extradited to the Republic of Slovenia by a third country is requested on condition that he may not be prosecuted, sentenced or extradited to another country to face prosecution, the court must, notwithstanding the provisions of this Act, respect this condition. The investigating judge must without delay request the competent authority of the third country, which extradited the person, for the consent to surrender this person to the issuing state, in accordance with international treaties binding on the Republic of Slovenia.

(2) The time limits as referred to in Article 25 shall start to run on the day when the investigating judge receives the consent as referred to in the preceding paragraph.

(3) Until the country that extradited the requested person makes the respective decision, the national court must, by applying the appropriate measures for ensuring the presence of the requested person, do everything in its power to ensure that the requested person is in a position to be surrendered.

### **Chapter 3**

#### **Decision in the case of several warrants and in the case of a concurrent warrant and request for surrender**

### **Competence for decision making in the case of several warrants**

#### **Article 29**

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

## **Decision-making process**

### **Article 30**

(1) If the investigating judge conducting the surrender procedure is informed that several warrants have been issued against the requested person and the decision on the permission of the surrender has not yet been issued, he shall suspend the surrender procedure; however, if the file has already entered the decision-making process with the panel, he shall request the return of the file and shall implement a uniform surrender procedure after receiving the other d warrant or warrants and shall submit it to the panel from the preceding Article for decision. Before submitting the case for decision to the panel, the investigating judge may obtain the opinion of Eurojust.

(2) In making a decision as to which Member State the requested person will be surrendered, the panel shall duly take into account all circumstances of the case, particularly the weight of the criminal act, place of commitment of the criminal act, dates of particular warrants and the fact whether they were issued for the purpose of implementing the criminal procedure or carrying out the sentence of imprisonment.

(3) The decision shall be served on the requested person, his legal counsel and the state prosecutor.

(4) The requested person, his legal counsel and state prosecutor may appeal against the decision within three days of the time when the decision was served on them. The appeal shall be decided upon by the higher court.

(5) The investigating judge shall immediately inform all issuing judicial authority on the final decision.

### **Competence for decision making in the case of concurrent warrant and request for extradition**

### **Article 31**

If a final decision is taken against the same person that he shall be surrendered to the Member State and extradited to the third country, a panel of three judges of the Supreme Court of the Republic of Slovenia shall decide about whether the person shall be surrendered to the Member State or extradited to the third county.

## **Decision-making process**

### **Article 32**

(1) In decision-making process, the Supreme Court of the Republic of Slovenia shall take into account all circumstances of the case, particularly those referred to in the second paragraph of Article 30 hereof and those which are determined by the appropriate international contracts that are binding upon the Republic of Slovenia.

(2) The person that must be surrendered or extradited, his legal counsel and state

prosecutor may appeal against the decision within three days of the day when the decision was served on them. A panel of five judges of the Supreme Court of the Republic of Slovenia shall decide on the appeal.

(3) The investigating judge shall inform the judicial authorities that issued the warrant or requested the extradition on the decision taken by the Supreme Court of the Republic of Slovenia.

(4) The provisions of Articles 29, 30 and 31 hereof and the provisions of the preceding paragraphs of this Article shall not prejudice the obligations of the Republic of Slovenia towards the International Criminal Court, established by the Rome Statute of the International Criminal Court in compliance with international treaties that are binding on the Republic of Slovenia.

## **Chapter 4** **Enforcement of surrender of a requested person**

### **Informing and notifying**

#### **Article 33**

(1) The investigating judge shall immediately inform the issuing judicial authority on the final decision on the surrender of the requested person.

(2) Upon the surrender of the requested person, all information connected with the duration and type of measures taken in order to provide the presence as referred to in Article 23 of this Act shall be submitted to the issuing judicial authority.

### **Surrender of the requested person**

#### **Article 34**

(1) Upon the finality of decision, the investigating judge shall immediately order the surrender of the requested person. A written order shall be sent without delay to the police for execution. The police shall agree with the competent authorities of the issuing state on the method, time and place of the surrender of the requested person, which must take place as soon as possible and not later than within ten days of the decision on surrender becoming final.

(2) If circumstances beyond the control of the Member States prevent the surrender of the requested person within the time limit as stated in the preceding paragraph, the investigating judge or the police shall immediately contact the issuing judicial authority and agree with it on a new method, date or place for surrender, which must be executed within the following ten days.

(3) The surrender of a requested person may exceptionally be postponed for serious humanitarian reasons, in particular if there is likely that surrender would clearly seriously threaten the life or health of the requested person. Surrender shall be

executed as soon as these reasons are no longer in place. The investigating judge shall inform the issuing judicial authority of this and they shall agree on a new method, time or place for surrender, which must take place within the following ten days.

(4) Police officers shall execute the surrender of a requested person by taking him to the border and surrendering him to the competent authorities of the issuing state.

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

### **Postponed or temporary surrender of the requested person**

#### **Article 35**

(1) The surrender of a requested person may be postponed if criminal proceedings are being conducted against him before a national court or if he is serving a sentence passed for a criminal offence that is different to that referred to in the warrant. The court that decides on the surrender shall decide on postponing the surrender in its decision on the surrender of the requested person.

(2) In the case as referred to in the preceding paragraph, the requested person may be temporarily surrendered to the issuing state under the conditions laid down in a mutual written agreement by the court before which the criminal proceedings are being conducted or the court competent to execute the sentence, and the issuing judicial authority. The conditions laid down in the agreement are binding upon all authorities in the issuing state.

### **Transit across the territory of the Republic of Slovenia**

#### **Article 36**

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

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

- a) name, surname, date and place of birth, residence and citizenship of the requested person;
- b) a copy of the warrant;
- c) legislative designation of the criminal act;
- č) description of the criminal act, including the date and place of its commitment.

(3) If the requested person is a citizen of the Republic of Slovenia, a citizen of a Member State residing on the territory of the Republic of Slovenia or a foreign person with a permit for permanent residence in the Republic of Slovenia and the warrant was issued in connection with the execution of criminal proceedings, transit shall be

permitted under the condition that the requested person returns to the Republic of Slovenia after the end of the trial, if he so requests, to serve his sentence in accordance with the judgement of the court of the issuing Member State in accordance with the national law.

(4) If the requested person is a citizen of the Republic of Slovenia, a citizen of a Member State residing on the territory of the Republic of Slovenia or a foreign person with a permit for permanent residence in the Republic of Slovenia and the warrant was issued in connection with the execution of a sentence of imprisonment, the transit shall be refused. Transit shall be permitted if the requested person who is not a citizen of the Republic of Slovenia explicitly states that he wishes to serve his sentence in the issuing Member State.

(5) A transit request and information as referred to in the second paragraph of this Article may be sent by any means that permits the sending of written documents. The Member State that decides on the admissibility of transit shall send official notification of its decision using the same procedure.

(6) The Ministry shall inform on its decision the authority requesting the transit, and the police escorting the person across the territory of the Republic of Slovenia.

(7) The provisions of this Article shall not apply in the case of transport by air without a scheduled stopover. In the case of an unscheduled stopover, the ministry shall request that the issuing Member State send the information from the second paragraph of this Article.

### **Transit across the territory of another Member State**

#### **Article 37**

(1) If transit across the territory of another Member State is necessary in order to execute the European Arrest Warrant issued by the national court, the court shall send to the competent authority of this state the documents as referred to in the second paragraph of the preceding Article and ask for the permission for transit. The Ministry shall keep a list of competent authorities of the Member States.

(2) If transit across the territory of another Member State is necessary in order to implement the extradition of a person from the third country, the court shall send to the ministry the documents as referred to in the second paragraph of the preceding Article, so that the ministry can request the permission for transit.

### **Chapter 5**

### **Consent to prosecution or extradition for other criminal offences**

#### **Competence to decide on the consent**

#### **Article 38**

The investigating judge of the court that permitted surrender shall decide on the request from the judicial authority of a Member State to consent that the person who has been surrendered by the Republic of Slovenia may be prosecuted, that a sentence may be applied to him or that he may be surrendered to another Member State for a criminal offence committed prior to his surrender other than that for which he was surrendered. The request must contain the information laid down in Article 36 of this Act.

## **The procedure**

### **Article 39**

(1) The investigating judge shall decide on the consent by a written order without examination of the surrendered person. Consent shall be given if the conditions as referred to in Article 8 hereof are met. The consent shall be refused only for the reasons as referred to in Articles 9, 10 and 11 hereof. The decision must be adopted not later than within 30 days of the receipt of the request. The consent shall be communicated in the form and manner as laid down in the first paragraph of Article 35 hereof.

(2) A decision on the request from a judicial authority of a Member State to consent that the person surrendered by the Republic of Slovenia is extradited to a third country shall be taken in accordance with international treaties binding on the Republic of Slovenia.

## **Chapter 6**

### **Procedure and conditions for issuing the warrant**

#### **Admissibility of issuing the warrant in the Republic of Slovenia**

### **Article 40**

The warrant may be issued if detention is ordered against the defendant in the Republic of Slovenia for a criminal offence prosecuted *ex officio* and punishable in the national criminal law by a sentence of imprisonment of at least one year or for the purpose of enforcement of imprisonment sentence or precautionary or other sanction that is carried out by deprivation of liberty of at least four months.

#### **Content and form of the warrant**

### **Article 41**

(1) The national court before which the criminal procedure is conducted, or the national court which is competent for the enforcement of the sentence, shall issue the warrant on the form which is defined in Enclosure 1 hereof and shall form its integral part.

(2) The original of the warrant shall be translated into the official language or one of the official languages of the administering state or in the language determined by the Member State.

### **Forwarding the warrant**

#### **Article 42**

(1) If the place of the permanent or temporary residence of the requested person is known or if his whereabouts are known, the national court shall send the warrant directly to the enforcement judicial authority covering the area of the requested person's residence or whereabouts.

(2) If the competent enforcement judicial authority is not known, the national court shall investigate through the contact points of the European Judicial Network in criminal matters, Eurojust or via the ministry.

(3) If the person's whereabouts are unknown, the national court shall send the warrant to the police that shall act in compliance with the provisions of the Act regulating the criminal procedure with respect to the warrant for arrest.

(4) An alert in the Schengen Information System may be issued in compliance with the provisions of Article 95 of the Convention on the Gradual Abolition of Checks at the Common Borders of 19 June 1985 or the act regulating the police. The alert in the Schengen Information System furnished with the data as referred to in Article 36 hereof shall be considered equal to the warrant.

### **Examination or a temporary relocation**

#### **Article 43**

(1) If a warrant was ordered for the purpose of implementing the criminal procedure, the national court that issued the warrant may request from the enforcement judicial authority to examine the requested person or to relocate him temporarily to the Republic of Slovenia for the purpose of examination or participation in the main hearing.

(2) The investigating judge shall participate in the examination of the requested person in the administering state. The state prosecutor or the counsel may be present during the examination, except if their presence is not allowed under the legislation of the administering state. The investigating judge shall inform the state prosecutor and the counsel on time and by an appropriate method as to the place and time of examination.

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

## **Exemptions from the principle of speciality**

### **Article 44**

The principle of speciality as referred to in Article 4 hereof shall not be applied in the following cases:

1. when the sentenced person, having had an opportunity to leave the territory of the Republic of Slovenia, has not done so within 45 days of his final discharge, or if he has returned to that territory after leaving it;
2. if the other offence committed by the person before his surrender is sanctioned only with a financial penalty;
3. if the person expressly renounced his entitlement to the speciality rule before or after the surrender;
4. if the Member State that surrendered the person consents to the prosecution, execution of sentence or surrender to another Member State for another criminal offence committed by the person before the surrender.

## **Renunciation of entitlement to the principle of speciality**

### **Article 45**

(1) The person surrendered to the Republic of Slovenia may renounce his entitlement to the principle of speciality for criminal offences committed prior to his surrender before the national court where the criminal procedure for the criminal offence committed prior to the surrender is being conducted or before the investigating judge of the court competent for the execution of the sentence or surrender procedure.

(2) The person as referred to in the preceding paragraph shall be instructed on the meaning of the principle of speciality, the consequences of renunciation of entitlement to the principle of speciality and on the fact that renunciation is voluntary and may not be revoked. The surrendered person without a counsel shall be instructed that he is entitled to engage a counsel of his own choice.

(3) The advice from the preceding paragraph, renunciation of entitlement to the rule of speciality and declaration that the renunciation was given on a voluntary basis shall be entered in the records. If the person was not duly instructed or the advice was not written, the court may not ground its decision on the declaration of the surrendered person.

(4) If the person surrendered to the Republic of Slovenia does not renounce his entitlement to the speciality rule, the court from the first paragraph of this Article must ask for the consent that the surrendered person may be prosecuted, that a sentence may be enforced on him or that he may be surrendered to another Member State for another criminal act committed prior to his surrender.

## **Extradition of the surrendered person to a third country**

### **Article 46**

(1) The person surrendered to the Republic of Slovenia may not be surrendered to a third country without the consent of the Member State that surrendered the person. The request for issuing the consent shall be given by the national court in compliance with international treaties that are binding on the Republic of Slovenia.

(2) The preceding paragraph shall not be used in relation to the Member States whose consent on subsequent surrender to a third country is deemed to be issued on the basis of a notification sent to the Secretary General of the Council of the European Union.

## **PART III LEGAL ASSISTANCE**

### **Chapter 7 General provisions**

#### **The level of legal assistance**

### **Article 47**

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

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

2. in proceedings for offences and other criminal conducts if judicial protection in the court, having jurisdiction also in criminal matters is possible against the decision of the competent authority;

3. in procedures referred to in points 1 and 2 conducted against legal persons;

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

(2) Legal assistance shall be implemented first of all by the service of documents and implementation of investigation acts and other measures for the successful conduct of preliminary or criminal proceedings.

#### **Competent authorities**

### **Article 48**

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

If, according to the law of the Republic of Slovenia ordering or implementing the act or measure in relation to the procedures referred to in points 1, 3 and 4 of the first paragraph of the preceding Article falls under the jurisdiction of the national court, district court shall have jurisdiction over legal assistance on the territory of which the act or measure is to be implemented. If more courts have jurisdiction, territorial jurisdiction shall be vested in the court competent for performing the first act or measure mentioned in the request. If the court of territorial jurisdiction can not be determined, the jurisdiction lie with the District Court in Ljubljana.

(3) If according to the law of the Republic of Slovenia, a public prosecutor is competent to order an act or measure referred to in the preceding paragraph, the preceding paragraph shall apply *mutatis mutandis* for the determination of material and territorial jurisdiction.

(4) If the request for legal assistance refers to acts referred to in point 2 of the first paragraph of the preceding Article which the law of the requesting State considers as offences or other criminal conducts, legal assistance shall be in the jurisdiction of the local court on the territory of which the act or measure should be performed even when it is a request of an administrative body of a requesting State.

(5) If the request for legal assistance relates to the order of measures or performance of acts which, according to the law of the Republic of Slovenia fall within the jurisdiction of different authorities, it shall be sent to the State Prosecutor's Office with territorial jurisdiction, who shall order the measure or perform acts for which it has jurisdiction under the law of the Republic of Slovenia, and propose an order of the measure or performance of acts to the competent court.

## **Transmission of requests for legal assistance**

### **Article 49**

(1) The transmission of requests for legal assistance and answers thereto shall be performed directly between the competent authorities of Member States in written or any other form that provides a written record, on the basis of which the requested State shall verify the authentic character of the request.

(2) When so provided for by an international treaty, requests may also be transmitted via the central authorities of Member States or a competent police unit.

(3) The ministry shall be competent to assist courts and judicial authorities of Member States in relation to transmitting and receiving requests for international legal assistance and answers thereto when the competent authority is not known.

## **Transmission and service of documents**

### **Article 50**

(1) The delivery of documents of competent authorities to persons within the territory of Member States shall be directly via email, including proof of personal service, except if determined otherwise by the international treaty.

(2) Notwithstanding the provision of the preceding paragraph, documents may be transmitted through the competent authorities of Member States in the following cases:

1. if the person's address is not known or not reliable;
2. if regulations on the serving of the requesting State require a proof of service of documents other than the proof received at the email service;
3. if direct mail service was not possible;
4. if the requesting State has grounded reasons to believe that service via email shall be ineffective or inappropriate.

(3) If the addressee is thought to not understand the language of documents, these should be translated in whole or at least in their important parts into one of the languages of the Member State in whose territory the addressee is located. If the issuing authority of documents knows that the addressee understands only some other language, the documents or at least their important parts shall be translated into such other language.

(4) If the document to be served has no legal caution, it should be stated in the document or in a notice attached thereto that the addressee may require from the issuing authority of the document, the address of which should be indicated, an explanation on rights and obligations in relation to the served document.

### **The presence of representatives of competent authorities and those who are parties to the proceeding**

#### **Article 51**

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

(2) If it is provided for by international treaty that officials of Member States may implement certain acts or measures in the territory of another Member State, such acts or measures shall be implemented in the territory of the Republic of Slovenia upon a request by another Member State under the guidance of the officials of the competent authorities of the Republic of Slovenia.

(3) The competent authority in the Republic of Slovenia shall not refuse an explained request of the competent authority of another Member State regarding the presence of representatives of the competent authorities of Member States and of other parties to the proceeding and their legal representatives, at the implementation of legal assistance, if their presence or cooperation is likely to be of benefit to an appropriate implementation of legal assistance. The competent authority of the Republic of Slovenia shall, upon the request of the competent authority of the requesting State, inform this on the time and place of the implementation of the request.

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

## **Exchange of information without a request**

### **Article 52**

(1) If the national judicial authority estimates that information in relation to criminal offences acquired during the performance of its competencies could be useful in the implementation of preliminary or criminal proceedings, or could represent the basis for a request for legal assistance, it shall transmit such information to or receive it from the competent authorities of another Member State, without any prior request.

(2) The exchange of information referred to in the preceding paragraph shall be without prejudice to the introduction or conduct of criminal proceedings, or to the implementation of the other competencies of the authority, transmitting the information.

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

## **Chapter 8**

### **Special forms of legal assistance**

#### **Dismissal of prosecution**

### **Article 53**

(1) If a person who is a national of another Member State and has his/her residence in another Member State committed a criminal offence in the territory of the Republic of Slovenia, all files shall be submitted to such Member State if the other Member State raises no objection.

(2) Prior to the issue of an investigation order, the submission of files shall be decided by the competent state prosecutor. During the investigation, this shall be subject to decision-making by the investigating judge on the motion of the State prosecutor, and until the main hearing, by a non-trial panel of the district court, even if these are matters falling within the competencies of the district court.

(3) When deciding about the submission of files, the authorities referred to in the preceding paragraph shall take into account all costs existing up to that time and all future costs of the preliminary or criminal proceedings.

(4) The submission of files shall be allowed in respect of criminal offences which are punishable by imprisonment of not more than ten years, and of criminal offences against the safety of public traffic.

(5) The submission of files shall not be allowed if the victim is a national of the Republic of Slovenia who raises the objection, unless protection has been given for the enforcement of his/her pecuniary claim.

(6) The submission of files shall not be allowed if a seizure or temporary protection of the request for the confiscation of money or unlawfully acquired assets referred to in Article 252 of the Penal Code, or of unlawfully giving or taking a bribe referred to in Articles 162, 168, 247, 248, 267, 268 and 269 of the Penal Code has been ordered, except in cases when the court has issued such orders on the initiative of the competent authorities of another Member State. In such cases and in cases when

the temporary protection of the request for the confiscation of material benefit in relation to other criminal offences has been ordered, the authorities referred to in the second paragraph of this Article shall be allowed to submit the file to another Member State only after it has been established that such State has corresponding legislation governing the seizure of financial profit and the submission of files to another State, and if the value of the temporarily protected assets has been taken into account.

(7) If the defendant is in detention the foreign State shall be requested in the quickest way to state within fifteen days whether it takes over the prosecution.

## **Assumption of prosecution**

### **Article 54**

(1) The request of another Member State that the prosecution of a national of the Republic of Slovenia or a person with permanent residence in the Republic of Slovenia shall be taken over in the Republic of Slovenia, for a criminal offence committed in another Member State shall be sent together with the relevant files to the competent state prosecutor on the territory of such person's permanent or temporary residence.

(2) If a pecuniary claim is submitted to the competent authority of another Member State, it shall be treated as having been submitted to the competent national court.

(3) Refusal of the assumption of criminal prosecution and the final decision issued in criminal proceedings shall be notified to the Member State which has sent the request.

## **Setting up of a joint investigation team**

### **Article 55**

(1) In a matter which is the subject of preliminary proceedings, investigation or judicial proceedings in one or more Member States the police, implementing tasks and measures in the preliminary and investigation procedure which fall within its competencies under the provisions of the act governing criminal proceedings, may cooperate with the police forces of another Member State within or outside the territory of the Republic of Slovenia.

(2) When implementing tasks and measures referred to in the preceding paragraph, the police are coordinated by the state prosecutor pursuant to the provisions of the act governing criminal proceedings, and, in doing so and in implementing other authorities in accordance with provisions of this act, may cooperate with the public prosecutors of another Member State within or outside the territory of the Republic of Slovenia (joint investigation team).

(3) The tasks, measures, coordination and other authorisations referred to in the preceding paragraphs shall be implemented in accordance with the agreement on the setting up and operation of a joint investigation team in the territory of the Republic of Slovenia or another Member State which shall be concluded on the basis of the Council Framework Decision of 13 June 2006 on joint investigation teams after obtaining the opinion of the Director General of the Police, for each individual case by the State Prosecutor General or upon his/her authorisation, by his/her deputy,

with the State Prosecutor's Office, court, police or other competent authority of another State. The agreement shall be concluded on the initiative of the State Prosecutor General, the Head of the Office of the District State Prosecutor's Office or the Head of the group of state prosecutors for the prosecution of organised crime, or on the initiative of a competent authority of another Member State.

(4) The agreement referred to in the preceding paragraph shall provide for which authorities are concluding the agreement, the matter to be dealt with by the joint investigation team, the purpose of the team's operation, the state prosecutor from the Republic of Slovenia being the head of the team in the territory of the Republic of Slovenia, other members of the team and the duration of the team's operation. The State Prosecutor General shall provide the ministry with a written notice on the concluded agreement.

## **Method of work of the joint investigation team**

### **Article 56**

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

(2) If so provided for with the agreement on the setting up and operation of the joint investigation team referred to in the third paragraph of the preceding Article, representatives of the competent authorities of the European Union shall also be allowed to cooperate in the joint investigation team, such as EUROPOL, Eurojust and OLAF. Representatives of competent authorities of the European Union shall implement their authorities in the territory of the Republic of Slovenia only within the framework of the joint investigation team in accordance with the provisions of the agreement referred to in the third paragraph of the preceding Article.

(3) Organisational units of the police and State Prosecutor's Offices in the Republic of Slovenia shall provide the joint investigation team with all necessary assistance.

(4) On completion of the work of the joint investigation team, the head of the team shall provide all its members and the State Prosecutor General with written reports.

## **Controlled delivery**

### **Article 57**

(1) Controlled delivery shall mean the agreed surveillance of the transportation or transfer of persons, objects or goods of whom or which importation is limited or prohibited from, to or through the territory of the Republic of Slovenia, where the competent authorities, with the aim of revealing large-scale criminal activities, postpone the detention order and implementation of other measures provided for with the act governing criminal proceedings.

(2) A decision on the controlled delivery shall fall within the competencies of the District State Prosecutor in the area of which the controlled delivery is to cross the

State border, or from the territory of which it shall be dispatched, or a group of state prosecutors for the prosecution of organised crime.

(3) The controlled delivery shall be permitted at the request of the competent authority of the Member State or in agreement with another Member State, if criminal offences are involved that satisfy the conditions for the issue of an European Arrest Warrant.

(4) Controlled delivery in the territory of the Republic of Slovenia shall be implemented by the competent Slovene authorities in such a manner as to provide permanent surveillance and appropriate action.

5) Controlled delivery shall not be allowed or its further implementation shall be suspended if:

1. or until it causes risk to people's life or health; or

2. it is likely that further control or action in another Member State is not ensured or will not be effective.

(6) After the implementation of the controlled delivery, the competent state prosecutor shall establish whether conditions exist for the dismissal of criminal prosecution in the Member State where the suspect(s) has/have been deprived of liberty.

## **Undercover operation**

### **Article 58**

(1) A undercover operator of a Member State shall be permitted to operate in the Republic of Slovenia upon a written order by the state prosecutor or investigating judge competent for the area in which the implementation of the undercover operation is supposed to be started, or state prosecutor of the group of state prosecutors for the prosecution of organised crime, under conditions and for as long as is provided for by the act governing criminal proceedings. The written order shall be issued on the basis of a request from a competent judicial authority of the Member State which has approved the undercover operation in preliminary or criminal proceedings in such State.

(2) If implementation of the preliminary or criminal proceedings in the Republic of Slovenia requires the operation of a undercover operator from the Republic of Slovenia in another Member State, the competent authority of such Member State shall require an undercover operation from the authority competent for ordering the measure in accordance with the act governing criminal proceedings. The request shall be attached by a written order.

## **Implementation of undercover operation**

### **Article 59**

(1) Undercover operator of the Member State shall operate in the territory of the Republic of Slovenia under the leadership and control of the police forces which shall be sent the order on permission of operation of the undercover operator, marked with the classification level „confidential“ in accordance with the act governing classified information.

(2) The undercover operator shall respect the legal order of the Republic of Slovenia and all orders of competent national authorities. The undercover operator shall be subject to the provisions of the act governing criminal proceedings, while the conditions and mode of his/her action shall be specified by agreement with the authority of the requesting State and shall be included in the order referred to in the first paragraph of the preceding Article.

(3) On the initiative of the undercover operator, the police may propose to the state prosecutor the issue of a written order permitting the measure of sham purchase, sham acceptance or giving of gifts or sham bribery in accordance with the provisions of the act governing criminal proceedings.

## **Eurojust**

### **Article 60**

(1) If detecting or investigating a criminal offence or measures of criminal prosecution concern at least two Member States or a Member State and a third country, the competent state prosecutor may request that Eurojust takes appropriate measures so as to provide speedy and effective cooperation.

(2) In order to implement the purposes referred to in the preceding paragraph, Eurojust may:

1. act to facilitate and harmonise cooperation between the competent authorities of Member States;
2. consult or propose improvement of cooperation between the competent authorities of Member States in the field of legal assistance, surrender and implementation of the European Arrest Warrant;
3. by means of advice and other similar assistance, increase the effectiveness of the detection or investigation of a criminal offence and measures of criminal prosecution.

## **A member of Eurojust from the Republic of Slovenia**

### **Article 61**

(1) A member of Eurojust representing the Republic of Slovenia (hereinafter referred to as: Eurojust member from the Republic of Slovenia) shall retain the competencies deriving from its function under the law of the Republic of Slovenia.

(2) The Eurojust member from the Republic of Slovenia shall be authorised to obtain, through direct contacts with the competent authorities of the Republic of Slovenia, first of all with the State Prosecutor's Offices, courts and the police, such personal and other information which are subject to treatment by such authorities and are necessary for the performance or meeting of the tasks of Eurojust.

(3) The Eurojust member from the Republic of Slovenia may forward the obtained information to bodies of the European Union, international organisations and law enforcement agencies of other Member States in accordance with their legal arrangements or legal orders.

(4) The Eurojust member from the Republic of Slovenia shall ensure a method of operation that will provide the competent authorities of the Republic of Slovenia with

subsequent information regarding to whom, when and on which legal basis the information referred to in the first paragraph has been communicated.

## **Request to Eurojust**

### **Article 62**

Within national criminal proceedings, the competent judicial authority of the Republic of Slovenia may establish direct contact with the Eurojust member from the Republic of Slovenia and submit a request for assistance in accordance with Eurojust competencies. The police shall make the request through the competent judicial authority.

## **Further communication of information**

### **Article 63**

The Eurojust member from the Republic of Slovenia may communicate information to Eurojust and other Eurojust members from Member States, to the extent admissible for providing legal assistance in criminal matters under the regulations of the Republic of Slovenia and binding international treaties.

## **Eurojust request**

### **Article 64**

(1) When the State Prosecutor's Office of the Republic of Slovenia does not intend to comply with a request from the Eurojust College concerning the assumption or dismissal of criminal prosecution, the performance of cooperation between the competent authorities of Member States, the setting up of a joint investigation team or the communication of required information, it shall submit its decision to the College of the Office of the State Prosecutor General of the Republic of Slovenia for consideration. The College shall adopt an opinion on compliance with or refusal of the explained request from Eurojust; however, compliance or refusal shall be subject to the decision of the State Prosecutor General of the Republic of Slovenia, who shall immediately forward the decision to the ministry.

(2) When the matters referred to in the preceding paragraph fall within competencies of the court of the Republic of Slovenia, it shall decide on refusal by means of an order which is to be submitted to the competent State Prosecutor's Office. The competent State Prosecutor's Office may file an appeal with the competent higher court within fifteen days of the acceptance of the order, which shall decide on the appeal in the shortest possible time, however not later than within fifteen days. The final decision on refusal shall be immediately communicated by the court to the ministry.

(3) The decision on the refusal of the request to Eurojust shall be explained and communicated to Eurojust.

(4) Notwithstanding the provision of the preceding paragraph, explanations of the decision on the refused request shall not be communicated to Eurojust if this would harm the national security interests of the Republic of Slovenia, in particular its

constitutional arrangement or territorial integrity, or jeopardise current detections or investigations of a criminal offence or the safety of natural persons, especially protected witnesses.

## **The European Judicial Network and contact points**

### **Article 65**

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

(2) The Republic of Slovenia shall set up contact points of the European Judicial Network at district courts, at the Office of the State Prosecutor General of the Republic of Slovenia, at the ministry and at the Office of the Republic of Slovenia for the Prevention of Money Laundering in order to simplify direct contacts and cooperation between the judicial authorities of Member States. Court presidents shall appoint judges authorised to perform the tasks of contact points. Each calendar year until the end of January, courts presidents shall report to the ministry the personal names of judges, their title and the necessary contact information, for the purpose of performing the tasks of the contact points of the European Judicial Network, as well as on any eventual changes to information in relation to contact points. The State Prosecutor General of the Republic of Slovenia shall appoint a state prosecutor authorised to perform the tasks of contact points and his/her deputy, and inform the ministry of their contact information and any change thereto. Director of the Office of the Republic of Slovenia for Prevention of Money Launder shall appoint a contact person authorised to perform tasks of contact points, and inform the ministry of his/her contact information, as well as any change thereto.

(3) The task of contact points of the European Judicial Network in the Republic of Slovenia shall be to provide stimulation and assistance in implementing judicial cooperation between competent national and foreign authorities, by means of active communication and the establishment of direct contacts with the competent contact points or services of other Member States.

(4) A Minister of Justice (hereinafter referred to as: the minister) shall appoint contact points in the European Judicial Network. The ministry shall inform the network of the personal names of appointed officials or functionaries, their titles or functions, and necessary contact information, and shall be responsible for their keeping up-to-date.

(5) Courts and State Prosecutor's Offices shall provide assistance in the operation of contact points and shall, with the aim of simplifying judicial cooperation, in particular obtain general or summary information on foreign legal order and information on the course of foreign criminal proceedings and procedures relating to legal assistance, and use the assistance of contact points if such information can not be obtained by direct contacts with the authority of the relevant Member State.

## **PART IV**

### **RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS**

#### **Chapter 9**

#### **Executing a custodial sentence and precautionary or other sanction of the criminal court that is carried out by detention order**

##### **Implementing conditions**

##### **Article 66**

The national court shall comply with the request of the competent authority of another Member State providing for the execution of a custodial sentence, a precautionary or other sanction of the criminal court that is carried out by the deprivation of liberty according to a final criminal judgement of the court of another Member State, if the following conditions are satisfied:

1. the decision does not indicate a violation of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
2. the decision has been issued because of the act for which a sanction is imposed under the law of the Republic of Slovenia by the court;
3. the decision has not been issued due to a political or military criminal offence;
4. according to the law of the Republic of Slovenia, enforcement of a sentence has not become statute-barred;
5. a person has not already been finally convicted or acquitted in the Republic of Slovenia for the same criminal offence, or criminal proceedings against such person were finally halted or the charge was finally rejected;
6. the person is a national of the Republic of Slovenia, having had or having permanent or temporary residence in the Republic of Slovenia;
7. in the case of implementing a precautionary or other sanction of the criminal court that is carried out by the deprivation of liberty, the law of the Republic of Slovenia provides for the same measure.

##### **Consent to enforcement**

##### **Article 67**

(1) Enforcement of the final criminal judgement referred to in the preceding Article shall be admissible only with the person's consent that it be enforced in the Republic of Slovenia.

(2) The consent referred to in the preceding paragraph shall not be necessary if:

1. the person evaded the enforcement or further enforcement of the criminal judgement referred to in the preceding Article by entry or absconding to the Republic of Slovenia, or
2. in the State of the issue of the sentence, the person was ordered expulsion, deportation or any other measure as a result of which that person will no longer be

allowed to remain in the territory of the sentencing State once he/she is released from prison.

### **Temporary deprivation of liberty in order to secure enforcement**

#### **Article 68**

(1) On the proposal of the state prosecutor, the investigating judge may order a temporary deprivation of liberty in order to secure enforcement, provided that the following conditions are satisfied:

1. the issuing State of the sentence has delivered a request for the enforcement of the criminal judgement or order, with the aim of enforcing the criminal judgement;
2. there are circumstances indicating the risk that the person could escape so as to evade the procedure for enforcement or the service of a sentence or measure;
3. the consent of the person to the enforcement shall not be necessary or has been given; and
4. the enforcement request is not manifestly inadmissible.

(2) The temporary deprivation of liberty referred to in the preceding paragraph shall be ordered, enforced or extended pursuant to the provisions of the act governing criminal proceedings, ordering, enforcement or extension of detention.

### **Imposing a sanction under the law of the Republic of Slovenia**

#### **Article 69**

(1) The national court shall enforce a criminal judgement concerning the sanction imposed by the court of another Member State by imposing a penal sanction under the criminal law of the Republic of Slovenia. On the basis of the facts established in the ruling by the court of another Member State, the court shall take into consideration the sentence imposed in that State.

(2) If the offence does not constitute a criminal offence under the law of the Republic of Slovenia (Article 72), a penal sanction shall be imposed by applying the provisions of the Penal Code on the sentence imposed.

(3) The assumption of enforcement shall not put the person for whom the decision has been issued into a worse condition as if enforcement would take place in the issuing State of the sentence.

### **Proceedings with a request**

#### **Article 70**

(1) The ministry shall send requests for the enforcement of criminal judgement of other Member States directly to the competent national court which shall immediately inform the competent state prosecutor thereof.

(2) The ministry may, at any time during the proceeding, on its own initiative or on the proposal of the court, require from the State requesting the takeover of the enforcement to supplement the submitted documentation.

## **Competence and deciding**

### **Article 71**

(1) The district court in the territory of the last permanent residence of the person in the Republic of Slovenia shall be competent to decide on the enforcement of the criminal judgement. If the permanent residence of the person was not in the Republic of Slovenia, territorial jurisdiction shall be determined according to the place of the last permanent residence.

(2) The non-trial panel of the district court shall decide with a ruling on the enforcement of the criminal judgement of another Member State, or shall reject the request with an order. The decision shall be served to the state prosecutor and to the person, who may appeal against the decision within eight days of the service.

(3) The ministry shall send to the State issuing the ruling a decision concerning the assumption of enforcement, and the takeover of enforcement shall be implemented by the police. If the enforcement was taken-over on the basis of the European Arrest Warrant, the national court shall directly notify the judicial authority that issued the warrant, of the takeover and completion of enforcement.

(4) Enforcement, early release and the right to a pardon or amnesty shall be subject to the law of the Republic of Slovenia.

(5) If the conditions for the continued serving of the sentence are no longer satisfied, enforcement in the Republic of Slovenia shall cease.

## **Enforcement on the basis of the European Arrest Warrant**

### **Article 72**

(1) If the national court receives an order against a national of the Republic of Slovenia or of another Member State residing in the territory of the Republic of Slovenia, or an alien who is in possession of a permanent residence permit in the Republic of Slovenia, with the aim of executing a custodial sentence, precautionary or other sanction that is carried out by detention order, and all other conditions are met for the surrender of such a person under Chapter II of this Act, and the person has agreed to serve the sentence in the Republic of Slovenia and the national court binds itself to enforce the judgement (point 3 of Article 10), the order shall be treated as a request for the execution of a custodial sentence, precautionary or other sanction that is carried out by detention order. In such a case, the criminal judgement imposed in the issuing State of the order, shall be enforced in the Republic of Slovenia also if the offence in the order is not a criminal offence under the law of the Republic of Slovenia.

(2) If the order allowed for the surrender of a national of the Republic of Slovenia, or a national of a Member State, residing in the territory of the Republic of Slovenia, or an alien who is in possession of a permanent residence permit in the Republic of Slovenia, conditioned by returning the person to the Republic of Slovenia after the proceeding is concluded (point 3 of Article 11), the criminal judgement imposed by the court of the ordering State shall be enforced in the Republic of Slovenia, even if the conditions under points 2 and 3 of Article 66 of this Act are not met.

## **Enforcement of a domestic criminal judgement in another Member State**

### **Article 73**

(1) The national court may, on the proposal of the convict and in accordance with the conditions laid down in international treaty, or if reciprocity applies, ask for the criminal judgement of the domestic court against the national of another Member State to be enforced in his/her Member State.

(2) The request and corresponding documentation shall be sent to the competent foreign authority via the ministry.

(3) If, on the basis of international treaties the consent of the convict for the enforcement in the Member State is not necessary, the request for the assumption of enforcement of the sentence shall be lodged under the condition of respecting the principle of speciality.

## **10. Chapter 10** **Enforcement of financial sanctions**

### **Enforcement conditions**

#### **Article 74**

(1) The national court shall, pursuant to the provisions of this Chapter, enforce a final decision of the competent authority of the issuing State which imposed a financial sanction in a criminal or offence proceedings, on a natural or legal person (hereinafter referred to as: person) for infringements of the regulations.

(2) According to the preceding paragraph, the following shall be recognised and enforced:

1. the decision of the court, imposing a financial sanction for a criminal offence under the law of the issuing State;

2. the decision of the authority, imposing a financial sanction for a criminal offence under the law of the issuing State, if under the law of this State the person had the opportunity to lodge a legal remedy with the court competent in particular for criminal matters;

3. the decision of another authority, imposing a financial sanction for an act under the law of the issuing State considered as a offence or other offence of the regulation if under the law of this State the person had the opportunity to lodge a legal remedy with the court competent in particular for criminal matters; 4. the decision of the court competent in particular for criminal matters, in relation to the legal remedy against the decision referred to in the preceding point.

(3) The financial sanction referred to in preceding paragraphs shall be an obligation to pay:

1. a financial penalty or a fine;

2. pecuniary claim of the victim which is, with the effect of the matter in dispute determined by a final judgment, in whole or partly awarded in the decision referred to in the preceding paragraph;

3. costs of the proceedings in which the decision referred to in the preceding paragraph was issued; 4. a financial contribution which is, with the decision referred to in the preceding paragraph, assigned to the benefit of a public institution, for a charitable purpose or for compensation of damage to victims of criminal offences.

(4) According to the preceding paragraph, the following shall not be enforced as a financial sanction:

1. a decision on the confiscation of proceeds from crime;
2. a decision on the confiscation of objects intended for criminal offences or acquired with a criminal offence;
3. a decision on determined tort claims and the restoration to the previous state which is enforceable pursuant to the valid Council Regulation on jurisdiction and the enforcement of judgments in civil and commercial matters.

## **Inadmissibility of enforcement**

### **Article 75**

The national court shall not enforce a decision of the competent authority of the issuing State which imposed the financial sanction if:

1. the financial sanction is below EUR 70 or the equivalent according to the exchange rate on the day of issue of the decision;
2. the grounding act of the decision was committed in whole or in part in the territory of the Republic of Slovenia or outside the territory of the issuing State if, under the law of the Republic of Slovenia, prosecution is not admissible for such acts committed outside the territory of the Republic of Slovenia;
3. a final decision has been delivered in the Republic of Slovenia against the same person for the same act, or if such a final decision has been delivered and executed in another Member State;
4. the act in respect of which a financial sanction has been imposed, notwithstanding its signs and the description in the decision, the law of the Republic of Slovenia considers neither a criminal offence nor an offence, unless it is one of the offences referred to in Article 76 of this Act;
5. the act in respect of which the financial sanction has been imposed was committed by a person when younger than fourteen years;
6. the execution of the financial sanction for an act which is punishable or is an offence according to the law of the Republic of Slovenia has become statute-barred;
7. the person was subject to amnesty or pardon in the Republic of Slovenia or in the issuing State for the same act;
8. the enforcement would be in conflict with the regulations on immunity of the Republic of Slovenia;
9. the certificate (point 2 of the first paragraph of Article 78) indicates that the decision was issued in a written procedure and the person was not informed, either personally or via a representative, competent according to the issuing State's law, of the right and time limits to file a judicial remedy;

10. the decision was issued without the presence, unless the certificate (point 2 of the first paragraph of Article 78) indicates that the person was either personally or via a representative authorised under the issuing State's law informed of the proceeding, and has declared that he/she shall not contest the decision;

11. where there are reasons to believe that the decision has been issued for the purpose of punishing a person on the grounds of his/her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of these reasons;

12. the enforcement of the decision would be in conflict with provisions of the constitution of the Republic of Slovenia concerning the provision with the right to a trial without undue delay, the right to association or freedom of expression;

13. the competent authority of the issuing State does not send or provide for an appropriate amendment of the certificate, or does not communicate additional information necessary for deciding (fourth paragraph of Article 78).

## **Inadmissibility of refusal**

### **Article 76**

(1) Notwithstanding double criminality, conditions laid down in this Act shall determine the recognition and enforcement of financial sanctions imposed for offences which are determined under the law of the issuing State as:

1. criminal offences referred to in the second paragraph of Article 8 of this Act;
2. conduct which infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods;
3. smuggling of goods;
4. infringements of intellectual property rights;
5. threats and acts of violence against persons, including violence during sport events;
6. criminal damage;
7. theft;
8. offences established by the issuing State and serving the purpose of implementing obligations arising from instruments adopted under the EC Treaty or under Title VI of the EU Treaty.

(2) The decision of the preceding paragraph shall apply also to other acts, included in the list of exemptions from double criminality by unanimous decision of the European Council after consultations with the European Parliament, under the conditions referred to in Article 39 (1) of the EU Treaty.

## **Competence**

### **Article 77**

(1) An investigating judge shall be competent to recognize the decision imposing the financial sanction referred to in points 1 and 2 of the second paragraph of Article 74 of this Act, and a judge from the district court for those in points 3 and 4 of the second paragraph of Article 74 of this Act.

(2) Territorial jurisdiction of the national court shall be determined according to the permanent or temporary residence of the person on whom the financial sanction has been imposed, and for a legal person according to the registered office entered in the register or other statutory record, and if having a branch office in the Republic of Slovenia according to the place of the branch office.

(3) If the territorial jurisdiction can not be determined according to the preceding paragraph, it shall be determined according to the place of the person's property or income which are the subject of enforcement. If more resources or objects are indicated in the proposal concerning the property, the court with territorial jurisdiction shall be the court competent according to the first indicated means of execution.

(4) If the territorial jurisdiction can not be determined according to the provisions of the preceding paragraphs, the competent court, in accordance with the first paragraph of this Article, shall be the District Court in Ljubljana or the Local Court of Ljubljana.

(5) If the national court, having received the decision for recognition and enforcement, is not competent, it shall immediately refer the case to the competent court.

(6) Direct enforcement of the decision shall be the liability of the national court or another authority which is competent under the regulations of the Republic of Slovenia for performing certain implementing acts for the enforcement of the financial sanction of the same type imposed in the Republic of Slovenia.

(7) National courts and other authorities may ask the ministry for assistance in obtaining explanations on the foreign law, necessary in the enforcement the procedure of financial sanctions.

## **Decision-making procedure**

### **Article 78**

(1) The national court shall decide on the recognition on the basis of the following documents:

1. the decision imposing a financial sanction to be enforced;
2. the certificate signed and certified by the competent authority of the issuing State and is specified in Annex 2 which is an integral part of this Act;
3. translation of the certificate into the Slovene and English languages;

(2) All notifications shall be exchanged directly between competent authorities. Communication between competent authorities shall be governed *mutatis mutandis* by provisions of Article 14 of this Act. The court may require that the competent authority of the issuing State provides it with the original decision or its certified copy, and the original certificate.

(3) The court may invite the person subject to the financial sanction, to make a statement at the hearing on the admissibility of the enforcement, on the amount to be enforced and on an alternative sanction if this has not been determined in the decision which is to be enforced.

(4) The court shall fix an appropriate time limit to the authority of the issuing State of the decision, which shall be no longer than one month, for providing the court with or amending the certificate, or communicating additional information necessary for

deciding, and shall warn the authority that enforcement after an unsuccessful expiry of the time limit shall be refused in whole or in part, if:

1. the certificate has not been sent, is incomplete in its essential parts or is manifestly in conflict with the decision; 2. grounded reasons exist for concluding that inadmissibility of enforcement has occurred under points 6, 9, 10 and 11 of Article 75 of this Act;

3. the person who is to be subject to the enforcement of the financial sanction presents a certificate that the total or part of the amount from the financial sanction has been paid or enforced in some other way in any Member State.

(5) In the cases referred to in the preceding paragraph, the court may consult with the competent authority of the issuing State, in an appropriate manner.

(6) If deciding on the enforcement requires the translation of the decision which imposed the financial sanction, this shall be obtained at the expense of the court.

(7) If the information in the certificate does not provide for a successful enforcement, the court shall acquire additional information through official channels necessary for the determination of resources and objects of execution.

(8) With the exception of establishing an eventual admissibility of enforcement, the court shall recognise the decision without any special treatment, and shall without delay take all necessary actions for enforcement thereof.

(9) Except if otherwise provided for with this Act, the procedure for the enforcement of financial and alternative sanctions shall be subject to regulations which shall apply *mutatis mutandis*, under which sanctions of the same type are enforced in the Republic of Slovenia.

## **Postponement of decision-making**

### **Article 79**

(1) The national court shall postpone deciding on the enforcement of the decision imposing a financial sanction until it obtains additional information (fourth paragraph of Article 77) or translation of a decision (fifth paragraph of Article 77).

(2) In a case referred to in the preceding paragraph, the court shall *ex officio* secure the recovery of financial sanction until the reasons for the postponement cease.

## **Order for enforcement**

### **Article 80**

(1) The national court shall decide with an order on the recognition and enforcement of the decision, or on the refusal of enforcement.

(2) The order referred to in the preceding paragraph shall include information on the natural or legal person against which the financial sanction is to be enforced, the title of the authority whose decision shall be enforced, the reference number of the decision, a short description of the actual situation including the place and the time of the act, the name of the act, applied regulations of the issuing State, the amount of the financial sanction to be enforced, the means and the object of execution, as well as other information necessary for the implementation of the execution. In the event

of a refused execution, the reasons shall be stated in the order. The order shall be attached by the copy of the decision and of the translation.

(3) The information referred to in the preceding paragraph for a natural person shall be: personal name, nationality, personal identity number or other identification number, date and place of birth, last known address and address of residence in the Republic of Slovenia if known; and for a legal person: name or firm, type of organisation form of the legal person, the number of register or other identification number of entry in official records, registered office and address.

(4) The amount to be executed shall be determined by the court and imposed in a decision which is to be enforced. If the amount is not in euros it should be calculated by means of the exchange rate on the day of issue of the decision. This amount shall be deducted by already executed payments or amounts collected in any other Member State.

(5) If the act has been implemented outside the territory of the issuing State, and therefore the law of the Republic of Slovenia could be applied, the amount to be executed shall be, notwithstanding the provisions of the preceding paragraph, decreased to the highest level admissible for such types of act under the regulations of the Republic of Slovenia.

(6) In the event that the financial sanction can not be enforced in whole or in part, and it is stated in the certificate that such sanction could be replaced in the implementing State by another sanction, the court shall determine by an order an alternative sentence of imprisonment or another relevant sanction under the law of the Republic of Slovenia. The duration or the amount of the alternative sanction shall be determined in such a manner as to correspond to the number of monetary units of the financial sanction according to the regulations of the Republic of Slovenia that apply for the same or corresponding types of act, but this should not exceed the highest possible sentence as indicated in the certificate by the issuing State.

(7) The order shall be served on the person against whom the financial sanction is to be enforced and to the state prosecutor competent for the court deciding on the recognition of the decision.

(8) The state prosecutor and the person upon whom the financial sanction is to be imposed may appeal against the order within eight days of the service of the order. A timely filed and admissible appeal shall delay the execution of the order until the decision on the appeal becomes final. Extraordinary remedies against the final order are not permitted.

(9) The competent State Prosecutor's Office shall inform the ministry and the State Prosecutor General of the Republic of Slovenia of the final refusal of enforcement on the basis of points 11 and 12 of Article 75 of this Act, with an attached copy of the order.

(10) Retrial in which the decision has been issued imposing the financial sanction shall not be permitted in the Republic of Slovenia.

## **Income of enforcement**

### **Article 81**

Funds obtained through the enforcement of decisions shall belong to the Republic of Slovenia, if not otherwise agreed with the issuing State.

## **Termination of enforcement**

### **Article 82**

If it is notified by the competent authority of the issuing State that the decision imposing the financial sanction or its enforceability has been repealed, or that it no longer requires the enforcement for other reasons, the enforcement procedure shall be terminated immediately.

## **Notification to the issuing State**

### **Article 83**

The national court shall immediately inform the competent authority of the issuing State if:

1. it assigns the matter to another competent court (fifth paragraph of Article 77);
2. it decreases the amount of financial sanction which is to be enforced (the fourth and the fifth paragraphs of Article 80);
3. an alternative sanction is imposed and its enforcement is ordered (the sixth paragraph of Article 80);
4. the decision has been enforced;
5. the enforcement has been refused in whole or in part, or the enforcement has been terminated, with an indication of the reasons;
6. the decision could not be enforced because of acts of amnesty or pardon in the Republic of Slovenia.

## **Expenses**

### **Article 84**

Expenses of enforcement of a decision imposing the financial sanction shall be charged to the budget of the Republic of Slovenia irrespective of the success of collection.

## **Enforcement of financial sanction in another Member State**

### **Article 85**

- (1) The financial sanction referred to in the third paragraph of Article 74 of this Act imposed on natural or legal person by the competent authority in the Republic of Slovenia can be enforced in another Member State in which such a person has a residence or registered office, or property, or where the receive income.
- (2) A proposal for the recognition and enforcement of a decision imposing a financial sanction shall be communicated to the competent implementing authority of another Member State by the court which has imposed the sanction in the first instance. If the financial sanction in the first instance has been imposed by a violations authority, the competent local court shall file a proposal on an explained initiative of the violations authority.

(3) When deciding on the filing of a proposal, the court shall take into account the possibility of successful collection, the expediency of collection with regard to the amount of the imposed sanction, and the seriousness of the offence or threat to protected goods.

(4) Prior to reaching a decision, the court shall obtain an opinion of the competent state prosecutor and a statement from the person upon whom the sanction has been imposed, if available.

## **Enforcement procedure**

### **Article 86**

(1) The national court shall send to the competent authority of the issuing State:

1. the decision which is to be enforced;
2. a completed and signed certificate provided for in Annex 2 of this Act;
3. a translation of the certificate in the official language of the implementing State, or in any other language accepted by that State.

(2) The ministry shall inform the courts on the official languages accepted by individual Member States.

(3) For communication the second paragraph of Article 78 of this Act shall apply *mutatis mutandis*. If the decision and certificate have not been sent by post, the competent authority of the implementing State shall be, on its request, subsequently sent by post a copy or certified copy of the decision and the original certificate.

(4) A proposal for enforcement may be furnished to only one Member State at a time.

## **Notification of withdrawal of a proposal**

### **Article 87**

The national court shall immediately inform the competent authority of the implementing State if:

1. on the basis of the decision imposing a financial sanction, the person has already paid such sanction;
2. the decision imposing the financial sanction or its enforceability has been repealed, amended, or the amount of the financial sanction has been reduced;
3. enforcement is no longer required for other reasons.

## **Enforcement of financial sanctions in the Republic of Slovenia**

### **Article 88**

(1) If a proposal for the enforcement of a financial sanction in another Member State has been submitted, enforcement in the Republic of Slovenia shall not be admissible.

(2) In the case referred to in the preceding paragraph, enforcement may be continued in the Republic of Slovenia:

1. after notifying the competent authority of the implementing State that enforcement is no longer required; 2. if enforcement in the implementing State has been terminated because of a pardon or amnesty;

3. if enforcement in the implementing State is not possible because of uncollectability;

4. if the implementing State refuses enforcement, except for the reason under point 3 of Article 75 of this Act.

## **Chapter 11**

### **Enforcement of decisions of Member States on the seizure of objects and on the temporary protection of the confiscation of material benefit**

#### **Implementing conditions**

##### **Article 89**

(1) The domestic court shall enforce the decision on the seizure of objects or on the temporary protection of the seizure of the proceeds from crime issued by the judicial authority of another Member State in criminal proceedings for a criminal offence, which is punishable under the law of the issuing State and under the law of the Republic of Slovenia.

(2) Notwithstanding double criminality, the domestic court shall enforce the decision referred to in the preceding paragraph if it is a criminal offence referred to in the second paragraph of Article 8 of this Act.

#### **Inadmissibility of enforcement**

##### **Article 90**

(1) The domestic court shall not enforce the decision of the competent authority of another Member State on the seizure of objects or on temporary protection of the confiscation of proceeds from crime if:

1. the conditions laid down in the preceding Article are not satisfied;

2. the enforcement would be in conflict with the regulations on immunity or privileges;

3. the certificate referred to in point 2 of the first paragraph of Article 92 of this Act clearly indicates that the enforcement would infringe the prohibition of double jeopardy.

(2) In criminal matters in relation to duties, taxes, customs and exchange, the enforcement of a decision shall not be refused on the ground that the law of the Republic of Slovenia does not impose the same kind of duty or tax or does not contain the same type of rules as regards duties, taxes, customs or exchange regulations as the law of the ordering State.

## **Competence**

### **Article 91**

(1) Deciding on the recognition and enforcement of a decision on the seizure or temporary protection of another Member State shall fall within the competence of the investigating judge.

(2) The territorial jurisdiction of the national court shall be determined according to the place where the object or property which is to be seized or temporarily protected is located. If more objects or types of property are indicated in the proposal concerning the property, territorial jurisdiction shall be vested in the court competent for performing enforcement regarding the first object or property mentioned in the decision.

(3) If the territorial jurisdiction can not be determined according to the provisions of the preceding paragraph, the District Court in Ljubljana shall be competent.

(4) If the court receiving the decision does not have territorial jurisdiction, it shall send the decision to the competent court and inform the ordering authority thereof.

## **Procedure and order**

### **Article 92**

(1) The national court shall decide on recognition and enforcement with an order on the basis of the following documents:

1. the decision ordering seizure or temporary protection and that it should be enforced;

2. a certificate signed and certified by the competent judicial authority of the ordering State and is provided for in Annex 3 of this Act;

3. a translation of the certificate into the Slovene or English language;

(2) If the certificate has not been sent, is incomplete or is manifestly in conflict with the decision, the competent court may;

1. fix an appropriate time limit for to the authority of the ordering State of the decision, to provide the court with, supplement or amend the certificate;

2. accept other adequate document communicated by the authority of the ordering State;

3. comply with a request if the attached information is sufficient for making a decision.

(3) For communication between competent authorities, the provisions of Article 14 of this Act shall apply *mutatis mutandis*.

(4) If for the reason of validity of the proof, the competent authority of the ordering State asks the decision to be enforced according to the rules and procedure provided for in the law of the ordering State, the court shall immediately comply with the request if it is not in conflict with legal principles applied in the Republic of Slovenia.

(5) Additional coercive measures necessary for the enforcement of the decision shall be subject to the law of the Republic of Slovenia.

(6) The court shall decide in the shortest possible time, within twenty-four hours after having received the decision, if possible.

(7) The order shall be sent to the competent authority or the person who shall execute such order.

(8) The order shall be served to persons whose property rights and legal interests are affected, and to the state prosecutor.

(9) Those persons referred to in the preceding paragraph may file an appeal against the order within eight days of its receipt. It is not allowed to challenge the contextual base resulting from the decision on seizure or protection. An appeal shall not withhold the execution of the order. The panel of the high court shall decide on the appeal within three days. Retrial and a request for the protection of legality shall not be allowed.

(10) If in addition to the seizure or protection, the confiscation of an object or material benefit is proposed in the same case, the court shall decide on such proposal and implement this under the provisions of Chapter 12 of this Act.

## **Postponement of enforcement**

### **Article 93**

(1) The national court shall postpone enforcement if:

1. this would jeopardise the interests of investigations of a criminal offence which is underway, and as long as such a danger exists;

2. the object has been seized or the confiscation of material benefit has already been protected in another criminal proceeding, as long as such confiscation or protection are not abolished.

3. the property on which the ordering State proposes protection as a result of the confiscation of material benefit has already been the subject of protection in another proceeding in the Republic of Slovenia, and such protection has priority over the protection of the seizure of the proceeds from crime in the Republic of Slovenia as long as such protection is not abolished.

(2) Following the cessation of the reasons for postponement referred to in the preceding paragraph the court shall immediately decide on the enforcement of the decision on seizure or temporary protection.

## **Duration of seizure or protection**

### **Article 94**

(1) Seizure of an object or temporary protection of the confiscation of material benefit shall continue until a decision is made on the seizure of objects or financial profit. According to the act governing criminal proceedings, the prolongation of temporary protection shall not be necessary.

(2) If the competent authority of the ordering State has not indicated the expected date of communicating the final decision on confiscation, or if it has not proposed confiscation at the same time as a seizure or temporary protection, the national court shall, after having consulted with the competent authority of the ordering State, determine the longest possible duration of the protection of confiscation of material benefit, concerning the admissible total duration of temporary protection for an

individual phase of proceedings under the law of the Republic of Slovenia, if the conditions for temporary protection under this Act are still satisfied.

(3) The national court shall act in the same way if the date of the expected final decision on confiscation is longer than time limits of admissible total duration of temporary protection for an individual phase of proceedings under the law of the Republic of Slovenia.

## **Notification to the ordering State**

### **Article 95**

The national court shall immediately inform the competent authority of the ordering State if:

1. it assigns the matter to another competent court;
2. enforcement has been refused in whole or in part;
3. an order for enforcement has been issued;
4. the decision has been enforced, with a report on the enforcement;
5. enforcement has been postponed, by indicating reasons and the expected duration of the postponement;
6. the reasons for the postponement of enforcement no longer exist, by indicating the measures implemented for enforcement;
7. an appeal has been filed, and on the result of an appellate procedure.

## **Enforcement of seizure and of temporary protection in another Member State**

### **Article 96**

(1) The seizure of objects or the temporary protection of the confiscation of proceeds from crime, ordered by the competent court in the Republic of Slovenia may be enforced in another Member State in which the objects or property are present.

(2) The proposal shall be communicated to the competent foreign authority by the court which issued the decision in the first instance.

## **Enforcement procedure**

### **Article 97**

(1) The national court shall communicate to the competent authority of the issuing State:

1. the decision which is to be enforced;
2. the completed and signed certificate provided for in Annex 3 of this Act and forms its integral part;
3. the translation of the certificate in the official language of the implementing State, or in any other language accepted by that State.

(2) The ministry shall inform the courts as to which official languages are accepted by individual Member States.

(3) For communication between competent authorities, Article 14 of this Act shall apply *mutatis mutandis*. If the decision and the certificate have not been sent via post, the competent authority of the implementing State shall be, on its request, subsequently sent by post a copy or certified copy of the decision and the original certificate.

## **Chapter 12** **Seizure of objects and material benefit**

### **Implementing conditions**

#### **Article 98**

(1) The domestic court shall under the provisions of this Chapter enforce the final decision on the confiscation of objects or the proceeds from crime, or of property or an amount corresponding to the material benefit, issued by the court of another Member State in a criminal proceeding for a criminal offence.

(2) If the competent authority of the ordering State proposes, in accordance with its law, that the decision on the confiscation of certain property is to be enforced with the payment of the amount, corresponding to the value of such property, the national court shall enforce the decision by applying, *mutatis mutandis*, the provisions of the law of the Republic of Slovenia on the methods of seizure of material benefit.

### **Inadmissibility of enforcement**

#### **Article 99**

(1) The domestic court shall not enforce the decision of the competent authority of another Member State on the confiscation of objects or the seizure of material benefit if:

1. the objects included in the decision form part of the cultural heritage of the Republic of Slovenia;

2. the criminal offence in respect of which the decision has been issued, or if a preliminary criminal offence, is treated together with the criminal offence of money laundering:

a) has been committed in the territory of the Republic of Slovenia,

b) has been committed outside the territory of another Member State which issued the decision referred to in the preceding Article, if for such acts committed outside the territory of the Republic of Slovenia prosecution is not admissible under the law of the Republic of Slovenia.

3. a final decision on confiscation against the same person in respect of the same acts has been delivered in the Republic of Slovenia, or if such a final decision has been issued and already executed in another Member State;

4. the act subject to the proposed confiscation is not a criminal offence under the law of the Republic of Slovenia, except for a criminal offence as referred to in the second paragraph of Article 8 of this Act;

5. the enforcement of confiscation in the Republic of Slovenia would become statute-barred if according to the law of the Republic of Slovenia, the criminal offence would fall within the competence of its authorities;

6. the same person has been subject to amnesty or pardon in the ordering State or in the Republic of Slovenia, in relation to the confiscation;

7. enforcement under the law of the Republic of Slovenia would be in conflict with regulations on immunity or privileges; 8. enforcement is in conflict with the rights of bona fide third parties;

9. the decision was issued without the presence of the person and the person was not represented by legal counsel, except if the person was either personally or via a representative authorised under the ordering State's law informed of the proceeding, or has declared that he/she shall not contest the decision;

10. where there are objective reasons to believe that the decision has been issued for the purpose of punishing a person on the grounds of his/her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced for any of these reasons;

11. confiscation is ordered by a decision which under the law of the Republic of Slovenia could not be ordered in a criminal proceeding.

(2) In criminal matters in relation to duties, taxes, customs and exchange, the enforcement of a decision shall not be refused on the grounds that the law of the Republic of Slovenia does not impose the same kind of duty or tax, or does not contain the same type of rules as regards duties, taxes, customs or exchange regulations as the law of the ordering State.

## **Competence**

### **Article 100**

(1) Deciding on the recognition of a confiscation order shall fall within the competence of the investigating judge.

(2) The territorial jurisdiction of the court shall be determined according to the place where the property which is the subject of the enforcement, is located. If more resources or objects are indicated in the proposal concerning the property, the court with territorial jurisdiction shall be the court competent according to the first indicated means of execution.

(3) If the territorial jurisdiction can not be determined according to the preceding paragraph, it shall be determined according to the permanent or temporary residence of the person subject to the confiscation and for a legal person, according to the registered office, and if it has a branch office, according to the place of such branch office.

(4) If the competent court can not be determined according to the provisions of the preceding paragraphs, the District Court in Ljubljana shall be competent.

(5) If the court, having received the decision for enforcement, is not competent, it shall immediately refer the case to the competent court and inform the competent authority in the ordering State thereof.

(6) Enforcement of the decision shall be the responsibility of the competent court or another authority which is competent under the regulations of the Republic of

Slovenia to enforce the confiscation of the object or property ordered in the Republic of Slovenia.

## **Procedure**

### **Article 101**

(1) The national court shall decide on the recognition with an order on the basis of the following documents

1. the decision to be enforced;
2. the certificate signed and certified by the court of the ordering State, and which is specified in Annex 4 of this Act; 3. translation of the certificate in the Slovene or English language.

(2) For communication between competent authorities, the provisions of Article 14 of this Act shall apply *mutatis mutandis*.

(3) The court may invite the person whose property is the subject of the ordered confiscation to make a statement at the hearing on the admissibility of the enforcement, on the amount to be enforced, and on any already enforced confiscation.

(4) The competent court shall fix an appropriate time limit for the authority of the State of the decision to provide the court with or amend the certificate, or communicate any additional information necessary for deciding, and shall warn the authority that enforcement after an unsuccessful expiry of the time limit shall be refused in whole or in part, if:

1. the certificate has not been sent, is incomplete in its essential parts or is manifestly in conflict with the decision;
2. grounded reasons exist for concluding that it is one of the reasons for inadmissibility of enforcement provided in points 2, 3, 8, 9, 10 and 11 of the first paragraph of Article 99 of this Act;
3. the person presents a certificate that the confiscation has already been enforced in whole or in part in any State, and that the value of the material benefit has already been confiscated or paid.

(5) If deciding on the enforcement requires a translation of the decision which imposed the confiscation, this shall be obtained at the expense of the court.

(6) If the information in the certificate does not provide for successful enforcement, the court shall acquire additional information through the official channels, necessary to enforce confiscation.

## **Order on recognition**

### **Article 102**

(1) The national court shall decide by order on the enforcement of a decision or refusal of enforcement

(2) The order referred to in the preceding paragraph shall include: the name of the authority that issued the decision which is to be enforced the order reference number, a summary description of facts, including the place and the time of the act, name of the act, the regulations of the ordering State that have been applied and indication of applied measures and in the case of refused enforcement reasons for refusal. The order shall be attached by the copy of the decision.

(3) If a confiscation order concerns an amount of money, the court shall determine the amount to be confiscated so that it is the same as the amount stated in the decision which is to be enforced. If the amount is not in euros it should be calculated by means of the exchange rate on the day of issue of the decision which is to be enforced. This amount shall be deducted by already executed payments or amounts collected in any Member State.

(4) The order shall be served on the person against whom the confiscation is enforced, to persons the rights of whom are affected, and to the competent state prosecutor.

(5) The persons referred to in the preceding paragraph may appeal against the order within eight days of the service of the order. In the appeal, it is not allowed to challenge contextual base of the decision on confiscation of the competent authority of the ordering State. A timely filed and admissible appeal shall delay the execution of the order until a decision on the appeal becomes final. Retrial and the request for protection of legality shall not be allowed.

(6) If the enforcement is finally rejected on the basis of the first paragraph of Article 99 of this Act, the competent State Prosecutor's Office shall inform the ministry and the State Prosecutor General of the Republic of Slovenia by means of an attached copy of the order.

(7) Enforcement of confiscation shall be subject to regulations to apply *mutatis mutandis*, which provide for the enforcement of the confiscation of objects or proceeds from crime.

## **Postponement of enforcement**

### **Article 103**

(1) The national court shall postpone the enforcement of confiscation:

1. until a decision on an admissible appeal against an order as referred to in the preceding Article becomes final;

2. if the ordering State has proposed confiscation to another Member State and the total amount confiscated would exceed the amount laid down in the decision;

3. if the object or the sum of money which is to be confiscated is already the subject of a seizure procedure, temporary protection or confiscation in the Republic of Slovenia.

(2) The national court may postpone the enforcement of confiscation if:

1. this would jeopardise the interests of investigations of a criminal offence which is under way, and as long as such danger exists;

2. if a translation of the decision is required, until such translation is provided;

3. if additional information is necessary, until such additional information is obtained from the competent authority of the ordering State.

(3) The national court shall *ex officio* protect the confiscation until the reasons for the postponement no longer exist, by means of any admissible measures under the law of the Republic of Slovenia.

## **Decisions of more than one Member State**

### **Article 104**

(1) If two or more States send decisions on the confiscation of the same object or property, the national court shall decide, taking due account of all circumstances, firstly if the object or property has been confiscated already under the preceding Chapter of this Act, the seriousness of the criminal offences which represent the basis for the confiscation, the date of issue of decisions and the time of their submission, which decision or decisions should be confiscated.

(2) The court shall act in accordance with the preceding paragraph also if receiving two or more decisions on the confiscation of sums of money or material benefit, or material benefit in monetary value, which have been issued against the same natural or legal person and such person does not dispose of sufficient resources in the Republic of Slovenia for all decisions to be enforced.

### **Accrual of monies obtained from confiscation**

#### **Article 105**

(1) The total amount of money obtained from the enforcement of confiscation if it does not exceed EUR 10 000 or the equivalent amount in another currency, shall be assigned as income to the Republic of Slovenia. An amount of money exceeding EUR 10 000 shall be distributed in such manner as to allocate one half to the budget of the Republic of Slovenia and the other half to the ordering State.

(2) Objects and property which are not money shall be treated by the court, at its discretion, in one of the following manners:

1. it will sell these in accordance with the law of the Republic of Slovenia and handle the income according to the preceding paragraph; 2. deliver these to the authority of the ordering State, provided that consent by the ordering State should be obtained for the delivery of objects or property in the case of the proposed confiscation of an amount of money;

3. dispose of it in some other way pursuant to the law of the Republic of Slovenia if it is not possible to comply with the preceding points.

(3) The preceding paragraph shall be applied only if it is not agreed otherwise with the ordering State.

### **Termination of enforcement**

#### **Article 106**

When the competent authority of the ordering State gives notification that the decision on confiscation is no longer enforceable, or that it no longer requires the enforcement for other reasons, the court shall terminate the enforcement.

### **Notification of the ordering State**

#### **Article 107**

The national court shall immediately inform the competent authority of the ordering State if:

1. it assigns the matter to the competent court;

2. the enforcement has been refused in whole or in part, by indicating reasons thereof;

3. the decision can not be enforced because the amount of money or object that is to be confiscated, have disappeared, have been destroyed, is not enforceable or cannot be found in the location indicated in the certificate, since the location of the amount of money or object has not been indicated in a sufficiently precise manner, or another decision has been enforced for the amount of money or object, each time by stating the reason thereof;

4. the decision on confiscation cannot be enforced in its entirety, since proposals for confiscation by the competent authorities of two or more Member States have been submitted;

5. enforcement was postponed, by stating the reasons and, if possible, the expected duration of the postponement;

6. the decision has been enforced.

## **Expenses**

### **Article 108**

(1) The expenses of the enforcement of the confiscation shall be charged to the budget of the Republic of Slovenia irrespective of the success of collection.

(2) If considerable or extraordinary expenses have been incurred by enforcement, the court shall propose to the competent authority of the ordering State to distribute the expenses and attach a detailed list thereof.

## **Enforcement of confiscation in another Member State**

### **Article 109**

(1) A decision on confiscation issued by the competent court in the Republic of Slovenia may be communicated to another Member State for enforcement, in which such person having property or income, or objects are present which are the subject of the decision on confiscation.

(2) If the State in which the person has property or income, or in which objects are present, is not known, the decision on confiscation may be communicated to the Member State in which the natural or legal person subject to the decision has their residence or registered office, for enforcement.

(3) Prior to deciding, the court shall obtain an opinion from the competent State prosecutor and a statement from the person against whom the decision on confiscation has been imposed, if available.

## **Implementing procedure**

### **Article 110**

(1) The national court shall send to the competent authority of the implementing State:

1. the decision which is to be enforced;

2. a completed and signed certificate provided for in Annex 4 of this Act, and is its integral part;

3. a translation of the certificate in the official language of the implementing State, or in any other language accepted by that State.

(2) The ministry shall inform the courts as to which official languages are accepted by individual Member States.

(3) For communication between competent authorities, Article 14 of this Act shall apply mutatis mutandis. If the decision and the certificate have not been sent via post, the competent authority of the implementing State shall be, on its request, subsequently sent by post a copy or certified copy of the decision and the original certificate.

## **Communication of decision to more Member States**

### **Article 111**

(1) Proposal for enforcement may be furnished to only one Member State at a time.

(2) Notwithstanding the preceding paragraph a decision on the confiscation of certain objects or property may be furnished to more Member States at a time if:

1. there are reasonable grounds to believe that objects or property which are the subject of the decision are present in such Member States;

2. enforcement of the decision on confiscation requires action in more than one Member State;

3. there are reasonable grounds to believe that the object or certain property subject to the decision is present in one of two or more known Member States.

(3) Notwithstanding the first paragraph of this Article the decision made out to the money amount may be sent to more Member States at one time, if necessary, in order for the decision to be enforced, and in particular if the money amount has not been protected as provided for with the provisions of the preceding Chapter, or enforcement in one Member State is expected to be insufficient for the repayment of the total amount specified in the decision on confiscation.

## **Enforcement in domestic country**

### **Article 112**

The enforcement of a decision on confiscation may be continued in the Republic of Slovenia even if such a decision has been sent to one or more Member States. The total amount acquired when enforcing the decision on confiscation which concerns an amount of money shall not exceed the amount ordered in the decision.

## **Notification to the implementing State**

### **Article 113**

The national court which has issued the decision on confiscation in the first instance shall immediately inform the competent authority of the implementing State if:

1. a risk exists that the enforcement shall exceed the total amount specified in the decision which concerns an amount of money and that such risk has ceased;
2. the decision has been enforced in domestic country or in another State in whole or in part, and indicate the eventual amount for which the confiscation has yet not been enforced;
3. the person has, on the basis of the decision, already paid the money amount;
4. the decision or its enforceability has been subsequently repealed or changed, or the enforcement is no longer required for other reasons.

## **PART V**

### **EXCHANGE OF CRIMINAL RECORDS DATA BETWEEN MEMBER STATES**

#### **Purpose of the exchange of criminal records data between Member States**

##### **Article 114**

In order to enable the effective communication of data on the finality of criminal convictions and their consequences, concerning a permanent or temporary forfeiture of rights, the competent authorities of the Republic of Slovenia and of other Member States shall provide for the direct exchange of information from data records on the finality of criminal convictions and their consequences (hereinafter referred to as: criminal record).

#### **Central authority of the Republic of Slovenia**

##### **Article 115**

The central authority of the Republic of Slovenia to provide for the exchange of criminal records data with the competent authorities of other Member States which manage their criminal records shall be the competent authority of the ministry.

#### **Communication of data to other Member States without request**

##### **Article 116**

(1) The central authority of the Republic of Slovenia shall immediately communicate to the central authority of another Member State criminal records data in relation to a national of such Member State, after having entered such data in the criminal record in accordance with the provisions of the Penal Code.

(2) When a finally convicted individual is a national of one or more Member States, the central authority of the Republic of Slovenia shall communicate data to each of

such Member States, except if the individual is also a national of the Republic of Slovenia.

### **Communication of data to other Member States on request**

#### **Article 117**

(1) The central authority of the Republic of Slovenia shall communicate on request of the central authority of another Member State, which is made as a form laid down in Annex 5 of this Act and constitutes its integral part, the criminal records data in relation to the individual entered therein, under the conditions provided for in the Penal Code.

(2) The central authority of the Republic of Slovenia shall send the answer to the request to the central authority of another Member State without delay, but not later than within ten working days following the receipt of the request, on the form provided for in Annex 5 of this Act. If the request concerns an application of an individual, the central authority of the Republic of Slovenia shall reply to the central authority of another Member State not later than within twenty working days following the receipt of the request.

(3) If the central authority of the Republic of Slovenia needs more data in relation to the identification of a person who is the subject of a request, it shall immediately consult with the State which has sent the request, so that it may communicate information from the criminal record within ten working days after the receipt of additional information.

### **Request for communicating the criminal records data of another Member State**

#### **Article 118**

(1) The central authority of the Republic of Slovenia shall, upon the request of the authorities or subjects referred to in the third and fourth paragraph of Article 105 of the Penal Code concerning obtaining the criminal records data of another Member State, communicate a request to the central authority of such Member State for data and related information from the criminal record. The request shall be sent as a relevant form in Annex 5 of this Act.

(2) If the central authority of another Member State needs additional data in order to establish the identity of the individual subject of the request, it shall be provided these by the central authority of the Republic of Slovenia as soon as possible.

### **Communication between central authorities**

#### **Article 119**

(1) The central authority of the Republic of Slovenia shall communicate directly with the central authorities of other Member States.

(2) Requests, answers and additional or other adequate data may be communicated by any means capable of producing a written record, under conditions enabling the central authority of the Republic of Slovenia to be sure about the authenticity of the provided data and the sender. When transferring requests,

answers and additional and other adequate data via telecommunication networks, the data are considered to be adequately protected if they are transferred by cryptographic methods and electronic signatures so as to render them completely illegible or irreconisable during transfer.

### **Use of communicated personal data**

#### **Article 120**

(1) The Republic of Slovenia may use personal data communicated by the central authority of another Member State to the central authority of the Republic of Slovenia pursuant to the provisions of this part of the Act for the purposes of criminal proceedings, only for criminal proceedings in respect of which such data have been requested and as specified on the form in Annex 5 of this Act.

(2) The Republic of Slovenia may use personal data communicated by the central authority of another Member State to the central authority of the Republic of Slovenia pursuant to the provisions of this part of the Act for purposes other than criminal proceedings, in accordance with its laws only for the purpose for which it was requested and within limitations determined by the communicating Member State, in accordance with data provided on the form from Annex 5 of this Act.

(3) The provisions of the first and the second paragraph shall apply *mutatis mutandis* also in cases when data from the criminal record of the Republic of Slovenia for the purpose of deciding on rights and obligations, or for the detection or prosecution of offenders, or for deciding on introduction, or in criminal proceedings are requested by the central authority of another Member State from the central authority of the Republic of Slovenia.

### **Use of language**

#### **Article 121**

Requests for the communication of criminal records data shall be provided in the official language or in one of official languages of the requested State. Answers shall be provided in the official language or languages of the requested State.

## **PART VI**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 122**

The ministry shall inform the competent authorities of the European Union as to which authorities are competent for certain forms of cooperation, and shall communicate other information necessary for the implementation of such cooperation, within three months following the enforcement of this Act.

### **Article 123**

(1) The minister responsible for justice shall harmonise provisions of the Court Rules (Official Gazette of the Republic of Slovenia, No. 17/95, 35/98, 91/98, 22/00, 113/00, 62/01, 102/01, 15/03, 75/04, 138/04, 74/05 and 5/07) on the management of registers with this Act within six months after the date of its entry into force.

(2) The minister responsible for justice shall lay down with an instruction the method of statistical monitoring and reporting of courts on the caseload and settlement of cases on the basis of this Act within three months after the date of its entry into force.

### **Article 124**

(1) On the day of entry into force of this Act, the Act on the European arrest warrant and surrender procedures (Official Gazette of the Republic of Slovenia, No. 37/04) and the Rules on the form of the European arrest and surrender warrant (Official Gazette of the Republic of Slovenia, No. 51/04) shall cease to apply.

(2) Notwithstanding the provision referred to in the preceding paragraph, the enforcement procedure of the order which the competent authority of the Republic of Slovenia has received before the date of entry into force of this Act shall be implemented and terminated with the application of the provisions of the act and the statutory act referred to in the preceding paragraph.

### **Article 125**

(1) On the day of entry into force of this Act, the provisions of the sixth paragraph of Articles 154, 160b and Chapters XXX and XXXI of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 32/07-official consolidated text) shall cease to apply in the field of international cooperation on criminal matters with Member States governed by this Act.

(2) Notwithstanding the provisions of the preceding paragraph, procedures concerning requests for legal assistance which the competent authorities of the Republic of Slovenia receive before the date of entry into force of this Act shall be implemented and terminated with the application of the existing provisions of the Act referred to in the preceding paragraph.

### **Article 126**

This Act shall come into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia and shall begin to apply three months after its entering into force.

No. 713-01/07-15/1

Ljubljana, 25 October 2007

EPA 1533-IV

President  
of the National Assembly of the Republic of Slovenia  
Dr France Cukjati, MD

Priloga 1: Evropski nalog za prijetje iz člena 8 Okvirnega sklepa Sveta 2002/584/PNZ o evropskem nalogu za prijetje in predajo (41. člen) (Annex 1: European Arrest Warrant referred to in Article 8 of the Council Framework Decision 2002/584/PNZ on the European Arrest Warrant (Article 41))

Priloga 2: Potrdilo iz člena 4 Okvirnega sklepa Sveta 2005/214/PNZ o uporabi načela vzajemnega priznavanja denarnih kazni (78. člen) (Annex 2: Certificate referred to in Article 4 of the Council Framework Decision 2005/214/PNZ on the implementation of the principle of mutual recognition of penalty (Article 78))

Priloga 3: Potrdilo iz člena 9 Okvirnega sklepa Sveta 2003/577/PNZ o izvrševanju sklepov o zasegu premoženja ali dokazov v Evropski uniji (92. člen) (Annex 3: Certificate referred to in Article 9 of the Council Framework Decision 2003/577/PNZ on the execution in the European Union of orders freezing property or evidence (Article 92))

Priloga 4: Potrdilo iz člena 4 Okvirnega sklepa Sveta 2006/783/PNZ o uporabi načela vzajemnega priznavanja odredb o zaplembi (101. člen) Annex 4: Certificate referred to in Article 4 of the Council Framework Decision 2006/783/PNZ on the application of the principle of mutual recognition of orders on confiscation (Article 101))

Priloga 5: Obrazec, omenjen v členih 3, 4 in 5 Sklepa Sveta 2005/876/PNZ o kazenskih evidencah (117. člen) (Annex 5: Form indicated in Articles 3, 4 and 5 of the Council Resolution 2005/876/PNZ concerning criminal records (Article 177))